



California Fair Political Practices Commission

October 23, 1989

Mary A. Lolonis
Risley & Goor
Sixteenth Floor 800 West Sixth Street
Los Angeles, CA 90017

Re: Your Request for Informal Assistance
Our File No. I-89-552

Dear Ms. Lolonis:

You have requested information regarding contribution limits applicable to nonprofit corporations under the Political Reform Act (the "Act").¹ Since your request is one for general information, we are treating your request as one for informal assistance.²

QUESTION

How much can an individual or a corporation donate to an organization that is involved in fundraising to qualify an initiative for the ballot?

CONCLUSION

As a general rule, there are no contribution limits with respect to contributions made by an individual or corporation to a ballot measure committee. However, the Commission may reconsider this advice with respect to ballot measure committees controlled by candidates.

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).)

FACTS

You have been asked to obtain information on behalf of a nonprofit corporation. The corporation is organized as a tax-exempt organization, qualifying for tax-exempt status under section 501(c)(4) of the Internal Revenue Code.³ The corporation is doing fundraising to qualify an initiative for the ballot. You would like information as to limits imposed by the Act upon contributions to the corporation by individuals or corporations. You do not know if the corporation has filed a statement of organization as a committee under the Act.

ANALYSIS

As explained in our conversation of October 6th, it is difficult to analyze your question without more specific information. Therefore, this analysis will be confined to a general overview of the Act as it pertains to your question.⁴

Under the Act, corporations are included within the definition of "persons". (Section 82047.) The Act requires persons qualifying as "committees" to file periodic reports disclosing money raised and spent for political purposes. (Sections 84200-84217.) A "committee" is defined as follows:

"Committee" means any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year;

(b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or

³ Section 501(c)(4) extends tax-exempt status to the following organizations: "Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, education, or recreational purposes."

⁴ You have not indicated that a candidate is involved in the activities of the corporation. Therefore, this analysis assumes no candidate involvement. The Commission will be considering issues relating to the involvement of a candidate in the activities of a nonprofit corporation at its November meeting.

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

A person or combination of persons that becomes a committee shall retain its status as a committee until such time as that status is terminated pursuant to Section 84214.

Section 82013.

Therefore, if the "donations" to the corporation constitute "contributions," the corporation may have to file a statement of organization as a committee and file periodic disclosure reports.

A contribution is any monetary or nonmonetary payment made for political purposes for which full and adequate consideration is not made to the donor. (Section 82015; Regulation 18215, copy enclosed.) A payment for "political purposes" includes a payment made to influence or attempt to influence the voters with respect to the qualification or passage of any measure. (Regulation 18215(a)(1).)

"Contribution" also includes any payment for less than full and adequate consideration that is received by a person or organization, if the payment is "earmarked" for the making of contributions or expenditures. A payment is "earmarked" when, at the time of making the payment, the donor knows or has reason to know that the payment or funds with which the payment will be commingled will be used to make contributions or expenditures. (Regulation 18215(c).)

From the limited information provided, it would appear that the corporation is raising funds for the "qualification" of a ballot measure. Funds raised for this purpose would thus be contributions and would require the corporation to comply with the filing and disclosure requirements for a "committee."

The Act does not place limitations on the amount that a person may contribute to ballot measure committees. (Citizens Against Rent Control v. Bukeley (1981) 454 U.S. 290.) Under the Act, corporations are treated as "persons" and are able to make unlimited contributions to a ballot measure committee. (Section 82047.) Please note, however, that questions have been raised about application of the contribution limits to a ballot measure committee controlled by a candidate or elected officer. The Commission may consider changing its advice concerning application of contribution limits to such committees. (Van Winkle Advice Letter, No. I-89-434, copy enclosed.)

Please also note that tax matters are not within the jurisdiction of the Commission. Therefore, we express no opinion as to whether the corporation's fundraising activities described in your letter are consistent with its status under Section 501(c)(4) of the Internal Revenue Code.

Enclosed for your review are the following materials which may be of assistance to you:

1. Form 410 (Statement of Organization);
2. Form 420 (Recipient Committee Campaign Statement);
3. Information Manual on Campaign Disclosure Provisions of the Political Reform Act;
4. Interim Information Manual on Proposition 68 and Proposition 73 (September 18, 1989).

If you have any further questions, you may contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Margaret W. Ellison
Counsel, Legal Division

KED/MWE/aa

Enclosures

A PROFESSIONAL LAW CORP.

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September 13, 1989

Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Re: Limits on Contributions

Dear Sir/Madam:

I am writing to request that information regarding limits on contributions to non-profit organizations under Prop. 73 be sent to the above address.

Thank you for your attention to this matter.

Very truly yours,

RISLEY & GOOR,
A Professional Law Corporation



By MARY A. LOLONIS

MAL:gt
ML.002



California Fair Political Practices Commission

September 27, 1989

Mary A. Lolonis
Risley & Goor
800 West Sixth Street, 16th Floor
Los Angeles, CA 90017

Re: Letter No. 89-552

Dear Ms. Lolonis:

Your letter requesting advice under the Political Reform Act was received on September 15, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Margaret Ellison 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