



California Fair Political Practices Commission

December 26, 1989

Gerald L. Clendenin
Clendenin, Bird & Billington
1300 Tenth Street, Suite C
Modesto, CA 95354

Re: Your Request for
Informal Assistance
Our File No. I-89-624

Dear Mr. Clendenin:

You have requested advice concerning the campaign provisions of the Political Reform Act (the "Act").¹ Because you have asked us to address hypothetical situations, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c).²

QUESTIONS

1. Must contributions made by a husband and wife to the same candidate be cumulated?
2. Are contributions made by a single contributor to two or more committees controlled by the same candidate required to be cumulated?
3. If a person has contributed the maximum amount to a candidate for the fiscal year, may the person make additional contributions to the same candidate in connection with 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. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c)(3).)

DISCUSSION

1. A husband and wife are considered separate persons, or separate contributors, for purposes of the Act's disclosure provisions and contribution limitations. Each may make contributions up to the maximum amount of \$1,000 in a fiscal year to a candidate, or \$2,500 in a fiscal year to a political committee or political party. A husband's and wife's contributions are not required to be cumulated. (Robeck Advice Letter, No. A-89-359, Interim Information Manual on Proposition 68 and Proposition 73, page 22, copies enclosed.) In addition, Regulation 18533 provides guidance to treasurers concerning contributions made from joint checking accounts. A copy of this regulation is enclosed.³

2. Contributions made by a person to any number of campaign committees controlled by the same candidate must be cumulated. A person who contributes \$100 or more in a calendar year to any number of committees controlled by the same candidate must be itemized on the candidate's campaign statements. (Section 84211.) In addition, the contribution limitations apply in the aggregate to all committees controlled by a single candidate. A person may contribute no more than \$1,000 in a fiscal year to all campaign committees controlled by the same candidate. (Section 85301.) (See exception for "special elections" below.)

3. A candidate who is being voted upon in a special election to fill an elective office which has become vacant may receive \$1,000 in contributions from a person during the "special election cycle" (the day on which the office becomes vacant through the date of the special election), even if the contributor has made contributions to the candidate during the same fiscal year for purposes other than the special election. If there is a runoff election in connection with the special election, the candidate may receive an additional \$1,000 from the same person during the "special runoff election cycle" (the day after the special election through the day of the special runoff election). (Section 85305; Mathews Advice Letter, No. I-89-583, copy enclosed.)

In addition, please note that the U.S. District Court for the Eastern District of California has issued the enclosed order stating that a candidate may transfer contributions between a special election committee and a committee established for a regular election so long as the transfer will not cause the total amount contributed by any person to exceed the contribution limits established by Proposition 73. (Service Employees International Union, AFL-CIO, CLC, et al. v. FPCC, Case No. CIVS 89-0433 LKK-JFM.) (See Hill Advice Letter, No. A-89-667, copy enclosed.)

³ Regulation 18533 has been adopted by the Commission but is pending review by the Office of Administrative Law. Although it is not yet in effect, it represents the formal policy of the Commission.

If you have any questions about this matter, please call me
at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Wayne P. Imberi
Political Reform Consultant

Clendenin, Bird & Billington

CERTIFIED PUBLIC ACCOUNTANTS

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October 26, 1989

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

RE: Lang For Assembly - 1989, I.D. No. 891724
Lang For Council Chair 5 - 1989, I.D. No. 890801

We need advice and direction about contributions made by the same individual (person or corporation) to different committees supporting the same person who is simultaneously running for two different offices.

Hypothetical Factual Background

A and B are married. A works. B does not work. A and B have been married for 20 years. A has a community property interest in checking accounts owned by A and B. B has a community property interest in checking accounts owned by A and B. During September 1989 A and B each make separate contributions of \$99 to the Lang For Council Chair 5 - 1989 committee. They both use the same joint checking account to pay the contributions. The aggregate contributions from A and B to Lang For Council Chair 5 - 1989 total \$198. The contributions are not subject to disclosure since they originate from clearly identifiable funds (although community) owned and controlled by each individual separately and jointly.

During October 1989 A and B decide to make contributions to the Lang For Assembly 1989 committee. A and B each want to contribute \$99 to the committee from the same checking account used to make the September 1989 contributions. A and B do not want their names disclosed as contributors.

Question 1

Are the cumulative contributions of A and B required to be disclosed on the next report (Form 490) of Lang For Assembly 1989 since each has contributed over \$99 to the committees supporting the same person running for the two different offices?

Question 2

Assume the same facts as 1 except that A and B each made individual contributions of \$1,000 (not \$99) to the Lang For

California Fair Political
Practices Commission
October 26, 1989
Page Two

Council Chair 5 -1989 committee. Would A and B each be prohibited from making contributions of any amount to the Lang For Assembly - 1989 committee because they have each met the limitation for individual contributions to committees supporting the same person running for the two different offices?

Your prompt answer will be much appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gerald L. Clendenin", with a long horizontal flourish extending to the right.

Gerald L. Clendenin
Treasurer, Lang For Assembly - 1989