



California Fair Political Practices Commission

January 3, 1990

James L. Sepulveda
Deputy District Attorney
P.O. Box 670
Martinez, CA 94553-0150

Re: Your Request For Informal
Assistance
Our File No. I-89-594

Dear Mr. Sepulveda:

You have requested assistance under the campaign provisions of the Political Reform Act.^{1/} Because your request is a general inquiry, we treat your request as one for informal assistance pursuant to Regulation 18329(c).^{2/}

QUESTION

May the campaign funds of an officeholder, raised before or after January 1, 1989, and deposited in a campaign account established for a specific office, be transferred to an officeholder's campaign account established for a different political office?

CONCLUSION

Officeholders may transfer campaign funds, raised before or after January 1, 1989, among their own campaign bank accounts, including a campaign account established for a different political office. Certain limitations apply to transfers of funds to or from a campaign account established for a special election.

^{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 1829(c) (3).)

ANALYSIS

On May 15, 1989, the United States District Court, Eastern District of California issued a preliminary injunction against enforcement of some of the provisions of Proposition 73. (Service Employees International Union AFL-CIO, et al. v. Fair Political Practices Commission, Case No. CIVS-89-043 LKK-JFM.) In this preliminary injunction the court enjoined the Commission from enforcing the ban on transfers of funds between a candidate's own controlled committees. (Section 85304.) The trial on this issue has been scheduled for January 30, 1990. Please refer to the enclosed Advice Letter to Judy Vonada (No. A-89-606) for a description of the reporting requirements when funds are transferred.

Please note that although the court prohibited enforcement of the ban on transfers of funds between a candidate's own controlled committees, candidates are still prohibited from transferring money to other candidates and their controlled committees. In addition, the court's order recently was modified to cover special elections to fill a vacant elective office as defined in Section 85305. As modified, candidates may transfer contributions into a campaign account for a special election and special runoff election. However, if they do so, contributors of the funds transferred cannot make additional contributions to the candidate that, when added to the amount transferred, exceed the special or special runoff election limits. Copies of both the original preliminary injunction and the recent modification are enclosed for your reference.

In addition, on September 12, 1989, the court declared unconstitutional and unenforceable Section 85306 of Proposition 73, which prohibited the use of campaign funds received prior to January 1, 1989, to support or oppose a candidacy for elective office. Effective September 13, 1989, candidates may use all of their pre-1989 contributions, as well as contributions raised after January 1, 1989 and within the limits imposed by Proposition 73, to support their own candidacy in future elections.

Proposition 73 did impose new filing obligations on candidates. Specifically, any individual who intends to be a candidate for elective office must file a candidate intention form stating his or her intention to run for a specific office prior to soliciting or receiving any contribution for the purpose of seeking that office. (Section 85200.) In addition, Section 85201 requires:

(a) Upon the filing the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) Upon the establishment of an account, the name of the financial institution, the specific location, and the account number shall be filed with the commission within 24 hours.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditures.

(e) All campaign expenditures shall be made from the account.

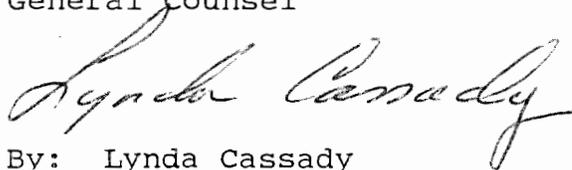
(Emphasis added.)

The Commission has interpreted Section 85201 to mean that a candidate for elective office may have only one campaign bank account and one controlled committee for each election, except as provided in Regulation 18524 (copy enclosed).

Please do not hesitate to contact me at (916) 322-5662 if you have additional questions.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Lynda Cassady
Political Reform Consultant

Office of District Attorney

Court House, Fourth Floor
P.O. Box 670
Martinez, California 94553-0150
(415) 646-4500

Contra
Costa
County



Gary T. Yancey
District Attorney

FPPC

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October 12, 1989

Kathryn E. Donovan
General Counsel
Fair Political Practices Division
P.O. Box 807
Sacramento, CA 95804-0807

RE: Question Regarding Use Of "Old" Campaign Funds

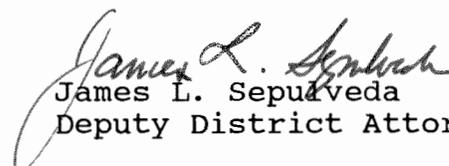
Dear Ms. Donovan:

It is my understanding that on September 14, 1989, the federal district court (Eastern District of California) in the case of Service Employees International Union v. Fair Political Practices Commission struck down Government Code section 85306 as unconstitutional. Assuming that the ruling becomes final, the following questions have been asked of me by some local political officials (I am the deputy district attorney responsible for enforcement of the Political Reform Act in Contra Costa County):

1. May an incumbent city councilperson now use excess campaign funds from a previous campaign to run for the county Board of Supervisors? Assume that the excess campaign funds were raised prior to January 1, 1989. Would it make any difference if some of the excess funds were raised after January 1, 1989? If a current officeholder's excess campaign funds can now be used to run for a different political office, what are the requirements (i.e., the logistics), if any, for transferring the money from one account to the new campaign account?

Please consider this request as being made pursuant to FPPC regulations, section 18329(c). Your consideration of this matter would be **very much** appreciated.

Very truly yours,


James L. Sepuveda
Deputy District Attorney



California Fair Political Practices Commission

October 20, 1989

James L. Sepulveda
Deputy District Attorney
County of Contra Costa
P.O. Box 670
Martinez, CA 94553-0150

Re: Letter No. 89-594

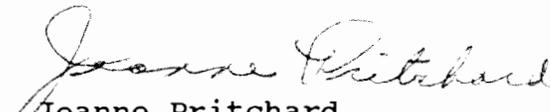
Dear Mr. Sepulveda:

Your letter requesting advice under the Political Reform Act was received on October 18, 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