California
Fair Political
Practices Commission

May 11, 1989

Lowell Finley
Remcho, Johansen & Purcell
220 Montgomery Street, Suite 800
San Francisco, CA 94104

Re: Your Request for Advice
Our File No. I-89-204

Dear Mr. Finley:

You have requested written confirmation of telephone advice provided to you regarding the campaign provisions of the Political Reform Act (the "Act").[1] Because your letter does not identify the person on whose behalf you are seeking advice, we treat your letter as a request for informal assistance pursuant to Regulation 18329 (copy enclosed).[2]

I advised you that a membership organization formed for multiple purposes is required to report on the Form 420 only those payments which were used for political purposes. Additionally, the outline contained in your letter dated April 6, 1989, detailing how to report on the different schedules of Form 420 is correct. For your convenience, a copy of your letter is enclosed.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel

By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosures

[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. (Section 83114; Regulation 18329(c)(3).)

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415/398-6230 FAX: 415/398-7256

April 6, 1989

Kevin S. Braaten-Moen
Political Reform Consultant
Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

Dear Mr. Braaten-Moen:

I am writing to request confirmation of your telephone advice today regarding information required on late Form 420 statements that you have asked my client, a membership organization, to file. In an earlier call, you indicated that the membership organization, which filed major donor reports for the periods in question in late 1987 and early 1988, should instead have filed a Statement of Organization (Form 410) and recipient committee statements (Form 420). This advice was based on your conclusion that, under Government Code section 82013(a), the organization is deemed to have received more than $1,000 in contributions from its members by virtue of having spent a small fraction of member dues to make monetary and in-kind contributions exceeding $1,000 in support of ballot measure committees in both years.

According to your advice, the organization should complete its Form 420 campaign statements in accordance with the following guidelines:

On Schedule A, Contributions Received, you stated that a lump sum should be reported, equal to the total of the organization's monetary and in-kind contributions as defined in Government Code section 82015, and other "expenditures," as defined in Government Code section 82025, for the period. You recommended an asterisk indicating the fact that no member or other person had contributed a total of $100 or more during the reporting period or the calendar year.

On Schedule B, Loans Received, the organization is required to report only loans that were received for the purpose of making "contributions" or "expenditures." On Schedule EE, Loans Made to Others, only loans made for the purpose of making "contributions" or "expenditures" must be reported.

On Schedule G, Miscellaneous Increases to Cash Position, you stated that no entries were required for funds that were not received or used for a political purpose. Specifically, the organization is not required to report on Schedule G the receipt of member dues or other payments that do not qualify as "contributions" or "expenditures" within the meaning of Government Code sections 82015 and 82025.

On Schedule E, Payments and Contributions (Other Than Loans) Made, only those payments that are "contributions" under Government Code section 82015 or "expenditures" under Government Code section 82025, because they were made for political purposes, must be reported.

Finally, you advised that the organization can file Form 415, Statement of Termination, to terminate its recipient committee status effective immediately after the last day on which it made a campaign contribution or expenditure. You stated that the declarations under penalty of perjury required on the Statement of Termination by Title 2 of the Code of Regulations, section 18404(b)(2), concerning debts, and section 18404(b)(3), concerning surplus funds, refer only to debts incurred for political purposes and surplus funds that were received for political purposes.

If the foregoing accurately reflects your advice, I would appreciate it if you would sign the enclosed copy of this letter and return it to me in the enclosed envelope.

Thank you for your patience and cooperation.

Sincerely,

Lowell Finley

LF:lmf

Enclosure

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Kevin S. Braaten-Moen

California
Fair Political
Practices Commission

April 12, 1989

Lowell Finley
Remcho, Johansen & Purcell
220 Montgomery Street, Suite 800
San Francisco, CA 94104

Re: Letter No. 89-204

Dear Mr. Finley:

Your letter requesting advice under the Political Reform Act was received on April 10, 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

89-204

REMCHO, JOHANSEN & PURCELL
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104
415/398-6230 FAX: 415/398-7256

April 6, 1989

Kevin S. Braaten-Moen
Political Reform Consultant
Fair Political Practices Commission
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

Dear Mr. Braaten-Moen:

I am writing to request confirmation of your telephone advice today regarding information required on late Form 420 statements that you have asked my client, a membership organization, to file. In an earlier call, you indicated that the membership organization, which filed major donor reports for the periods in question in late 1987 and early 1988, should instead have filed a Statement of Organization (Form 410) and recipient committee statements (Form 420). This advice was based on your conclusion that, under Government Code section 82013(a), the organization is deemed to have received more than $1,000 in contributions from its members by virtue of having spent a small fraction of member dues to make monetary and in-kind contributions exceeding $1,000 in support of ballot measure committees in both years.

According to your advice, the organization should complete its Form 420 campaign statements in accordance with the following guidelines:

On Schedule A, Contributions Received, you stated that a lump sum should be reported, equal to the total of the organization's monetary and in-kind contributions as defined in Government Code section 82015, and other "expenditures," as defined in Government Code section 82025, for the period. You recommended an asterisk indicating the fact that no member or other person had contributed a total of $100 or more during the reporting period or the calendar year.

On Schedule B, Loans Received, the organization is required to report only loans that were received for the purpose of making "contributions" or "expenditures." On Schedule EE, Loans Made to Others, only loans made for the purpose of making "contributions" or "expenditures" must be reported.

On Schedule G, Miscellaneous Increases to Cash Position, you stated that no entries were required for funds that were not received or used for a political purpose. Specifically, the organization is not required to report on Schedule G the receipt of member dues or other payments that do not qualify as "contributions" or "expenditures" within the meaning of Government Code sections 82015 and 82025.

On Schedule E, Payments and Contributions (Other Than Loans) Made, only those payments that are "contributions" under Government Code section 82015 or "expenditures" under Government Code section 82025, because they were made for political purposes, must be reported.

Finally, you advised that the organization can file Form 415, Statement of Termination, to terminate its recipient committee status effective immediately after the last day on which it made a campaign contribution or expenditure. You stated that the declarations under penalty of perjury required on the Statement of Termination by Title 2 of the Code of Regulations, section 18404(b)(2), concerning debts, and section 18404(b)(3), concerning surplus funds, refer only to debts incurred for political purposes and surplus funds that were received for political purposes.

If the foregoing accurately reflects your advice, I would appreciate it if you would sign the enclosed copy of this letter and return it to me in the enclosed envelope.

Thank you for your patience and cooperation.

Sincerely,

Lowell Finley

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Enclosure

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Kevin S. Braaten-Moen