



California Fair Political Practices Commission

March 31, 1989

Mona Field
Mona Field for College Board
P. O. Box 16292
Encino, CA 91416-6292

Re: Your Request for Advice
Our File No. A-89-037

Dear Ms. Field:

This is in response to your request for advice relative to the newly enacted provisions of the Political Reform Act (the "Act").^{1/} This response has been delayed due to a recent Superior Court decision concerning the carry-over of contributions collected prior to January 1, 1989. (California Common Cause v. Fair Political Practices Commission, Case No. C709383.) A final order in the case is still pending.

In addition please be aware that this advice is prospective and is not applicable to conduct that may have already take place. (Regulation 18329(b)(8)(A), copy enclosed.) Our prior telephone advice to you is still valid concerning this election. This is because of your reliance on the oral advice and the proximity of the Los Angeles Community College Board of Trustees election.

QUESTIONS

1. What limitations are there on a candidate's ability to loan or donate personal funds to his or her own campaign?
2. Must a candidate for election to a seat on the Los Angeles Community College Board of Trustees specify for which seat he or she intends to run on his or her candidate intention and campaign bank account statements (Forms 501 and 502)?

^{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.

3. May contributions collected for election to one seat on the Los Angeles Community College Board of Trustees be used in conjunction with the election of the candidate to a different seat on the board?

4. At what point are candidate intention and campaign bank account statements deemed filed (Forms 501 and 502)?

5. May funds collected prior to January 1, 1989, be used for a 1989 campaign?

CONCLUSIONS

1. Contributions and loans from a candidate's personal funds to his or her own campaign are not limited by the campaign contribution limits of the Act. However, all of the candidate's personal funds that are donated or loaned to her campaign must be deposited in and expended from the campaign bank account specified on the candidate's campaign bank account statement (Form 502).

2. Because each seat on the Los Angeles Community College Board of Trustees is considered a "specific office," a candidate must specify the seat on the board to which he or she is seeking election on his or her candidate intention and campaign bank account statements (Forms 501 and 502).

3. Funds collected for election to one seat on the Los Angeles Community College Board of Trustees are held in trust for the election to that specific seat and may not be used to campaign for any other seat on the board.

4. Candidate intention and campaign bank account statements (Forms 501 and 502) are considered filed on the date of the postmark.

5. Funds collected prior to January 1, 1989, must be set aside in a "restricted account" to be used for purposes other than to support or oppose a candidacy for elective office.

FACTS

You are currently campaigning for a seat on the Los Angeles Community College Board of Trustees (the "board"). You have already filed your statement of organization, candidate intention statement and campaign bank account statement in anticipation of the April election. Currently, however, you are contemplating changing the seat in the district for which you will intend to campaign.

A person may run for a seat on the board if he or she is a registered voter and resides in the community college district. Although all the constituents of the district will vote for each

seat on the board, the candidate must choose a seat number corresponding to a specific incumbent against whom the candidate intends to campaign. Moreover, any candidate for a particular seat on the board campaigns only against other candidates for that seat. The candidate with the highest vote for each particular seat wins the seat.

ANALYSIS

Limits on the Contribution of Personal Funds

Section 85301(b) provides that the campaign contribution limits of the Act do not apply to money contributed or loaned by a candidate from personal funds to his or her own campaign. However, any personal funds used to promote the election of the candidate must be deposited in a campaign bank account prior to expenditure. (Section 85201(d).) Moreover, all campaign expenditures must be made from the campaign account. (Section 85201(e).) The campaign bank account is established by filing candidate intention and campaign bank account statements (Forms 501 and 502).

Thus contributions from your personal funds to your own campaign are not limited by the campaign contribution limits of the Act. However, the funds must be deposited in the campaign bank account before they are spent.

Designation of Seat Number on Campaign Disclosure Forms

Before any contributions may be solicited, received or deposited in the campaign bank account, a candidate must file a candidate intention statement (Form 501) declaring her intent to be a candidate for a specific office. (Section 85200; Regulation 18520, copy enclosed.) Upon the filing of the candidate intention statement, the candidate is required to establish one campaign bank account at an office of a financial institution located in the state and file a campaign bank account statement (Form 502). (Section 85201(a).)

Section 85202(b) provides:

All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office for which the candidate has stated, pursuant to Section 85200, that he or she intends to seek or expenses associated with holding that office. (Emphasis added.)

The question you have presented is whether a seat on the board is considered a "specific office" for the purposes of Section 85202(b). In the case of the Los Angeles Community College

Board election, the candidate must designate the specific seat number for which the candidate intends to campaign. The seat number corresponds to the specific incumbent that holds the seat, and the candidates for each seat run only against those campaigning for that same seat.

Thus, under the circumstances presented here, the designated seat is the specific office for the purposes of Section 85202(b). Therefore, any contributions collected to campaign for one seat are held in trust for the campaign for that specific seat and may not be used in a campaign for any other seat or office.

Prior to soliciting contributions to campaign for a different seat on the board, you must file a second candidate intention statement and establish a separate campaign committee and bank account for that specific seat. (Regulation 18520(c).) Should you decide to run for a different seat you must specifically identify the campaign committee for which contributions are sought in any written solicitation and instruct contributors to designate the campaign bank account to which the funds are contributed. (Regulation 18523.1, copy enclosed.)

Finally, all contributions from individual contributors must be aggregated on a fiscal year basis to determine when a contributor has reached the contribution limits of the Act. (Regulation 18520.) For example, if a person has given \$500 to your campaign for seat 1 in January, he is limited by the Act to contributing only an additional \$500 to your campaign for seat 3 during the remainder of the fiscal year.

When are Campaign Disclosure Forms Deemed Filed

Section 81007 provides:

When a report or statement or copies thereof required to be filed with any officer under this title have been sent by first class mail, addressed to the officer, it shall for purposes of any deadline be deemed to have been received by him on the date of the deposit in the mail. It shall be presumed until the contrary is established that any date stamped by the post office on the envelope containing the report or statement is the date it was deposited in the mail. Mail which is not received by the filing officer shall be presumed not to have been sent unless the filer possesses a post office receipt establishing the date of deposit and the name and address of the addressee.

Thus, the date of the postmark establishes the filing date for the purposes of the Act. If a form is lost in the mail, the Commission will presume the form was never deposited into the

mails, unless the filer possesses a receipt establishing the date of deposit and name and address of the addressee. (Section 81007.)

Use of Campaign Funds Collected Prior to January 1, 1989

Section 85306 provides that any campaign funds possessed on January 1, 1989 may be expended for any lawful purpose other than to oppose or support a candidate for elective office. The Commission adopted Regulation 18536.1 (copy enclosed) to clarify that a person in possession of such contributions may segregate those funds which meet the Proposition 73 limitations into a separate account and use them for future campaigns. On February 8, 1989, a Los Angeles Superior Court ruled that Regulation 18536.1 was invalid. (California Common Cause v. Fair Political Practices Commission, Case No. C709383.)^{2/}

Thus, contributions received prior to January 1, 1989, must be set aside in a "restricted account" and may be used for any lawful purpose other than to support or oppose a candidate for elective office.

As used in Section 85306, "lawful purpose" means any purpose other than personal use, as defined in Chapter 5 (commencing with Section 12400) of Division 9 of the Elections Code. Lawful uses of restricted funds include the following:

1. Payment of the candidate's or committee's campaign debts incurred prior to January 1, 1989, for goods consumed or services completed prior to January 1, 1989;
2. Payment of officeholder expenses incurred directly in connection with carrying out the usual and necessary duties of holding office, including travel between an officeholder's residence and public office, meetings with constituents which are not campaign-related meetings, and salary payments to staff for other than campaign activities; and,
3. Contributions or expenditures to support or oppose any candidate for federal office, any candidate for elected office in a state other than

^{2/} In that case, the court determined that candidates for certain municipal offices in the City of Los Angeles were subject to stricter contribution limits under local law than under state law. Accordingly, the court's order invalidating carryover of campaign funds raised prior to January 1, 1989 does not affect candidates for those offices. The Board of Trustees of Los Angeles Community College District are not among the elected officers subject to the stricter local laws.

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California, or any ballot measure other than a
measure to recall an elected officer.

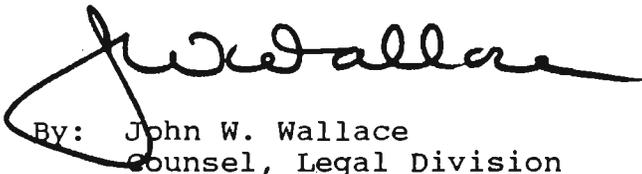
Regulation 18536.2, copy enclosed.

Therefore, you may not use campaign contributions received
prior to January 1, 1989 for campaign expenses associated with any
election held in 1989 or thereafter.

If you have any further questions regarding this matter,
please feel free to contact this office at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: John W. Wallace
Counsel, Legal Division

DMG:JWW:plh

Enclosures



California Fair Political Practices Commission

January 23, 1989

Mona Field
Mona Field for College Board
P.O. Box 16292
Encino, CA 91416-6292

Re: Letter No. 89-037

Dear Ms. Field:

Your letter requesting advice under the Political Reform Act was received on January 17, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John Wallace an attorney in the Legal Division, directly at (916) 322-5901.

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 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,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
Acting General Counsel

KED:plh

MONA FIELD FOR COLLEGE BOARD

FPPC



JAN 17 3 46 PM '89

P.O. Box 16292
Encino, CA 91416-6292
(213)481-1945

John Wallace
Fair Political Practices Commission
426 J Street Suite 800
Sacramento, CA 95814

Dear Mr. Wallace:

Thank you for your excellent assistance over the phone. Could you please refer the following questions to the proper persons for a written response? Thank you.

1. What limits, if any, exist on the candidate's options to donate or loan personal funds to his or her own campaign?
2. When filing form 501/502, does a candidate for an at-large election such as the Los Angeles Community College Board of Trustees (in which all seats run in the same geographic area) have to indicate which office he/she intends to run for? Or is it considered unnecessary due to the at-large election situation?
3. If a candidate for an at-large election does indicate the seat number and then changes the seat number for which he/she is running after filing form 501, what amendment process would be required, if any?
4. If a candidate has collected funds after declaring on form 410 (required by the Secretary of State by all those who raise over \$1000 for a campaign) that he/she intends to run for a particular seat and then changes which seat in an at-large district, do those funds have to be returned or not?
5. Is it true that the form 501/502 is considered to be filed (and funds can then be raised) as soon as the forms are postmarked?
6. Is it accurate that funds collected before December 31, 1988 if collected in keeping with the limits of Propositions 68 and 73 can be used in 1989 and commingled with funds collected in 1989?

Thank you again for your help in clarifying these matters. Please notify me if there is any clarification I can give regarding this list of questions. I had heard that the FPPC was an unusually helpful state agency, and it is true!

Sincerely,
Mona Field
Mona Field