



California Fair Political Practices Commission

May 3, 1989

Honorable Floyd James
Councilmember
Committee to Re-elect Floyd James
1304 N. Wilmington Avenue
Compton, CA 90220

Re: Your Request for Advice
Our File No. A-89-210

Dear Councilmember James:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act of 1974.¹

QUESTION

What are the requirements concerning campaign contributions received last year, segregated according to Regulation 18536.1, and spent prior to the February 8, 1989, Los Angeles Superior Court decision (California Common Cause v. California Fair Political Practices Commission, No. C709383) which declared Regulation 18536.1 invalid?

CONCLUSION

You are not required to reimburse funds segregated under Regulation 18536.1 and spent prior to February 8, 1989. If you have a bank account which still holds commingled contributions received both before and after January 1, 1989, you are not required to remove the pre-January 1, 1989 contributions from the campaign bank account. The Commission may appeal the ruling in the California Common Cause case. Thus, the Commission advises that you maintain the pre-January 1, 1989 contributions in their current campaign bank account if you desire to eventually use pre-1989 contributions to support your candidacy, should the Commission succeed in reversing the ruling on appeal. However, you should not spend any pre-January 1, 1989 contributions to support your candidacy or another person's candidacy.

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.

FACTS

In accordance with Regulation 18536.1, you brought funds held on January 1, 1989, into compliance with the contribution limitations imposed by Proposition 73 in order to use those funds to support your candidacy for re-election. After January 1, 1989, you spent some of those funds. On February 8, 1989, the Los Angeles Superior Court declared Regulation 18536.1 invalid.

ANALYSIS

On November 9, 1988, under the authority granted it by Section 83112, the Commission adopted Regulation 18536.1. This regulation permitted the use of campaign funds collected prior to January 1, 1989, to support a candidacy if the funds were brought into compliance with the contribution limitations established by Proposition 73. This regulation took effect January 19, 1989.

Since expending funds brought into compliance was not a violation of the law at that time, no reimbursement of funds expended is required. (Leidigh Advice Letter, No. A-89-100.) However, you should not continue to spend any funds received prior to January 1, 1989, for the purpose of supporting or opposing a candidacy for California elective office. (Section 85306; Regulation 18536.2, copy enclosed.) This advice would change if an appellate court were to reverse the judgement of the Los Angeles County Superior Court.

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

Sincerely,

Kathryn E. Donovan
General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosure

P P C

F P P C

To: California Fair Political Practices Commission
Technical Assistance and Analysis Division

APR 10 9 57 AM '89

Date: April 5, 1989

Re: Provisions of Proposition 73 regarding use of
funds received prior to January 1, 1989

To Whom It May Concern:

Last year the Fair Political Commission regulation mandated that campaign funds that were received prior to January 1, 1989 **could** be used to support or oppose a Candidacy after January 1, 1989 if said funds were "brought into compliance" with the contribution limitations. Acting upon this ruling, I have used campaign funds which were received prior to January 1, 1989 to support my candidacy for re-election.

On February 8, 1989, the Los Angeles County Superior Court ruled that the Commission's regulation (which permitted me to bring these funds into compliance, and use them to support my candidacy) **has been declared invalid**. At this time, I am in a dilemma. This letter is requesting that your office provide me with a solution as to how best clarify the usage of the funds already expended.

I have contacted Alice Hughes (Technical Assistance & Analysis Division) upon receipt of the informational memorandum which I received on April 1, 1989. Her suggestion was that I write the Commission. Therefore, I am awaiting a response from your office as soon as possible.

Yours Truly,



Councilman Floyd James

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Councilman Floyd James



California Fair Political Practices Commission

April 12, 1989

Honorable Floyd James
Councilmember
Committee to Re-elect Floyd James
1304 N. Wilmington Avenue
Compton, CA 90220

Re: Letter No. 89-210

Dear Councilmember James:

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,

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

Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

Handwritten initials in cursive script, possibly "JP/plh".

JP:plh