



California Fair Political Practices Commission

April 14, 1989

Wes Van Winkle
Attorney at Law
Bagatelos & Fadem
601 California St., Ste. 1801
San Francisco, CA 94108

Re: Your Request for Informal
Assistance
Our File No. I-89-131

Dear Mr. Van Winkle:

You have requested assistance regarding the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/} Specifically, you asked about the impact of Proposition 73 on recall elections. Since your letter states only a general question, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

During a telephone conversation, I advised you that the contribution limitations apply to an officeholder who is the subject of a recall effort, but not to a committee primarily formed to support or oppose a recall effort.

Subsequent to our telephone conversation, this issue was reconsidered, and a different conclusion has been reached.

Enclosed please find the Pringle Advice Letter, No. A-89-155, and the Hong Advice Letter, No. A-89-133. These letters address the questions you have asked.

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).)

Wes Van Winkle
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If you have any questions about this letter please call me at
(916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

By: Carla Wardlow
Political Reform Consultan

enclosures

LAW OFFICES OF
BAGATELOS & FADEM

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February 9, 1989

Ms. Carla Wardlow
Political Reform Consultant I
California Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804

Re: Confirmation of Telephone Advice Regarding
Recall Elections Under Proposition 73

Dear Carla:

This will confirm telephone advice given by you to me on February 9, 1989, relating to the impact of Proposition 73 on recall elections in California.

I asked whether an officeholder who was the subject of a recall election in 1989 would be subject to the contribution limitations imposed by Proposition 73. I also inquired whether a committee primarily formed to support the recall would be subject to the Proposition 73 contribution limits.

With regard to the officeholder, you advised me that Proposition 73 did not appear to make any special provision for separate contribution limitations during recall elections. Therefore, it was your conclusion that, unlike a candidate during a special election or special run-off election, an officeholder subject to a recall election would still be subject to the fiscal year contribution limitations imposed by Proposition 73.

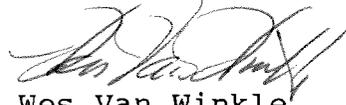
With regard to the committee formed to support the officeholder's recall, however, you indicated that such a committee would not be subject to the Proposition 73 limits. You stated that as long as the recall committee was "primarily formed" within the meaning of Government Code Section 82047.5, and was not a controlled committee within the meaning of Government Code Section 82016, the limitations of Proposition 73 would not apply. You indicated that Proposition 73 only limits the contributions which may be made to candidates and their controlled committees, "political committees," and "broad based political committees," and a committee primarily formed for the purpose of recalling an officeholder would not qualify under any of these definitions.

Ms. Carla Wardlow
February 9, 1989
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You said that although the foregoing advice could result in officeholders being placed at a tremendous disadvantage in recall elections, the terms of Proposition 73 left no room for an alternative interpretation.

Thank you for your prompt and courteous advice. Please contact me immediately if I have misinterpreted any of your comments, or if the staff's consensus on this issue should change.

Sincerely,



Wes Van Winkle
Of Counsel
Bagatelos & Fadem

WVW/scd



California Fair Political Practices Commission

March 2, 1989

Wes Van Winkle
Bagateols & Fadem
The International Building
601 California Street, Suite 1801
San Francisco, CA 94108

Re: Letter No. 89-131

Dear Mr. Van Winkle:

You have requested confirmation of advice under the Political Reform Act. We have reviewed your request and determined that it is not appropriate for response with a simple confirmation. Therefore, we will be preparing a fuller analysis of the issues raised in your letter to us. After the analysis has been prepared and approved, we will forward it to you as quickly as we can.

If you have any questions, you may contact me at
(916) 322-5662.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne Pritchard".

Jeanne Pritchard
Chief, Technical Assistance
and Analysis Division

JP:plh:confadv2