



California Fair Political Practices Commission

September 12, 1989

Nancy J. Uzarsky
440 S. Atlantic Avenue, #104
Pittsburgh, PA 15224

Re: Your Request for Informal
Assistance
Our File No. I-89-430

Dear Ms. Uzarsky:

You have requested advice concerning the campaign provisions of the Political Reform Act (the "Act").^{1/} Because your request is a general inquiry, we consider it to be a request for informal assistance pursuant to Regulation 18329(c).^{2/}

QUESTION

May a political action committee (PAC) use funds received prior to January 1, 1989, to support or oppose a candidacy in the upcoming election if the funds were within the contribution limitations of Proposition 73 when they were received?

CONCLUSION

Funds received prior to January 1, 1989, raised within the contribution limitations of Proposition 73, may be used to support or oppose a candidacy pending final resolution of the issues discussed in the following analysis.

^{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).)

ANALYSIS

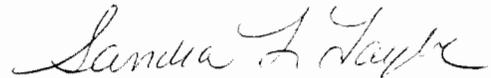
Section 85306, as added by Proposition 73, prohibited candidates and committees from using campaign funds held on January 1, 1989, to support or oppose a candidacy. On January 19, 1989, Regulation 18536.1, which provided for the establishment of a "segregated account" (an account made up of those campaign funds received prior to January 1, 1989, which were received within the contribution limits established by Proposition 73 and which could be used for campaign purposes), became effective. However, on February 8, 1989, the Los Angeles County Superior Court ruled this regulation invalid. (California Common Cause v. Fair Political Practices Commission, Case No. C709383, LA County Superior Court.)

Although the Commission had planned to appeal the Los Angeles County ruling, on May 15, 1989, the United States District Court issued a preliminary injunction enjoining the Commission from enforcing Section 85306. (Service Employees International Union, AFL-CIO, CLC; et al. v. Fair Political Practices Commission, Case No. CIVS 89-0433 LKK-JFM.) According to the SEIU preliminary injunction, funds raised prior to January 1, 1989, which are in compliance with the contribution limits of the Act may be used to support or oppose candidates for elective office. A hearing was held on August 11, 1989, on the merits of the issues addressed by the preliminary injunction. We expect a final decision in the near future. Until a final decision has been issued, the preliminary injunction remains in effect.

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

Sincerely,

Kathryn E. Donovan
General Counsel



By: Sandra L. Taylor
Political Reform Consultant

FFPC
JUL 21 1989
RECEIVED

440 S. Atlantic Ave. #104
Pittsburgh, PA 15224
July 14, 1989

Sandra Taylor
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804-0807

Dear Ms. Taylor;

I writing to request a clarification on Proposition 73, and its effect upon funds received by Political Action Committees (PAC) prior to January 1, 1989. Specifically, I am trying to determine whether a PAC may use funds collected prior to January 1, 1989 to support or oppose a candidacy in the upcoming election if the funds were within the contribution limitations of Proposition 73 when they were received.

I would like the cite of the Los Angeles County Superior Court which overruled the commission's regulations permitting funds raised prior to the effective date of Proposition 73 to be used to support a candidacy after January 1, 1989. In addition, I would like to know of any further action taken by either the appellate courts or the Commission in an attempt to resolve this issue.

I can generally be reached by telephone at (412) 553-4253 between 8:30 a.m. and 5:30 p.m. (E.S.T.) or at (412) 681-7594 after 6:00 p.m. Thank you for your assistance in clarifying this matter.

Sincerely yours,



Nancy J. Uzarski

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Sandra Taylor
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Sincerely yours,



Nancy J. Uzarski



California Fair Political Practices Commission

July 24, 1989

Nancy J. Uzarsky
440 S. Atlantic Avenue, #104
Pittsburgh, PA 15224

Re: Letter No. 89-430

Dear Ms. Uzarsky:

Your letter requesting advice under the Political Reform Act was received on July 21, 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