



California Fair Political Practices Commission

May 10, 1989

Edwin S. Nakamura
1326 Arch Street
Berkeley, CA 94708

Re: Your Request for Advice
Our File No. A-89-181

Dear Mr. Nakamura:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act.^{1/} Because the advice contained in this letter involves a policy decision which has not previously been addressed by the Commission, the letter will be submitted to the members of the Commission for further review. Therefore, you should consider this advice to be temporary until the Commission has had an opportunity to discuss it at its meeting on June 6, 1989.

FACTS

You are the campaign treasurer for the Committee to Retain Judge John Oda. The Committee had no funds, received no contributions and made no expenditures after December 31, 1988. In January 1989 the Committee filed a Candidate and Officeholder Campaign Statement-Long Form/Consolidated Campaign Statement (Form 490) for the semi-annual filing period ending December 31, 1988, along with a Statement of Termination (Form 415) which was executed on January 30, 1989.

QUESTIONS

Must the Committee to Retain Judge John Oda file a campaign statement for the period January 1, 1989 through January 30, 1989, the date of execution on the Statement of Termination?

If the Committee is required to file a campaign statement for the period January 1, 1989 through January 30, 1989, may the

^{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.

period covered by the semi-annual statement be extended through January 30, 1989?

CONCLUSIONS

The Committee is not required to file a campaign statement for the period January 1, 1989 through January 30, 1989, as long as the Committee was eligible to terminate its status on December 31, 1988, and had no reportable activity after that date.

A committee which is eligible to terminate its status after the closing date of one campaign statement but before the filing deadline for that statement generally may extend the closing date of the statement to include the additional period of time. However, because the period over which contributions and expenditures are cumulated is the calendar year, this method of reporting would not be appropriate for the semi-annual campaign statement covering through December 31.

ANALYSIS

The Act requires candidates and committees to file campaign statements disclosing contributions received and expenditures made. The filing deadlines and periods covered by the campaign statements are specified in Sections 84200-84204.

Section 84214 requires committees which receive contributions ("recipient committees") and candidates to terminate their filing obligations pursuant to regulations adopted by the Fair Political Practices Commission. Regulation 18404 allows candidates and recipient committees to end their disclosure obligations by filing a Statement of Termination declaring, under penalty of perjury, that the candidate or committee:

- 1) Has ceased to receive contributions and make expenditures and does not anticipate receiving contributions or making expenditures in the future;
- 2) Has eliminated or has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations;
- 3) Has no surplus funds; and
- 4) Has filed all required campaign statements disclosing all reportable transactions.

Regulation 18404(b).

The Act requires campaign disclosure statements to be filed no later than five days after the closing date of a pre-election

statement, and no later than 30 days after the closing date of a semi-annual statement. (Sections 84200-84200.8.) The purpose of the period between the closing date of the statement and the filing deadline is to allow candidates and committees time to prepare the statements.

When filing their final campaign statements, candidates and recipient committees are instructed by the disclosure forms (Forms 420 and 490) to attach the Statement of Termination (Form 415) to the Form 420 or 490 when filed. A requirement to execute the Statement of Termination on the closing date of a campaign statement, which in most cases would be prior to preparation of the statement, would place the committee in the awkward position of signing the Statement of Termination prior to complying with subsection (b)(4) of Regulation 18404. In addition, requiring preparation of an additional campaign statement disclosing that no activity occurred between the closing date of the last statement and its filing deadline would be overly burdensome.

Therefore, a candidate or committee which is eligible to terminate under Regulation 18404 may execute the Statement of Termination at any time through the filing deadline for its last campaign statement without incurring a reporting obligation for the period between the closing date and the filing deadline. Except as noted above with regard to the semi-annual campaign statement ending December 31, a candidate or committee which becomes eligible to file a Statement of Termination between the closing date and the filing deadline for its last campaign statement may extend the period covered by the statement to include the additional time. However, the original filing deadline must still be met.

Candidates and committees which were eligible to terminate but failed to file the Form 415 with their last campaign statement may terminate without filing additional campaign statements by filing Form 415 and including a note stating that no activity has occurred since filing the last campaign statement.^{2/}

Using these guidelines, it appears that the Committee to Retain Judge John Oda is not required to file an additional report for the period January 1, 1989 through January 30, 1989, under the circumstances you have described.

^{2/}It should be noted that city and county filing officers may have been using different procedures than those outlined in this letter based upon informal advice from Commission staff. However, upon closer consideration of this issue, we believe the advice in this letter will provide candidates, treasurers and filing officers with a more workable procedure for termination.

Edwin S. Nakamura
Page 4

I hope this letter adequately responds to your questions. I will notify you of the status of this advice after the Commission's June meeting. Please call me at (916) 322-5662 if you have additional questions.

Sincerely,

Kathryn E. Donovan
General Counsel

Carla Wardlow

By: Carla Wardlow
Political Reform Consultant

cc: Alameda County Registrar of Voters

March 3, 1989

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, CA 95814

Re: Request for legal opinion
Statement of Termination, Form 415

Dear Madame Secretary:

This request for legal opinion is generated by a letter received from the Alameda County Registrar of Voters concerning the simultaneous filing of Form 490 - Candidate and Officerholder Campaign Statement, and Form 415 - Statement of Termination.

Form 490 is filed under Gov. Code 84200(a).

Form 415 is filed under Gov. Code 84214, and CAC Title 2, Division 2, Section 18404(b) and (c).

Request 1:

The Alameda County Registrar requested us to amend the date on Form 490 to January 30, 1989.

We believe that this request is violation of the reporting date required in GC 84200(a) of December 31.

Who is correct?

Request 2:

Ms Sandy Taylor, consultant to FPPC (916-322-5662), informed us that we had to file another Form 490 for the period, January 1, 1989 to January 30, 1989, to comply with the instruction letter issued by the FPPC attached to the Form 415, since the date of execution of the Form 415 was January 30, 1989.

Discussion: CAC Section 18404 does not contain any reference to date of execution. It does contain a requirement in Section 18404(b)(4): "Has filed all required campaign statements disclosing all reportable transactions."

Neither the Treasurer or Candidate can sign the Form 415 until they have signed the Form 490, and filed the form.

Furthermore, a Form 415 can be filed with the final filing of Form 490, and is so indicated by check the blank for simultaneous filing on the front of the Form 490.

March 3, 1989

Page 2

We believe that filing the Form 415 serves as a notification document that our filing obligation is terminated. Furthermore, we have attested, under penalty of perjury, that transactions requiring filing of a Form 490 have not been transacted, and that all forms, including Form 490 have been filed.

Why then does the FPPC advise filing another Form 490 be filed for the one month grace period, when under their regulations, the filers have attested in the Form 415 that none of the Form 490 transactions have occurred? Doesn't the State of California have a Paperwork Act to eliminate redundant filings?

Who is correct?

In summary, we believe that the request by the Alameda County Registrar is in violation of the filing dates specified in GC 84200. And the advise received from Sandy Taylor, FPPC consultant, to file another Form 490 showing no activity for the grace filing period for the semi-annual Form 490 filing requirement is not required. (Furthermore, if another Form 490 had to be filed, then another Form 415 would have to be filed with it).

Your kind attention to this matter is appreciated.

Very truly yours,



Edwin S. Nakamura

cc: Alameda County Registrar
FPPC
Judge Oda

LIST OF DOCUMENTS ATTACHED

February 24, 1989 letter from Alameda County Registrar

Instruction Sheet, 1988, to Form 415

Copy of Gov Code Section 84200

Copy of Gov Code Section 84214

Copy of CAC, Title 2, Section 18404



Sandy Taylor
916-322-5662

REGISTRAR OF VOTERS
ALAMEDA COUNTY • CALIFORNIA

EMMIE J HILL
REGISTRAR

February 24, 1989

Edwin S. Nakamura, Treasurer
Committee to Retain judge John Oda
1326 Arch Street
Berkeley, CA 94708

RE: Filing of Form 415, Statement of Termination

Dear Mr. Nakamura:

We have reviewed the Form 415, Statement of Termination, and corresponding Form 490 filed by you and it appears that further information is required.

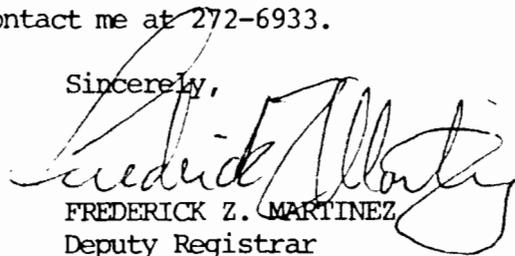
- * On the Cover Page of the Form 490, the ending date should reflect the execution date of the Form 415 (January 30, 1989 on the Form 415 filed by you). The ending date listed by you is December 31, 1988. Please make the necessary correction.

Please review the above information and make the necessary amendments by completing the enclosed Form 405 and Form 490 (Cover Page).

Please file the completed documents, along with the enclosed duplicate of this notice, with our office by March 24, 1989.

If you have any questions, please contact me at 272-6933.

Sincerely,



FREDERICK Z. MARTINEZ
Deputy Registrar

AR88 - 169

nclosures

cc John Oda

1988

FORM 415
STATEMENT OF TERMINATION

FOR USE BY:

CANDIDATES

OFFICEHOLDERS

- RECIPIENT COMMITTEES

CANDIDATES, OFFICEHOLDERS AND RECIPIENT COMMITTEES DO NOT AUTOMATICALLY TERMINATE AND MAY ONLY TERMINATE UNDER THE FOLLOWING CIRCUMSTANCES:

- THEY HAVE CEASED TO RECEIVE CONTRIBUTIONS AND MAKE EXPENDITURES; AND
- THEY DO NOT ANTICIPATE RECEIVING CONTRIBUTIONS, REPAYMENTS OF OUTSTANDING LOANS MADE TO OTHERS, OR ANY OTHER RECEIPTS IN THE FUTURE AND THEY DO NOT ANTICIPATE MAKING EXPENDITURES IN THE FUTURE; AND
- THEY HAVE ELIMINATED OR HAVE DECLARED THAT THEY HAVE NO INTENTION OR ABILITY TO DISCHARGE ALL THEIR DEBTS, LOANS RECEIVED AND OTHER OBLIGATIONS; AND
- THEY HAVE NO SURPLUS FUNDS;* AND
- THEY HAVE FILED ALL REQUIRED CAMPAIGN STATEMENTS DISCLOSING ALL REPORTABLE TRANSACTIONS.

IF AFTER FILING A STATEMENT OF TERMINATION, A CANDIDATE OR COMMITTEE BEGINS RAISING OR SPENDING FUNDS OR RECEIVES THE FORGIVENESS OF A LOAN, REPAYMENTS OF LOANS MADE TO OTHERS OR ANY OTHER RECEIPTS, ADDITIONAL FILING OBLIGATIONS WILL BE INCURRED.

WHERE TO FILE:

- CANDIDATES AND OFFICEHOLDERS MUST FILE THE ORIGINAL OF THE STATEMENT OF TERMINATION WITH THE FILING OFFICER WITH WHOM THEY FILE THE ORIGINAL OF THEIR CAMPAIGN STATEMENTS.
- RECIPIENT COMMITTEES MUST FILE THE ORIGINAL OF THE STATEMENT OF TERMINATION WITH THE SECRETARY OF STATE, POLITICAL REFORM DIVISION, P.O. BOX 1467, SACRAMENTO, CA 95812-1467, AND A COPY WITH THE APPROPRIATE LOCAL FILING OFFICER.

IMPORTANT

A FORM 420, 450 OR 490 MUST BE FILED WITH A STATEMENT OF TERMINATION. THE PERIOD COVERED ON THE FORM 420, 450 OR 490 IS THE DAY AFTER THE CLOSING DATE OF THE LAST STATEMENT FILED THROUGH THE DATE OF EXECUTION REPORTED ON THE FORM 415.

*ELECTIONS CODE SECTION 12400, ET SEQ., SETS OUT THE PERMISSIBLE USES OF SURPLUS CAMPAIGN FUNDS. CONTACT YOUR LOCAL DISTRICT ATTORNEY OR THE STATE ATTORNEY GENERAL FOR AN INTERPRETATION OR FURTHER INFORMATION REGARDING PERSONAL USE OF CAMPAIGN FUNDS. (THE FAIR POLITICAL PRACTICES COMMISSION DOES NOT INTERPRET THE ELECTIONS CODE.)

- § 84204.1. Election Statements; Exemption from Filing; Abbreviated Statements. [Repealed]
- § 84204.2. Preelection Statements; Final. [Repealed]
- § 84205. Combination of Statements.
- § 84206. Candidates Who Receive or Spend Less than \$1,000.
- § 84207. Late Independent Expenditures; Reports. [Repealed]
- § 84207.5. Appointments to Office; Filing Requirements. [Repealed]
- § 84208. Independent Expenditures; Reports. [Repealed]
- § 84209. Consolidated Statements.
- § 84210. Special Election Reports. [Repealed]
- § 84211. Contents of Campaign Statements.
- § 84212. Forms; Loans.
- § 84213. Candidate Verification.
- § 84214. Termination.
- § 84215. Campaign Reports and Statements; Where to File.
- § 84216. Loans.
- § 84216.5. Loans Made by a Candidate or Committee.
- § 84217. Federal Office Candidates; Places Filed.
- § 84218. Slate Mailer Organization; Semi-Annual Statements.
- § 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.
- § 84220. Slate Mailer Organization; Late Contributions.
- § 84221. Slate Mailer Organization; Termination.
- § 84222. Blank.
- § 84223. Blank.
- § 84224. Blank.
- § 84225. Blank.
- § 84226. Renumbered 84217.

§ 84200. Semi-Annual Statements.

(a) Except as provided in paragraphs (1), (2), (3), and (4), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than one hundred dollars (\$100) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(a) The judge has not received any contributions.

(b) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other

candidates or committees totaling less than one thousand dollars (\$1,000).

(4) A committee formed primarily to support or oppose the qualification of a measure shall not be required to file a semiannual statement until after the filing date for the campaign statement required by subdivision (f) of Section 84200.5.

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

History: Amended by Stats. 1977, Ch. 1193, effective January 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held at Times Other Than the State Direct Primary or the State General Election.") Amended by Stats. 1981, Ch. 78, effective January 1, 1982; amended by Stats. 1982, Ch. 1069, effective January 1, 1983; amended by Stats. 1983, Ch. 898, effective January 1, 1984; amended by Stats. 1984, Ch. 1368, effective January 1, 1985; repealed and reenacted as amended by Stats. 1985, Ch. 1456, effective January 1, 1986; amended by Stats. 1988, Ch. 708, effective January 1, 1989.

§ 84200.5. Preelection Statements.

In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees must file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, all state candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

isted or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars (\$100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars (\$100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate both an election held on the first Tuesday after the first Monday in December and an election held on the first Tuesday after the first Monday in January, his or her controlled committee, or a committee primarily intended to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address and telephone number of the committee and of the committee treasurer. In case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or the name which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address and treasurer of any committee of which he or she has pledged which has received contributions or made expenditures on behalf of his or her candidacy and whether such committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed reported if it is not cashed, negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the verification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (j) for each person who has directly, indirectly or through an intermediary received payments relatively totaling one hundred dollars (\$100) or more for circulation contributions to qualify a measure for the ballot.

(s) The information required by Sections 84216 and 84216.5.

History: Amended by Stats. 1978, Ch. 650, effective January 1, 1979; repealed and amended as amended by Stats. 1980, Ch. 289, effective January 1, 1981 (formerly titled "Verification of Cumulative Amount"); amended by Stats. 1982, Ch. 377, effective January 1, 1983; amended by Stats. of 1985, Ch. 899, effective January 1, 1986; amended by 1988, Ch. 704, effective January 1, 1989.

84212. Forms; Loans.

The forms promulgated by the commission for disclosure of the information required by this chapter shall provide for the reporting of contributions and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative

January 7, 1975; repealed and reenacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981. (Formerly titled "Candidates Who Receive and Spend \$200 or Less.") Amended by Stats. 1985, Ch. 1456, effective January 1, 1986.

§ 84213. Candidate Verification.

A candidate and state measure proponent shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

History: Former Section 84213, titled "Consolidated Statements; Candidates and Committees," amended by Stats. 1976, Ch. 1106, effective January 1, 1977; repealed by Stats. 1980, Ch. 289, effective January 1, 1981. Former Section 84209 amended and renumbered Section 84216.5 by Stats. 1979, Ch. 779, effective January 1, 1980; Section 84216.5 renumbered Section 84213 by Stats. 1980, Ch. 289, effective January 1, 1981; amended by Stats. 1983, Ch. 898, effective January 1, 1984.

§ 84214. Termination.

Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the termination. Such regulations shall not require the filing of any campaign statements other than those required by this chapter. In no case shall a committee which qualifies solely under subdivision (b) or (c) of Section 82013 be required to file any notice of its termination.

History: Repealed and reenacted as amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981. (Formerly titled "Late Contributions; Reports.")

§ 84215. Campaign Reports and Statements; Where to File.

All candidates, elected officers, committees and proponents of state ballot measures except as provided in subdivision (e) shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for such offices, Supreme Court Justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, Supreme Court Justices, or statewide measures, and all state general purpose committees and filers not specified in subdivisions (b) through (e) below:

- (1) The original and one copy with the Secretary of State.
- (2) Two copies with the Registrar-Recorder of Los Angeles County.
- (3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(Regulations of the Fair Political Practices Commission
Title 2, Division 6 of the California Administrative Code

18404. Termination of Candidate's and Committees' Filing Requirements

(a) The filing obligations of a committee which qualifies pursuant to Government Code Section 82013(b) or (c) terminate at the end of the calendar year in which the committee qualified, except to the extent that additional campaign statements are required by Government Code Sections 84200, 84203, 84203.5 and 84204. If additional campaign statements are filed after the beginning of a new calendar year because the committee files a statement in connection with the qualification of a measure or a semiannual statement covering activity for the period July 1 through December 31, the committee's filing obligations terminate when such statements have been filed.

(b) A candidate may terminate his or her status as a candidate, and a treasurer of a committee which qualifies pursuant to Government Code Section 82013(a) may terminate the committee's status as a committee, only by filing a Statement of Termination declaring, under penalty of perjury, that the candidate or committee:

(1) Has ceased to receive contributions and make expenditures and does not anticipate receiving contributions or making expenditures in the future;

(2) Has eliminated or has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations;

(3) Has no surplus funds; and

(4) Has filed all required campaign statements disclosing all reportable transactions.

(c) A Statement of Termination filed pursuant to subsection (b) shall be filed as follows:

(1) In the case of a committee, the original with the Secretary of State, and a copy with each filing officer with whom a copy of the committee's last campaign statement was filed;

(2) In the case of a candidate, the original with the filing officer with whom the original of the candidate's last campaign statement was filed.

(d) A candidate or a committee which has terminated remains subject to all civil and criminal penalties and remedies for any violations of this title or any other provision of law.

(Gov. Code Section 84214)

History: (1) New section filed 3/31/77; effective 4/30/77.
(2) Amendment of (a) filed 5/22/78; effective 6/21/78.
(3) Amendment filed 2/17/82; effective 3/19/82.
(4) Amendment filed 3/3/86; effective 4/2/86.



Office of the Secretary of State
March Fong Eu

Executive Office
1230 J Street
Sacramento, California 95814

(916) 445-6371

March 23, 1989

Mr. Edwin S. Nakamura
1326 Arch Street
Berkeley, California 94708

Dear Mr. Nakamura:

Thank you for your letter of March 3, 1989.

Pursuant to Government Code section 83111, the Fair Political Practices Commission has the primary responsibility for the impartial, effective administration and implementation of the Political Reform Act of 1974. That commission, rather than this office, has the authority to interpret the Act and to render opinions and advice as to the duties of persons subject to the Act. I am, therefore, taking the liberty of referring your letter to the Commission for appropriate response.

Sincerely,

ANTHONY L. MILLER
Chief Deputy

cc: Fair Political Practices Commission
426 J Street, Suite 800
Sacramento, California 95804

March 3, 1989

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, CA 95814

Re: Request for legal opinion
Statement of Termination, Form 415

Dear Madame Secretary:

This request for legal opinion is generated by a letter received from the Alameda County Registrar of Voters concerning the simultaneous filing of Form 490 - Candidate and Officerholder Campaign Statement, and Form 415 - Statement of Termination.

Form 490 is filed under Gov. Code 84200(a).
Form 415 is filed under Gov. Code 84214, and CAC Title 2, Division 2, Section 18404(b) and (c).

Request 1:

The Alameda County Registrar requested us to amend the date on Form 490 to January 30, 1989.

We believe that this request is in violation of the reporting date required in GC 84200(a) of December 31.

Who is correct?

Request 2:

Ms Sandy Taylor, consultant to FPPC (916-322-5662), informed us that we had to file another Form 490 for the period, January 1, 1989 to January 30, 1989, to comply with the instruction letter issued by the FPPC attached to the Form 415, since the date of execution of the Form 415 was January 30, 1989.

Discussion: CAC Section 18404 does not contain any reference to date of execution. It does contain a requirement in Section 18404(b)(4): "Has filed all required campaign statements disclosing all reportable transactions."

Neither the Treasurer or Candidate can sign the Form 415 until they have signed the Form 490, and filed the form.

Furthermore, a Form 415 can be filed with the final filing of Form 490, and is so indicated by check the blank for simultaneous filing on the front of the Form 490.

March 3, 1989

Page 2

We believe that filing the Form 415 serves as a notification document that our filing obligation is terminated. Furthermore, we have attested, under penalty of perjury, that transactions requiring filing of a Form 490 have not been transacted, and that all forms, including Form 490 have been filed.

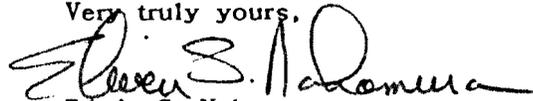
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Who is correct?

In summary, we believe that the request by the Alameda County Registrar is in violation of the filing dates specified in GC 84200. And the advise received from Sandy Taylor, FPPC consultant, to file another Form 490 showing no activity for the grace filing period for the semi-annual Form 490 filing requirement is not required. (Furthermore, if another Form 490 had to be filed, then another Form 415 would have to be filed with it).

Your kind attention to this matter is appreciated.

Very truly yours,



Edwin S. Nakamura

cc: Alameda County Registrar
FPPC
Judge Oda

LIST OF DOCUMENTS ATTACHED

February 24, 1989 letter from Alameda County Registrar

Instruction Sheet, 1988, to Form 415

Copy of Gov Code Section 84200

Copy of Gov Code Section 84214

Copy of CAC, Title 2, Section 18404



Sandy Taylor
916-322-5662

REGISTRAR OF VOTERS

ALAMEDA COUNTY • CALIFORNIA

EMMIE J. HILL
REGISTRAR

February 24, 1989

Edwin S. Nakamura, Treasurer
Committee to Retain judge John Oda
1326 Arch Street
Berkeley, CA 94708

RE: Filing of Form 415, Statement of Termination

Dear Mr. Nakamura:

We have reviewed the Form 415, Statement of Termination, and corresponding Form 490 filed by you and it appears that further information is required.

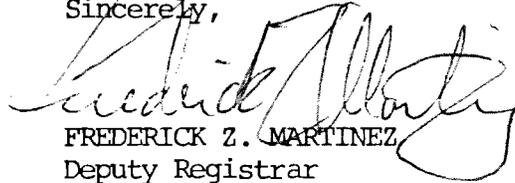
- * On the Cover Page of the Form 490, the ending date should reflect the execution date of the Form 415 (January 30, 1989 on the Form 415 filed by you). The ending date listed by you is December 31, 1988. Please make the necessary correction.

Please review the above information and make the necessary amendments by completing the enclosed Form 405 and Form 490 (Cover Page).

Please file the completed documents, along with the enclosed duplicate of this notice, with our office by March 24, 1989.

If you have any questions, please contact me at 272-6933.

Sincerely,


FREDERICK Z. MARTINEZ
Deputy Registrar

AR88 - 169

nclosures

cc John Oda

1988

FORM 415
STATEMENT OF TERMINATION

FOR USE BY:

- CANDIDATES
- OFFICEHOLDERS
- RECIPIENT COMMITTEES

CANDIDATES, OFFICEHOLDERS AND RECIPIENT COMMITTEES DO NOT AUTOMATICALLY TERMINATE AND MAY ONLY TERMINATE UNDER THE FOLLOWING CIRCUMSTANCES:

- THEY HAVE CEASED TO RECEIVE CONTRIBUTIONS AND MAKE EXPENDITURES; AND
- THEY DO NOT ANTICIPATE RECEIVING CONTRIBUTIONS, REPAYMENTS OF OUTSTANDING LOANS MADE TO OTHERS, OR ANY OTHER RECEIPTS IN THE FUTURE AND THEY DO NOT ANTICIPATE MAKING EXPENDITURES IN THE FUTURE; AND
- THEY HAVE ELIMINATED OR HAVE DECLARED THAT THEY HAVE NO INTENTION OR ABILITY TO DISCHARGE ALL THEIR DEBTS, LOANS RECEIVED AND OTHER OBLIGATIONS; AND
- THEY HAVE NO SURPLUS FUNDS;* AND
- THEY HAVE FILED ALL REQUIRED CAMPAIGN STATEMENTS DISCLOSING ALL REPORTABLE TRANSACTIONS.

IF AFTER FILING A STATEMENT OF TERMINATION, A CANDIDATE OR COMMITTEE BEGINS RAISING OR SPENDING FUNDS OR RECEIVES THE FORGIVENESS OF A LOAN, REPAYMENTS OF LOANS MADE TO OTHERS OR ANY OTHER RECEIPTS, ADDITIONAL FILING OBLIGATIONS WILL BE INCURRED.

WHERE TO FILE:

- CANDIDATES AND OFFICEHOLDERS MUST FILE THE ORIGINAL OF THE STATEMENT OF TERMINATION WITH THE FILING OFFICER WITH WHOM THEY FILE THE ORIGINAL OF THEIR CAMPAIGN STATEMENTS.
- RECIPIENT COMMITTEES MUST FILE THE ORIGINAL OF THE STATEMENT OF TERMINATION WITH THE SECRETARY OF STATE, POLITICAL REFORM DIVISION, P.O. BOX 1467, SACRAMENTO, CA 95812-1467, AND A COPY WITH THE APPROPRIATE LOCAL FILING OFFICER.

IMPORTANT

A FORM 420, 450 OR 490 MUST BE FILED WITH A STATEMENT OF TERMINATION. THE PERIOD COVERED ON THE FORM 420, 450 OR 490 IS THE DAY AFTER THE CLOSING DATE OF THE LAST STATEMENT FILED THROUGH THE DATE OF EXECUTION REPORTED ON THE FORM 415.

*ELECTIONS CODE SECTION 12400, ET SEQ., SETS OUT THE PERMISSIBLE USES OF SURPLUS CAMPAIGN FUNDS. CONTACT YOUR LOCAL DISTRICT ATTORNEY OR THE STATE ATTORNEY GENERAL FOR AN INTERPRETATION OR FURTHER INFORMATION REGARDING PERSONAL USE OF CAMPAIGN FUNDS. (THE FAIR POLITICAL PRACTICES COMMISSION DOES NOT INTERPRET THE ELECTIONS CODE.)

- § 84204.1. Election Statements; Exemption from Filing; Abbreviated Statements. [Repealed]
- § 84204.2. Preelection Statements; Final. [Repealed]
- § 84205. Combination of Statements.
- § 84206. Candidates Who Receive or Spend Less than \$1,000.
- § 84207. Late Independent Expenditures; Reports. [Repealed]
- § 84207.5. Appointments to Office; Filing Requirements. [Repealed]
- § 84208. Independent Expenditures; Reports. [Repealed]
- § 84209. Consolidated Statements.
- § 84210. Special Election Reports. [Repealed]
- § 84211. Contents of Campaign Statements.
- § 84212. Forms; Loans.
- § 84213. Candidate Verification.
- § 84214. Termination.
- § 84215. Campaign Reports and Statements; Where to File.
- § 84216. Loans.
- § 84216.5. Loans Made by a Candidate or Committee.
- § 84217. Federal Office Candidates; Places Filed.
- § 84218. Slate Mailer Organization; Semi-Annual Statements.
- § 84219. Slate Mailer Organization; Semi-Annual Statements; Contents.
- § 84220. Slate Mailer Organization; Late Contributions.
- § 84221. Slate Mailer Organization; Termination.
- § 84222. Blank.
- § 84223. Blank.
- § 84224. Blank.
- § 84225. Blank.
- § 84226. Renumbered 84217.

§ 84200. Semi-Annual Statements.

(a) Except as provided in paragraphs (1), (2), (3), and (4), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than one hundred dollars (\$100) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(a) The judge has not received any contributions.

(b) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other

candidates or committees totaling less than one thousand dollars (\$1,000).

(4) A committee formed primarily to support or oppose the qualification of a measure shall not be required to file a semiannual statement until after the filing date for the campaign statement required by subdivision (f) of Section 84200.5.

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

History: Amended by Stats. 1977, Ch. 1193, effective January 1, 1978; repealed and reenacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981. (Formerly titled "Time for Filing Campaign Statements in Connection with Elections Held at Times Other Than the State Direct Primary or the State General Election.") Amended by Stats. 1981, Ch. 78, effective January 1, 1982; amended by Stats. 1982, Ch. 1069, effective January 1, 1983; amended by Stats. 1983, Ch. 898, effective January 1, 1984; amended by Stats. 1984, Ch. 1368, effective January 1, 1985; repealed and reenacted as amended by Stats. 1985, Ch. 1456, effective January 1, 1986; amended by Stats. 1988, Ch. 708, effective January 1, 1989.

§ 84200.5. Preelection Statements.

In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees must file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, all state candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

e listed or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars (\$100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars (\$100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address and telephone number of the committee and of the committee treasurer. In case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or by name which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether such committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (j) for each person who has directly, indirectly or through an intermediary received payments cumulatively totaling one hundred dollars (\$100) or more for circulation petitions to qualify a measure for the ballot.

(s) The information required by Sections 84216 and 84216.5.
History: Amended by Stats. 1978, Ch. 650, effective January 1, 1979; repealed and enacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981 (formerly titled "Consideration of Cumulative Amount"); amended by Stats. 1982, Ch. 377, effective January 1, 1983; amended by Stats. of 1985, Ch. 899, effective January 1, 1986; amended by Stats. 1988, Ch. 704, effective January 1, 1989.

§ 84212. Forms; Loans.

The forms promulgated by the commission for disclosure of the information required by this chapter shall provide for the reporting of loans and similar transactions in a manner that does not result in substantial overstatement or understatement of total contributions and expenditures.

History: Amended by Stats. 1975, Ch. 915, effective September 20, 1975, operative

January 7, 1975; repealed and reenacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981. (Formerly titled "Candidates Who Receive and Spend \$200 or Less.") Amended by Stats. 1985, Ch. 1456, effective January 1, 1986.

§ 84213. Candidate Verification.

A candidate and state measure proponent shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

History: Former Section 84213, titled "Consolidated Statements; Candidates and Committees," amended by Stats. 1976, Ch. 1106, effective January 1, 1977; repealed by Stats. 1980, Ch. 289, effective January 1, 1981. Former Section 84209 amended and renumbered Section 84216.5 by Stats. 1979, Ch. 779, effective January 1, 1980; Section 84216.5 renumbered Section 84213 by Stats. 1980, Ch. 289, effective January 1, 1981; amended by Stats. 1983, Ch. 898, effective January 1, 1984.

§ 84214. Termination.

Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the termination. Such regulations shall not require the filing of any campaign statements other than those required by this chapter. In no case shall a committee which qualifies solely under subdivision (b) or (c) of Section 82013 be required to file any notice of its termination.

History: Repealed and reenacted as amended by Stats. 1977, Ch. 344, effective August 20, 1977; repealed and reenacted as amended by Stats. 1980, Ch. 289, effective January 1, 1981. (Formerly titled "Late Contributions; Reports.")

§ 84215. Campaign Reports and Statements; Where to File.

All candidates, elected officers, committees and proponents of state ballot measures except as provided in subdivision (e) shall file two copies of the campaign statements required by Section 84200 with the clerk of the county in which they are domiciled. A committee is domiciled at the address listed on its campaign statement unless it is domiciled outside California in which case its domicile shall be deemed to be Los Angeles County for the purpose of this section. In addition, campaign statements shall be filed at the following places:

(a) Statewide elected officers, candidates for such offices, Supreme Court Justices, their controlled committees, committees formed or existing primarily to support or oppose these candidates, elected officers, Supreme Court Justices, or statewide measures, and all state general purpose committees and filers not specified in subdivisions (b) through (e) below:

- (1) The original and one copy with the Secretary of State.
- (2) Two copies with the Registrar-Recorder of Los Angeles County.
- (3) Two copies with the Registrar of Voters of the City and County of San Francisco.

(Regulations of the Fair Political Practices Commission
Title 2, Division 6 of the California Administrative Code

18404. Termination of Candidate's and Committees' Filing Requirements

(a) The filing obligations of a committee which qualifies pursuant to Government Code Section 82013(b) or (c) terminate at the end of the calendar year in which the committee qualified, except to the extent that additional campaign statements are required by Government Code Sections 84200, 84203, 84203.5 and 84204. If additional campaign statements are filed after the beginning of a new calendar year because the committee files a statement in connection with the qualification of a measure or a semiannual statement covering activity for the period July 1 through December 31, the committee's filing obligations terminate when such statements have been filed.

(b) A candidate may terminate his or her status as a candidate, and a treasurer of a committee which qualifies pursuant to Government Code Section 82013(a) may terminate the committee's status as a committee, only by filing a Statement of Termination declaring, under penalty of perjury, that the candidate or committee:

- (1) Has ceased to receive contributions and make expenditures and does not anticipate receiving contributions or making expenditures in the future;

(2) Has eliminated or has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations;

(3) Has no surplus funds; and

(4) Has filed all required campaign statements disclosing all reportable transactions.

(c) A Statement of Termination filed pursuant to subsection (b) shall be filed as follows:

(1) In the case of a committee, the original with the Secretary of State, and a copy with each filing officer with whom a copy of the committee's last campaign statement was filed;

(2) In the case of a candidate, the original with the filing officer with whom the original of the candidate's last campaign statement was filed.

(d) A candidate or a committee which has terminated remains subject to all civil and criminal penalties and remedies for any violations of this title or any other provision of law.

(Gov. Code Section 84214)

History: (1) New section filed 3/31/77; effective 4/30/77.
(2) Amendment of (a) filed 5/22/78; effective 6/21/78.
(3) Amendment filed 2/17/82; effective 3/19/82.
(4) Amendment filed 3/3/86; effective 4/2/86.



California Fair Political Practices Commission

March 29, 1989

Edwin Nakamura, CPA
1326 Arch Street
Berkeley, CA 94708

Re: Letter No. 89-181

Dear Mr. Nakamura:

Your letter requesting advice under the Political Reform Act was received on 1989 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