



# California Fair Political Practices Commission

March 9, 1989

Charles P. Scully  
300 Montgomery Street, Suite 735  
San Francisco, CA 94104-1909

Re: Your Request for Advice  
Our File No. A-89-055

Dear Mr. Scully:

This is in response to your request for information on behalf of the State Building and Construction Trades Council of California concerning the newly enacted provisions of the Political Reform Act (the "Act")<sup>1/</sup> limiting campaign contributions.

### QUESTIONS

1. Does a labor council which has received contributions from more than 100 affiliated local unions and made contributions to more than five candidates in the past two years qualify as a broad based political committee?
2. Does the labor council's plan to set aside \$500 of the affiliated local union's dues for political contributions comply with the campaign contribution limitations of the Act?

### CONCLUSIONS

1. Since the council's political activity committee has been in existence for more than two years, has received contributions from more than 100 affiliated local unions and has made contributions to more than five candidates during the last two years, the committee qualifies as a broad based political committee.

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<sup>1/</sup> 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.

2. As a broad based political committee, the council's political activity committee may accept up to \$2,500 per fiscal year in contributions from each local affiliated union for the purpose of making contributions to candidate's for elective office. Therefore, the plan to set aside for this purpose \$500 per fiscal year from the dues paid by each local union is in accord with the provisions of the Act.

#### FACTS

The California State Building and Construction Council (the "council") is a nonprofit association composed of local labor organizations. The local labor organizations that are members of the council consist of workers in the various building and construction trades. The membership of the council, pursuant to the council's constitution, is composed of the affiliated local unions themselves and not the individual workers in the local affiliated unions.

The council maintains as part of its organization a political activity committee. The political activity committee has been in existence for over two years and has received contributions from more than 100 affiliated local unions each year for the past two fiscal years. In addition, the political activity committee has made contributions to more than five candidates in each of these fiscal years.

In accord with the constitution of the council, affiliated local unions make periodic payments to the council in proportion to the size of the local union's membership. In the past, a portion of the membership dues from the local unions has been used for contributions to candidates. The funds collected for the political activity committee have been fully expended. No contributions collected prior to January 1, 1989 currently remain.

In order to comply with the new Proposition 73 contribution limits, the council is contemplating amending its constitution to provide that the first \$500 received from a local union during each fiscal year will be specifically designated for the political activity committee. The funds set aside for the political activity committee will be deposited in a special account from which campaign contributions will be made. These funds will not be commingled with the other assets of the council.

#### ANALYSIS

The Political Reform Act, as amended by Proposition 73, provides that contributions to candidates for elective office and political committees must comply with the contribution limits set forth in Sections 85301, 85302 and 85303. Contributions to a political committee or broad based political committee are limited

to \$2,500 per fiscal year per contributor.<sup>2/</sup> (Section 85302.) Contributions from a political committee to a candidate are limited to \$2,500 each fiscal year, and contributions from a broad based political committee or political party to a candidate are limited to \$5,000 per fiscal year. (Section 82303.)

A broad based political committee is defined in Section 85102 and Regulation 18502 (copy enclosed) as follows:

(a) A committee qualifies as a broad based political committee if it meets all of the following requirements:

(1) It has been in existence for more than six months.

(2) Anytime during the period covered by the current fiscal year and the two preceding fiscal years, it has received contributions from one hundred or more persons.

(3) Anytime during the period covered by the current fiscal year and the two preceding fiscal years, it has, acting in concert, made contributions to five or more candidates.

(b) For purposes of meeting the requirements of subdivision (a), a committee may include the period it has been in existence and the contributions it has made or received prior to January 1, 1989.

Regulation 18502.

The political activity committee of the council has been in existence for more than two years. The committee has received contributions from more than 100 affiliated local unions in the last two years. In addition, the political activity committee has made contributions to more than five candidates during this period. Therefore, the council's political activity committee qualifies as a broad based political committee.

As a broad based political committee, the council's political activity committee may accept up to \$2,500 in contributions from each union for the purpose of making contributions to candidate's for elective office each fiscal year. (Section 85302.) The contribution limits do not apply to that portion of the membership dues paid to the council which are used for purposes other than

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<sup>2/</sup> The fiscal year is July 1 through June 30. (Section 85102(a).)

Charles P. Scully  
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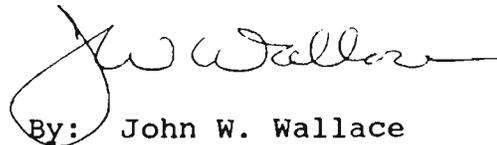
making contributions to candidates for elective office. (Section 85303(c).) Thus, the set aside policy is in compliance with the Act.

Prior to making any contribution totaling more than \$2,500 in a fiscal year for the support of or opposition to a candidate for elective office, however, a broad based political committee must amend its statement of organization to indicate that it is a broad based political committee and the date on which it qualified as a broad based political committee. (Regulation 18502.1, copy enclosed.)<sup>3/</sup>

If I can be of any further assistance to you, please feel free to contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel



By: John W. Wallace  
Counsel, Legal Division

DMG:JWW:plh

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<sup>3/</sup> A committee which qualified as a broad based political committee on or before January 1, 1989, need not state the date on which it qualified as a broad based political committee, but shall indicate that the date was "on or before January 1, 1989."  
(Regulation 18502.1.)

LAW OFFICES  
OF  
CHARLES P. SCULLY, INC.,  
300 MONTGOMERY STREET  
SUITE 735  
SAN FRANCISCO, CALIFORNIA 94104-1909

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Jan 30 9 09 AM '89

CHARLES P. SCULLY (1915-1985)  
DONALD C. CARROLL  
CHARLES P. SCULLY, II

January 27, 1989

TELEPHONE  
362-0241  
AREA CODE 415

Bruce Robeck, Esquire  
California Fair Political  
Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

Re: State Building and Construction Trades  
Council of California -  
Proposition 73

Dear Mr. Robeck:

Mr. William Ward of the above referenced entity has requested that I write requesting appropriate steps for said entity to take under the Proposition vis-a-vis its sponsored, non-controlled, Political Action Committee.

First, from a structural perspective the California State Building and Construction Trades Council (hereinafter the "Council") is a voluntary association composed of a multiplicity of labor organizations representing workers in various building and construction trades. The members of the Council, pursuant to its Constitution, are not the individual members of the affiliated local unions but rather the affiliated local unions themselves.

In accord with the Constitution of the Council affiliated organizations make periodic payments to the Council which in some instance are calculated by various per capita formulas which are used solely as a measuring device vis-a-vis the obligation of the individual affiliates.

The sponsored Political Activity Committee has historically included a portion of those per capita payments as receipts from the affiliated entity and has historically matched that amount by contributions made.

Under the Constitution the Executive Board of the Council is authorized and empowered to make any and all amendments to the Constitution and By-Laws which are

Bruce Robeck, Esquire  
California Fair Political  
Practices Commission

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necessary.

In order to assure full compliance with Proposition 73, it is contemplated that the Constitution will be amended to specifically state that the first \$500.00 per fiscal year received from an affiliate will be specifically earmarked for the sponsored Political Activity Committee and that the amounts will be deposited into a separate and segregated bank account and in no fashion comingled with assets of the Council itself. The aforesaid amount is obviously dramatically lower than the \$2,500.00 per fiscal year limitation which is applicable to the individual labor organizations pursuant to Proposition 73. Given this fact that the sponsored Political Activity Committee shall not receive any "excess funds" it does not appear that there is any requirement for the formation of a separate and distinct second Political Action Committee. Rather, it is merely a matter of assuring the segregation of funds to be earmarked in accord with the Constitution.

The sponsored Political Activity Committee has been in existence for substantially more than two fiscal years and has in each preceding fiscal year received contributions from more than 100 affiliated local unions. During all of the aforescribed periods the Political Activity Committee has made contributions to more than five candidates in each fiscal year. Given the foregoing, it appears clear that the Committee meets the definition of a Broad Based Committee. It is our understanding that prior to making any contribution in excess of the limitations applicable to committees in general the Committee must notify the Secretary of State of its status as a Broad Based Committee. It is our understanding that the Commission has yet to work up a form for the aforesaid purpose and that accordingly simply notification to the Secretary of State by certified mail and/or telegram, with a courtesy copy to your offices, will be sufficient.

On behalf of the Council, I would request verification that the aforescribed steps are sufficient in order to meet compliance with the provisions of Proposition No. 73 and related regulations, relevant to the issues discussed above.

Bruce Robeck, Esquire  
California Fair Political  
Practices Commission

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Thank you.

Very truly yours,

LAW OFFICES OF  
CHARLES P. SCULLY, INC.

By   
Charles P. Scully II

CPSII:bjs  
OPE-3-AFL-CIO

cc: Mr. Cremins  
Mr. Ward  
Ms. F. Schreiber, Attorney  
Mr. Neves, CPA

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FPP  
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DONALD C. CARROLL  
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Page Three  
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Very truly yours,

LAW OFFICES OF  
CHARLES P. SCULLY, INC.

By

  
Charles P. Scully II

CPSII:bjs  
OPE-3-AFL-CIO

cc: Mr. Cremins  
Mr. Ward  
Ms. F. Schreiber, Attorney  
Mr. Neves, CPA



# California Fair Political Practices Commission

January 31, 1989

Charles P. Scully, II  
Charles P. Scully, Inc.  
300 Montgomery Street, Suite 735  
San Francisco, CA 94104-1909

Re: Letter No. 89-055

Dear Mr. Scully:

Your letter requesting advice under the Political Reform Act was received on January 30, 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,

*Diane M. Griffiths*  
Diane M. Griffiths *by Ked*  
General Counsel

DMG:plh