



California Fair Political Practices Commission

March 20, 1989

Cynthia K. Suzuki
Director, Political Affairs
California Chamber of Commerce
1027 10th Street, 4th Floor
P. O. Box 1736
Sacramento, CA 95812-1736

Re: Your Request for Advice
Our File No. I-89-071

Dear Ms. Suzuki:

You have requested advice on behalf of the California Chamber of Commerce regarding its responsibilities under the Political Reform Act (the "Act").^{1/} You are not requesting advice regarding a particular governmental decision. Therefore, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/} This letter confirms the tentative advice given to you during our telephone conversation on February 7, 1989.

QUESTION

A corporate/association member contributes \$1,000 to a candidate, \$1,000 to an association PAC and \$1,000 to an industry-related PAC. The two PACs contribute funds to that same candidate. The contributions to the PACs are not earmarked for any particular candidate and are made independently and without the knowledge of the original contributor. Would those contributions be attributed to the original contributor?

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.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c) (3).)

Cynthia K. Suzuki
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CONCLUSION

Contributions of the two PACs would not be attributed to the original contributor unless there is some evidence of control exercised by the original contributor on the PACs making the contributions.

ANALYSIS

A contribution is defined as:

[A] payment, a forgiveness of a loan, a payment of a loan by a third party . . . unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate committee or elected officer unless full and adequate consideration is received for making the expenditure. . . .

Section 82015.

The Commission has opined that when contributions are made by a parent corporation and its wholly owned subsidiaries, they do so pursuant to an implicit agreement to accomplish a common political goal. (In re Kahn (1976) 2 FPPC Ops. 151, 155, copy enclosed.) Consequently, their contributions will be aggregated unless it is clear from the surrounding circumstances that the corporation and its subsidiaries acted completely independently of each other. (Id.)

In your hypothetical, the corporate/associate member contributes \$1,000 to a candidate and then contributes \$1,000 each to two separate PACs who make contributions to the same candidate. Further, the contributions to the PACs were not earmarked for the candidate and the two PACs acted completely independently of one another and without the knowledge of the original contributor. Under these circumstances, without some evidence of control by the original contributor, the contributions of the original contributor and the two PACs will not be aggregated.

I trust this letter provides you with the guidance you have requested. If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Diane Griffiths
General Counsel



By: Jeevan Ahuja
Counsel, Legal Division

FPPC



Jan 24 9 06 AM '89

California Chamber of Commerce

January 23, 1989

Mr. John Larson, Chairman
Fair Political Practices Commission
428 'J' Street, Suite 800
P. O. Box 807
Sacramento, CA 95804

Dear Mr. Chairman:

The California Chamber of Commerce is contemplating the formation of a state legislative political action committee. Currently, we have a political action committee that supports and opposes ballot measure campaigns.

In researching this topic, one of the questions we are faced with has to do with attribution of contributions. If a corporate/association member were to contribute \$1,000.00 to a candidate, \$1,000.00 to an association PAC and \$1,000.00 to an industry related PAC and those two PACs were to contribute funds to that same candidate (originally not earmarked, independent of one another and without the knowledge of the original contributor), would those contributions be considered attributable to the original contributor?

Does the Commission plan to review regulations related to this topic? Will there be legislation introduced concerning this subject?

Our Political Affairs Committee will be reviewing this matter at its' February 8 meeting, where they will be making a recommendation for our Board of Directors to consider at its' March 2 meeting. I would appreciate your input on this matter.

Thank you for your assistance.

Sincerely,

Cynthia K. Suzuki
Director, Political Affairs

CKS/cs



California Fair Political Practices Commission

February 7, 1989

Cynthia K. Suzuki
Director, Political Affairs
California Chamber of Commerce
1027 10th Street
4th Floor
P. O. Box 1736
Sacramento, CA 95812-1736

Re: Letter No. 89-071

Dear Ms Suzuki:

Your letter requesting advice under the Political Reform Act was received on January 24, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeevan Ahuja 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 "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

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