



California Fair Political Practices Commission

October 16, 1989

Kirk Mather, Director
Political and Governmental Affairs
R & L Consulting Group, Inc.
10670 Treena Street, Suite 210
San Diego, CA 92131

Re: Your Request for Informal Assistance
Our File No. I-89-525

Dear Mr. Mather:

You have requested confirmation of telephone advice provided concerning the campaign provisions of the Political Reform Act.¹ Because you have not identified the person on whose behalf you are seeking advice, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c).²

Your letter correctly summarizes my advice concerning the use by a candidate or committee of a business entity's telephones.

Government Code Section 82015 defines the term "contribution" as:

... a payment ... except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and adequate consideration is received for making the expenditure.

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).)

The term "payment" includes the "rendering of money, property, services or anything else of value, whether tangible or intangible." (Section 82044.)

A business which allows a campaign committee to use its telephones is providing a benefit in that it is saving the committee the cost of obtaining and using a bank of telephones. This is true even though it does not cost the business anything over what it would ordinarily pay for its own normal use of the telephones.

Government Code Section 82025.5 requires that in-kind contributions be reported as the estimated fair market value of the goods, services, facilities or anything of value which is provided. Therefore, the value of the use of the telephones is whatever it would have cost the committee to purchase similar services on the open market. This might be determined by contacting a vendor who provides this type of service.

A copy of your letter is enclosed for your convenience.

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

Sincerely,

Kathryn E. Donovan
General Counsel



By: Wayne P. Imberi
Political Reform Consultant

FPPC

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September 5, 1989

Wayne Imberi
Fair Political Practices Commission
428 "J" Street, Room 700
Sacramento, CA 95814

10670 Treena Street
Suite 210
San Diego CA 92131
(619) 586-7993

Dear Wayne:

We have spoken on the phone regarding in-kind contributions. Specifically, is allowing a campaign's volunteers to use a business' phones, after hours, in a get-out-the-vote effort considered an in-kind contribution?

You feel the campaign is saving the expense of renting the phones. I feel the phones are paid for, whether used or left idle, and therefore their use has no value, in-kind or otherwise.

Regardless, if I can't change your mind, what is the in-kind value? Would each hour of use be 1/24th of 1/30th of the monthly base phone bill? That seems logical to me.

Our primary election is September 19th. So this is rather time sensitive. If you can call me with your response before you write it up and mail it I would appreciate it. Thank you.

Sincerely,

R & L CONSULTING GROUP, INC.

Kirk

KIRK MATHER, Director
Political and Governmental Affairs

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