



# California Fair Political Practices Commission

November 28, 1989

Jerry D. Wood  
Crabtree, Karlen & Arzoo  
Post Office Box 2945  
Riverside, CA 92506-3145

Re: Your Request for Informal Assistance  
Our File No. I-89-586

Dear Mr. Wood:

You have requested confirmation of telephone advice provided concerning the campaign provisions of the Political Reform Act.<sup>1</sup> 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).<sup>2</sup>

You have indicated that it is your understanding that to qualify as an "intermediary" under the Act a person must possess a contribution and continue the delivery to the candidate. You also state that because an individual or company's name is written on the check does not alone qualify that entity as an intermediary.

Government Code Section 84302, which was contained in the Act when it originally became effective in January 1975, provides that:

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of

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<sup>1</sup> 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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

The intent of Section 84302 is to ensure proper disclosure of the true source of a contribution. In order to implement Section 84302, the Commission developed a functional definition of "intermediary." According to this definition, "someone stands as an intermediary in relation to a contributor when, without disclosure of the identity of the contributor, the intermediary would be considered the source of the contribution by the recipient." (Wilson Advice Letter, No. A-79-077, copy enclosed.)

In addition, in June 1988, Proposition 68 amended the Act by adding Section 84302.5. This section provides:

A person is an intermediary for transmittal of a contribution if he or she delivers to a candidate or committee a contribution from another person unless such contribution is from the person's employer, immediate family or an association to which he or she belongs. No person who is the treasurer of the committee to which the contribution is made or is the candidate who controls the committee to which the contribution is made shall be an intermediary for such contribution.

At its November 7, 1989, meeting the Commission approved for adoption Regulation 18432.5 (copy enclosed) which interprets and clarifies both Sections 84302 and 84302.5 in relation to the disclosure of intermediaries. Regulation 18432.5 clarifies that a person who may erroneously appear to be the source of a contribution and a person who acts as an intermediary for the transmittal of a contribution are both intermediaries for the purposes of Sections 84302 and 84302.5. It also recognizes Regulation 18419 (copy enclosed) which provides an additional definition of intermediary for sponsored committees. Pursuant to Regulation 18432.5, if a person meets any of the specified definitions of intermediary, he or she will be subject to the disclosure requirements of Section 84302.

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The rest of your letter correctly summarizes my advice regarding contributions made to legislative officeholders and candidates after October 3, 1989.

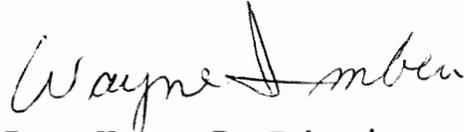
We are also placing your name on our mailing list to receive our monthly Bulletin which will keep you updated regarding court decisions which affect the Political Reform Act.

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

A handwritten signature in cursive script that reads "Wayne P. Imberi". The signature is written in dark ink and is positioned above the typed name of the consultant.

By: Wayne P. Imberi  
Political Reform Consultant

# CRABTREE, KARLEN & ARZOO

*Certified Public Accountants*

POST OFFICE BOX 2945 - 94516 - 3145

6355 RIVERSIDE AVENUE - 92506 - 3145

RIVERSIDE, CALIFORNIA

ROLAND H. CRABTREE, C.P.A. (RETIRED)  
FRED W. KARLEN, C.P.A. (RETIRED)  
GEORGE A. ARZOO, C.P.A.  
SHELLEY Z. FOX, C.P.A.  
KAREN A. HOLLENBECK, C.P.A.  
DEBRA L. BURR, C.P.A.  
JERRY D. WOOD, C.P.A.  
GREGG M. KOBASHIGAWA, C.P.A.

AREA CODE 714  
TELEPHONE 683-6730  
FACSIMILE  
(714) 369-8071

October 4, 1989

Wayne Imbari  
Fair Political Practices Commission  
428 J. Street  
Sacramento, CA 95814

Dear Wayne:

Thank you for your assistance Friday, September 29, 1989 with my questions regarding intermediaries and campaign contributions concerning the cut off date of midnight October 3, 1989. Based on our conversation, it is my understanding:

1. An intermediary must actually possess a contribution and continue the delivery process to the candidate. The fact that an individual or company's name is written on the check copy does not in itself qualify this third party as an intermediary.
2. With regards to the midnight October 3, 1989 deadline:
  - A. The date of the receipt of the contribution governs compliance not the date of deposit. Therefore, a contribution received prior to midnight October 3, 1989 but not deposited until October 4, 1989 is not a violation.
  - B. Deposits of interest earned or matured CD's after midnight October 3, 1989 is not a violation. Therefore, the October 3, 1989 date pertains only to contributions and not transfers of funds.
  - C. Per my conversation with your office October 2, 1989, this entire matter is before the state Supreme Court and there is no October 3, 1989 deadline as of this writing and any decision made by the court can not be retroactive.
  - D. I should be currently on your mailing list, but please forward any decisions altering the filing requirements and limitations of campaign contributions in the future.

Sincerely,

CRABTREE, KARLEN & ARZOO



Jerry D. Wood, CPA

JDW/vs

cc: Tom Mullin  
Friends of Senator Robert Presley

Oct 6 12:58 PM '89  
FPPC



# California Fair Political Practices Commission

October 16, 1989

Jerry D. Wood  
Crabtree, Karlen & Arzoo  
Certified Public Accountants  
P.O. Box 2945  
Riverside, CA 94516-3145

Re: Letter No. 89-586

Dear Mr. Wood:

Your letter requesting advice under the Political Reform Act was received on October 6, 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