



California Fair Political Practices Commission

July 26, 1988

Jennifer Shaw
Saltzburg, Ray & Bergman
10960 Wilshire Boulevard, Tenth Floor
Los Angeles, CA 90024

Re: Your Request for Advice
Our File No. A-88-262

Dear Ms. Shaw:

You have requested advice under the campaign disclosure provisions of the Political Reform Act.^{1/}

We must decline to issue advice to you because the Commission is prohibited from providing advice to a third party about the duties or obligations of another person. (Section 83114; Regulation 18329, copy enclosed.)

Enclosed for your information is a copy of the Political Reform Act of 1974 as amended to January 1, 1988. Also enclosed is a complaint form and a copy of Regulation 18360, which explains the procedures for filing complaints under the Act. If you believe that the Act's campaign provisions have been violated you may file a complaint with the Los Angeles District Attorney or with the Commission's Enforcement Division.

Sincerely,

Diane M. Griffiths
General Counsel

Jeanne Pritchard

Jeanne Pritchard
Division Chief
Technical Assistance and
and Analysis Division

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

LAW OFFICES OF
Saltzberg, Ray & Bergman

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July 5, 1988

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IN REPLY REFER TO:

*A PROFESSIONAL CORPORATION

**ADMITTED IN OHIO ONLY

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N. JERSEY, N. CAROLINA, N.Y., HAWAII AND TEXAS

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

WRITER'S DIRECT DIAL NUMBER:

Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

RE: Request for Written Ruling

Ladies and Gentlemen:

I am counsel for Fred Harrison, Paul LaBonte and Michael Stevens, proponents of traffic related initiative which will be on the November 1988 ballot for the City of Simi Valley, which is located in Ventura County. If passed, the initiative would reduce the amount of residential, commercial and industrial growth near congested intersections.

My clients ask that the Fair Political Practices Commission, or its counsel, issue a written ruling on campaign expense reporting under the following four fact patterns which actually exist in that city and county.

Issue #1: Advertisements Which Do Not Name Measure

The Ventura County Chapter of the Building Industry Association has announced that they will begin a campaign against growth related initiatives. See the enclosed newspaper article and advertisement.

Based on the FPPC's Information Manual, page 9, the Ventura BIA or an informal association of local builders would constitute an "Independent Expenditure Committee" to the extent

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they were contributing or expending funds to oppose ballot measures.

Given the fact that the Ventura BIA has publicly announced its intentions to conduct a campaign opposing growth related initiatives, and that the Simi Valley Initiative will be on the ballot in November 1988, would such an Independent Expenditure Committee be required to report to the City Clerk or County Clerk its expenditures for: (1) Advertisements such as those shown on the enclosed, which do not specifically refer to any ballot measure; or for (2) the public relations packet, slide show, advertising agency's services, and other costs associated with the BIA's campaign as described in the enclosed article?

Issue #2: City or County Committee

As a practical matter, the deadline for placing initiatives on the November 1988 ballot, for the County of Ventura, and for all cities in the county, has passed. My client has made inquiry with all local city clerks and the County Clerk, and has confirmed that the Simi Valley Initiative is the only growth related initiative being considered in November 1988 in any Ventura County city, or in Ventura County.

Assuming that those facts are correct, would the Ventura BIA Independent Expenditure Committee be a "city" committee, which would have to make pre-election expenditure filings, or a "county" committee, which would not have to make pre-election expenditure filings?

Issue #3: Free Advertisements

Our clients have been advised that the Ventura BIA was not charged any advertising fee when the local Simi Valley newspaper, The Enterprise, published a copy of the Ventura BIA's campaign poster in connection with a story on the Ventura BIA anti-initiative campaign. See the enclosed. It should be noted that The Enterprise has published several editorials opposing the Simi Valley traffic initiative.

Was the publication of the poster a donation of goods or services which the Ventura BIA Independent Expenditure Committee must report?

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Assuming that the value of one free publication or a series of free publications by the newspaper of similar posters reached \$1,000, would the publication of such posters cause the newspaper to become an Independent Expenditure Committee?

Issue #4: Public Opinion Polling

In 1986, in Simi Valley, two building permit limitation initiatives were placed on the ballot. One of my clients was a proponent of one of those initiatives. My client has subsequently learned that an informal committee of Ventura County BIA members made substantial expenditures for telephone public opinion polling pertaining to those initiatives, and pertaining to certain potential candidates for the Simi Valley City Council. Those expenditures were never reported. However, the results of those polls were given to and probably used by candidates and committees who opposed the measure of which my client was a proponent.

We believe that similar polling will take place this year with respect to the Simi Valley traffic initiative, and this year's councilmanic elections.

Must an Independent Expenditure Committee report its expenses in conducting polls?

Must committees or candidates who are recipients of the information gleaned from those polls report as a donation the costs of conducting those polls?

General Public Policy Issue:

As you may be aware, the building industry in Orange County reportedly spent in excess of \$1,500,000 in opposing the Orange County traffic initiative which was on the June ballot. Those massive expenditures were the subject of negative press commentary.

My clients are concerned that the Ventura BIA may be seeking ways to avoid reporting their and their members actual expenditures against the Simi Valley traffic initiative. As a result, in considering the questions in this letter, we would argue that the FPPC's historic public policy considerations in favor of full and timely disclosure should convince the FPPC to

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advise us that the Ventura BIA committee is a City Independent Expenditure Committee, that its expenditures for the campaign described in this letter and the enclosed must be disclosed in connection with the Simi Valley November election.

Would you kindly respond to this letter in writing in time for your answer to be reflected in the September 1988 Pre-Election Statements.

Thank you, in advance, for your response to this letter.

Sincerely,



Jennifer Shaw

enc.

cc: Mr. Fred Harrison
Mr. Paul LaBonte
Mr. Michael Stevens



California Fair Political Practices Commission

July 12, 1988

Jennifer Shaw
Saltzburg, Ray & Bergman
10960 Wilshire Boulevard
Tenth Floor
Los Angeles, CA 90024

Re: 88-262

Dear Ms. Shaw:

Your letter requesting advice under the Political Reform Act was received on July 7, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard
(ld)

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:ld