



California Fair Political Practices Commission

March 13, 1989

Bill Lyons, Jr.
Board of Directors
California Leadership Council
1300 - 10th Street, Suite C
Modesto, CA 95354

Re: Your Request for Advice
Our File No. I-88-451

Dear Mr. Lyons:

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

FACTS

Recently, the California Leadership Council underwent a change in status from being a controlled committee to a general purpose committee. The committee's statement of organization has been amended, and the committee has instituted a board of directors who are private citizens with no legal connection to the former controlling candidates or officeholders.

QUESTIONS

1. What procedures need to be followed to ensure that decisions regarding raising contributions and making expenditures are no longer being made by any elected officers or candidates?
2. What effect will the passage of Proposition 73 have on the fundraising, distribution and general support activities of the committee?

^{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.

CONCLUSIONS

1. To ensure that the committee is not a "controlled committee," no elected officer or candidate, no agent of an elected officer or candidate, and no committee controlled by an elected officer or candidate may participate in the actions or decisions of the committee.

2. Proposition 73 imposes contribution limitations on candidates and on all committees. Proposition 73 provides definitions of various "committees" for the purpose of determining the specific contribution limitations which apply. Depending on the type of committee the California Leadership Council is under these definitions, it is subject to certain limitations on the amount of contributions it may receive from a single contributor and on the amount it may contribute to a candidate or another committee during a fiscal year.

ANALYSIS

1. Section 82016 defines "controlled committee" as:

... [a] committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or a state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

The Commission has interpreted the definition of "controlled committee" very broadly to include any significant participation by a candidate, his or her agent, or representatives of any other committee he or she controls in the actions of a committee. Enclosed for your guidance are the following advice letters issued by the Commission on the subject of what constitutes "control" of a committee:

Pastrick Advice Letter, No. A-87-063;
Ferguson Advice Letter, No. A-86-044;
Madden Advice Letter, No. A-85-197;
Memo To Advice File, No. T-85-139;
Memo To Advice File, No. M-84-257;
Gross Advice Letter, No. A-84-143

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2. Proposition 73 created new types of committees for the purpose of the contributions limitations in the new law.

Assuming that the California Leadership Council is not a "controlled committee," as defined above, the contribution limitations it will be subject to will depend on the type of committee it is under Proposition 73. It may be either a "political committee" or a "broad based political committee."

"Political committee" means a committee of persons who receives contributions from two or more persons and acting in concert makes contributions to candidates.

(Section 85102(c).)

"Broad based political committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

(Section 85102(d).)

Enclosed for your information are Commission Regulations 18502 and 18502.1, which clarify the conditions under which a committee may qualify as a "broad based political committee."

Regarding the amount of contributions a political committee or a broad based political committee may accept, Section 85302 provides:

No person shall make and no political committee, broad based political committee, or political party shall solicit or accept, any contribution or loan from a person which would cause the total amount contributed or loaned by that person to the same political committee, broad based political committee, or political party to exceed two thousand five hundred dollars (\$2,500) in any fiscal year to make contributions to candidates for elective office.

Regarding the amount of contributions such committees may make to candidates, Section 85303 provides:

(a) No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause

Bill Lyons, Jr.
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the total amount contributed or loaned by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars (\$2,500) in any fiscal year.

(b) No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution or loan which would cause the total amount contributed or loaned by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars (\$5,000) in any fiscal year.

Also enclosed for your information is a copy of the "Political Reform Act of 1974 as Amended to January 1, 1989." The contribution limitation provisions enacted by Proposition 73 are contained in Sections 85100 through 85700. The definitions of terms used in these provisions are contained in Section 85102.

If you have any questions concerning this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel



By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

California Leadership Council

~~POST OFFICE BOX 22986~~
~~SACRAMENTO, CALIFORNIA 95822~~
~~(916) 448-0881~~
1300 10th Street, Suite C
Modesto, CA 95354

December 1, 1988

Ms. Jeanne Pritchard
Technical Assistance Division
Fair Political Practices Committee
P.O. Box 807
Sacramento, CA 95804

Dear Ms. Pritchard:

Recently, the California Leadership Council underwent a change in status from being a controlled campaign committee to a general distribution committee.

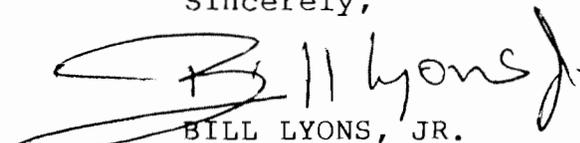
Under direction from the Secretary of State's office, an amended form 410 was filed showing the new changes. However, several questions remain which I am hoping you can help with.

1. What procedures do we need to follow to satisfy the FPPC that decisions regarding raising and distribution of funds are no longer being made by any controlling members? We have instituted a Board of Directors who are private citizens with no legal connection to the former controlling members.
2. What effect will the passage of Proposition 73 have on the fundraising, distribution and general support activities of the committee?

Any assistance you can render on this matter would be greatly appreciated. Of course, a response before the end of the year would also be of great help.

Thank you for your attention to this matter.

Sincerely,


BILL LYONS, JR.
BOARD OF DIRECTORS

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FPPC

California Leadership Council

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Fair Political Practices Committee
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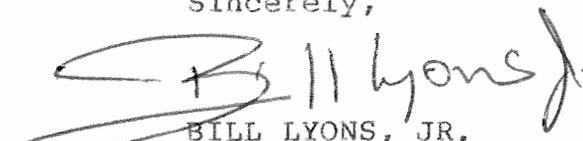
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Thank you for your attention to this matter.

Sincerely,


BILL LYONS, JR.
BOARD OF DIRECTORS



California Fair Political Practices Commission

December 2, 1988

Bill Lyons, Jr.
Board of Directors
California Leadership Council
1300 - 10th Street, Suite C
Modesto, CA 95354

Re: 88-451

Dear Mr. Lyons:

Your letter requesting advice under the Political Reform Act was received on December 2, 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

Jeanne Pritchard
Chief

Technical Assistance and Analysis
Division

JP:plh