



California Fair Political Practices Commission

July 19, 1989

Paul D. Hancock
Treasurer
California Republican Party
1903 West Magnolia Boulevard
Burbank, CA 91506

Re: Your Request for Informal Assistance
Our File No. I-89-263

Dear Mr. Hancock:

This is in response to your request for advice concerning the contribution limitations of the Political Reform Act (the "Act").^{1/} Since your letter states only a general question, we treat it as a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

QUESTION

Can a political party accept from political committees and broad based political committees contributions of "restricted funds," if the funds will not be used to support or oppose candidates for elective office?

CONCLUSION

A political party may accept contributions of "restricted funds" from political committees and broad based political committees if the funds will not be used to support or oppose candidates for elective office.

^{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).)

DISCUSSION

Section 85306 states:

Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office. (Emphasis added.)

On May 15, 1989, in the case of Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission (U.S. District Court, Eastern District of California, Case No. CIVS-89-0433 LKK-JFM), the federal court, among other things, ruled that Section 85306 could not prohibit political committees or broad based political committees who received contributions prior to January 1, 1989 within the Act's contribution limits from giving the same contributions to candidates, other committees and political parties.

The portion of pre-1989 contributions received by political committees and broad based political committees above the Act's contribution limits are commonly referred to as "restricted funds."^{3/}

As highlighted above, Section 85306's prohibitions apply to contributions used to support or oppose candidates. Commission Regulation 18536.2(b)^{4/} (copy enclosed) has interpreted this prohibition to include:

(1) Any monetary or nonmonetary contribution from a candidate or committee to another candidate for state or local office, a committee controlled by one or more candidates for state or local office, or a committee formed primarily to support or oppose one or more candidates for state or local office.

^{3/} On August 11, 1989, the court in the Service Employees International Union case, will hear a motion asking that Section 85306 be entirely invalidated. If the motion is successful, then "restricted funds," subject to contribution limits of the Act, may be used to make contributions to candidates.

^{4/} On May 2, 1989, the Commission made emergency amendments to Regulation 18536.2. On May 22, 1989, these amendments were disapproved by the Office of Administrative Law (OAL). The Commission is currently considering its response to the OAL decision. This activity, however, does not affect subdivisions (b)(1) and (b)(2) of the regulation.

(2) Any independent expenditure made by a candidate or committee to expressly advocate the election or defeat of any candidate for state or local office.

On this basis, if contributions of "restricted funds" are made to political parties and will not be used for the purposes set forth in subdivisions (b)(1) and (b)(2) of Regulation 18536.2, parties are permitted to receive the contributions.

Finally, a question arises as to whether any funds contributed to a political party which will not be used to support or oppose a candidate are subject to the Act's contribution limits.^{5/} The Commission will begin consideration of this question at its meeting to be held August 15, 1989. You may wish to contact us at a later date to determine the Commission's policy on this question.

Should you have additional questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Scott Hallabrin
Counsel, Legal Division

KED:SH:ld

Enclosure

^{5/} See Sections 85302, 85303 and 85305.



California Republican Party

1903 West Magnolia Blvd. • Burbank, California 91506 • (818) 841-5210

FPPC
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March 24, 1989

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Charlotte Mousel
National Committeewoman

Karna J. Boyer
*President,
County Chairmen's Association*

Mr. John Larson
Chairman
Fair Political Practices Commission
428 J Street
Suite 800
Sacramento, CA 95814

Dear Mr. Larson:

It is my understanding that political committees and broad based political committees can contribute their 1988 restricted funds to a political party, to be used for non-candidate (support or oppose) purposes.

I would appreciate your confirming this to the above address as soon as possible. I would also appreciate your re-stating the regulation that addresses this situation, as FPPC law dictates it.

Thank you for your prompt attention to this matter.

Sincerely,

Paul D. Hancock
Treasurer
California Republican Party

cc: Jim Dignan
Frank Visco



California Fair Political Practices Commission

May 4, 1989

Paul D. Hancock, Treasurer
California Republican Party
1903 West Magnolia Blvd.
Burbank, CA 91506

Re: Letter No. 89-263

Dear Mr. Hancock:

Your letter requesting advice under the Political Reform Act was received on April 28, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Scott Hallabrin 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 "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh