



California Fair Political Practices Commission

September 19, 1989

R. Thomas Harris
Office of the City Attorney
City of Stockton
Stockton, CA 95202

Re: Your Request for Advice
Our File No. A-89-398

Dear Mr. Harris:

You have requested advice on behalf of Vice Mayor Ron Coale regarding the campaign provisions of the Political Reform Act of 1974.¹

QUESTION

May Vice Mayor Ron Coale use campaign contributions he received prior to June 8, 1988, and within the limits set by Proposition 73, to distribute a mass mailing which will identify "Citizens for Coale" as the sender?

CONCLUSION

An order issued by the United States District Court, dated September 15, 1989, permits the use of campaign funds received prior to January 1, 1989, to support or oppose a candidacy for elective office. Therefore, Mr. Coale may pay for a mass mailing with campaign funds collected prior to passage of Proposition 73, and within the limits of Proposition 73.

If the mailer is sent within three months of an election for which Mr. Coale has filed either 1) a statement of intention to be a candidate (Form 501), 2) a declaration of candidacy or nomination papers, as specified in Chapter 5 of Division 6 of the Elections Code, or 3) any other documents necessary to be listed on the ballot as a candidate for any state or local office, the mailing must be paid for with funds from the bank account which has been designated for his election to that particular office.

If "Citizens for Coale" is the name of Mr. Coale's committee and that committee will pay the entire cost of the mailing, "Citizens for Coale" and its address, as listed with the Secretary of State on the committee's statement of organization, must be shown on the outside of the mailing in no less than 6-point type.

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

Vice Mayor Ron Coale has campaign contributions received prior to passage of Proposition 73. Mr. Coale would like to use these funds to distribute a mailer to approximately 8,000 homes. The mailer would bear the notations "Paid for by Citizens for Coale" and "Compliments of Vice Mayor Ron Coale."

ANALYSIS

Campaign funds received prior to January 1, 1989, may be used to support a candidacy under a recent order issued by the United States District Court for the Eastern District of California. (Service Employees International Union, AFL-CIO, CLC, et al. v. Fair Political Practices Commission, No. CIVS 89-0433 LKK-JFM, September 15, 1989.)

Prior to using these funds to send a mass mailing, they must be deposited in an account which has been designated, by the filing of a Campaign Bank Account notice (Form 502), for a specific office and election. In addition, Regulation 18525 states that incumbent officers must use funds from a campaign bank account established pursuant to Section 85201 for election to a future term of office to pay for a mass mailing if:

...it makes reference to the officer's future election or status as a candidate, or if it is made by an incumbent officer within 3 months prior to an election for which he or she has filed any of the following:

(A) A statement of intention to be a candidate for a specific office, pursuant to Government Code Section 85200.

(B) A declaration of candidacy or nomination papers, as specified in Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code.

(C) Any other documents necessary to be listed on the ballot as a candidate for any state or local office.

Therefore, assuming that Mr. Coale will be a candidate in the November 7, 1989, Stockton city election, he must transfer the funds in question to an account designated for that election before sending the mailing. If Mr. Coale will not be a candidate in the November 7, 1989, election, he may transfer the funds to any designated bank account, or he may designate the account in which the funds are currently held as a bank account for his previous election or as a bank account for a future election.

Please note, however, that there may be only one bank account for each specific office and election. (Regulation 18521; Harwood Advice Letter, Nos. A-89-330 and A-89-349, copies enclosed.)

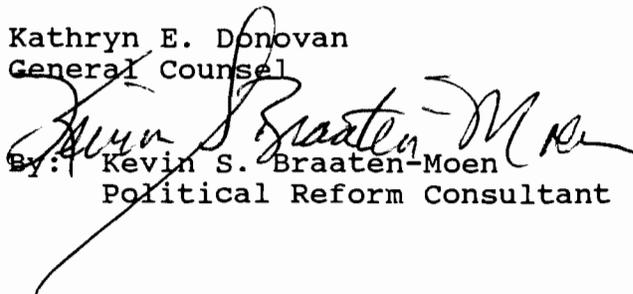
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Additionally, Section 84305 requires mailings of more than 200 substantially similar pieces of mail to have the name, street address, and city of the candidate or committee paying for the mailing on the outside of the mailer in no less than 6-point type.

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



R. THOMAS HARRIS
CITY ATTORNEY

JOHN T. MORAN
ASSISTANT CITY ATTORNEY

CITY OF STOCKTON

OFFICE
OF THE CITY ATTORNEY
STOCKTON, CA 95202
TELEPHONE 209/944-8333
TELEFAX 209/463-1550

DEPUTIES

BARBARA J. ANDERSON
CYNTHIA L. HUMBERT
GLYD PETZOLD
MICHAEL T. RISHWAIN
BART J. THILTGEN
MARK E. TRIBBLE

June 30, 1989

Fair Political Practices Commission
Post Office Box 807
Sacramento CA 95804-0807

Gentlemen:

RE: USE OF CAMPAIGN FUNDS

Vice Mayor Ron Coale has asked this office to obtain an opinion from you regarding whether or not he can use campaign donations collected before passage of Proposition 73 to distribute a mailer to approximately 8,000 homes. The proposed mailer would provide recipients with the telephone numbers of various City, County and State agencies for their information. The mailer would bear the notations "Paid for by Citizens for Coale" and "Compliments of Vice Mayor Ron Coale."

Thank you for your attention to this inquiry.

Sincerely,

R. THOMAS HARRIS
CITY ATTORNEY

RTH:gc

cc: Vice Mayor Ron Coale



R. THOMAS HARRIS
CITY ATTORNEY

JOHN T. MORAN
ASSISTANT CITY ATTORNEY

CITY OF STOCKTON

OFFICE
OF THE CITY ATTORNEY
STOCKTON, CA 95202
TELEPHONE 209/544-8333
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Thank you for your attention to this inquiry.

Sincerely,

R. THOMAS HARRIS
CITY ATTORNEY

RTH:gc

cc: Vice Mayor Ron Coale



California Fair Political Practices Commission

July 6, 1989

R. Thomas Harris
City Attorney
Office of the City Attorney
Stockton, CA 95202

Re: Letter No. 89-398

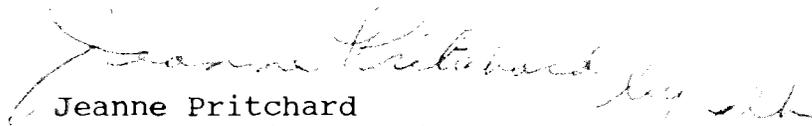
Dear Mr. Harris:

Your letter requesting advice under the Political Reform Act was received on July 3, 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
Chief Technical Assistance
and Analysis Division

JP:plh