



# California Fair Political Practices Commission

December 27, 1989

Lori Kammerer  
c/o CCR  
921 - 11th Street, Suite 450  
Sacramento, CA 95814

Re: Your Request for Informal Assistance  
Our File No. I-89-632

Dear Ms. Kammerer:

You have requested advice regarding the contribution limitations and conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> Upon your request, I am writing to confirm our telephone conversation of November 22, 1989, at which time we discussed your questions. Because your request does not involve a specific factual situation, we are treating it as a request for informal assistance.<sup>2</sup>

Additionally, our advice is limited only to the provisions of the Act. Please contact the Sacramento City Attorney's office regarding the local campaign ordinance and the campaign contribution limitations thereunder. The following advice is based only on the Act's contribution limitations and not the local campaign limitations.

## QUESTIONS

1. Under Proposition 73, may a husband and wife who are joint tenants of a checking account, each make their own contribution from their joint checking account? If so, what is the contribution limit for each person?

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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. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

2. How is a contribution allocated when a check is written from a joint checking account and signed by only one holder of the account?

3. Under Proposition 73, what is the contribution limit if the husband writes a check from his corporate account and the wife writes a check from their joint checking account?

4. Are a husband and wife's contributions treated separately or aggregated for purposes of an official's disqualification under Section 84308?

#### CONCLUSIONS

1. Under Proposition 73, the contribution limit for each person or individual is \$1,000 in any fiscal year. Therefore, a husband and wife, who are joint tenants of a joint checking account, may each make a \$1,000 contribution from the account.

2. A contribution made from a joint checking account is attributed to the individual whose name is printed on the check and who signs the check, unless an accompanying document, signed by the contributing individuals, directs otherwise.

3. Under Proposition 73, the husband may make a \$1,000 contribution from his corporate account and his wife may make a \$1,000 contribution from their joint checking account.

4. In general, a husband and wife's contributions are not aggregated for purposes of disqualification under Section 84308. However, if the proceeding involves property which is owned jointly by the husband and wife, or any other situation where they are one party or one participant, their contributions must be aggregated for purposes of Section 84308.

#### FACTS

You are the treasurer of the Friends of Lyla Ferris Campaign Committee, I.D. #870520. The committee often receives contributions from spouses who have joint checking accounts and you seek advice regarding allocation of these contributions in accordance with Proposition 73 and current regulations.

Councilmember Ferris is also a member of the LAFCO Board. One of Ms. Ferris' contributors may have a project which will be brought before the LAFCO Board. The applicant's wife has also made a contribution to Ms. Ferris. The husband and wife's cumulative contribution exceeds \$250 in the past 12 months. You need to know if the husband and wife's contributions are treated separately or aggregated for purposes of disqualification under Section 84308.

ANALYSIS

Proposition 73

Proposition 73, which was enacted by the voters in the June 1988 statewide primary election, established limitations on contributions by "persons." Section 85102(b) defines a "person" as including an individual. Therefore, each spouse or individual is subject to the contribution limitations set forth in Sections 85301(a), 85302 and 85305(c)(1), unless a local and more stringent campaign ordinance applies.

Under Proposition 73, each spouse may make a contribution not to exceed \$1,000 in any fiscal year to Councilmember Ferris' controlled committee. (Section 85301(a).) A fiscal year means July 1 through June 30. (Section 85102(a).)

Regulation 18533<sup>3</sup> (copy enclosed) sets forth guidelines regarding the allocation of contributions when a check is written from a joint checking account. Regulation 18533(a) provides that:

(a) A contribution made from a checking account by a check bearing the printed name of more than one individual shall be attributed to the individual whose name is printed on the check and who signs the check, unless an accompanying document directs otherwise. The document shall indicate the amount to be attributed to each contributing individual and shall be signed by each contributing individual whose name is printed on the check. If each individual whose name is printed on the check signs the check, the contribution shall be attributed equally to each individual, unless an accompanying document signed by each individual directs otherwise.

If the name of the individual who signs the check is not printed on the check, an accompanying document, signed by the contributing individuals, shall state to whom the contribution is attributed.

A husband and wife may each make a \$1,000 contribution during any fiscal year from their joint checking account or from any other accounts. Pursuant to Regulation 18533(a), a contribution made from a joint checking account is attributed to the individual whose name is printed on the check and who signs the check, unless

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<sup>3</sup> Regulation 18533 was adopted by the Commission on November 7, 1989. All regulations are then reviewed by the Office of Administrative Law. We advise that the regulation be followed while it is undergoing review and we anticipate that it will be in effect in approximately 60 days.

an accompanying document, signed by each contributing individual, directs otherwise.

LAFCO Board

Councilmember Ferris also sits on the LAFCO Board. Section 84308 sets forth the requirements for disqualification when a member of an appointed board accepts a contribution in excess of \$250. Section 84308 states in pertinent part:

(b) No officer of an agency shall accept, solicit, or direct a contribution of two hundred fifty dollars (\$250) or more, from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding; provided, however, that the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of two hundred fifty dollars (\$250) or more from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of two hundred fifty dollars (\$250) or more within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent; provided, however, that the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

Section 84308 applies only to contributions from a "party or participant" in a proceeding involving a license, permit, or

other entitlement for use. (Murphy Advice Letter No. I-87-312, copy enclosed.) In general, for purposes of Section 84308, contributions from spouses are not aggregated. For example, if the husband owns separate property which is involved in a proceeding, the wife is not a party or participant. If each spouse made a contribution, it would be treated separately. However, if the proceeding involves property which is owned jointly by the husband and wife, or any other situation where they are one party or one participant, their contributions must be aggregated for purposes of Section 84308. Aggregation of a husband's and wife's contributions for purposes of Section 84308 would not also require aggregation of contributions for purposes of disclosure on campaign statements or for purposes of the contribution limitations of Proposition 73 (Section 85301).

If Ms. Ferris received a contribution from the applicant-husband's business checking account of more than \$250 within 12 months preceding the decision, she must disqualify herself if the requirements set forth in Section 84308(c) are met. However, without more specific facts, we are unable to analyze whether contributions made from the husband's business account and from the wife's personal checking account must be aggregated, or, if totaling \$250 or more when aggregated, would require Ms. Ferris' disqualification. We also do not have any facts to ascertain if the wife is a co-owner of the business or otherwise is a party or participant in the proceeding.

I trust this answers your questions. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan  
General Counsel

By:  Jill R. Stecher  
Counsel, Legal Division

KED:JRS:plh

Enclosures

FRIENDS OF LYLA FERRIS  
Committee I.D. #870520

FPPC  
Oct 31 9 25 AM '89

3520 Las Pasas Way  
Sacramento, California 95864  
(916) 441-4111 -- (916) 483-6448  
Lori C. Kammerer, Treasurer

October 30, 1989

Margaret Ellison  
California Fair Political  
Practices Commission  
P.O. Box 807  
Sacramento, California 95804

Dear Ms. Ellison:

Pursuant to our telephone conversation on August 23, 1989 and at the recommendation of John Wallace, FPPC's Legal Counsel through my telephone conversation with him on October 17, 1989, I am requesting an interpretation of the campaign laws that pertain to several specific issues in question.

As treasurer of the Friends of Lyla Ferris Campaign Committee, I.D. #870520, I am especially interested in whether I can accept contributions from husband and wife if wife signs joint checking account contribution check -- can I then accept a check from the husband's corporate account? If so, must they be cummulated together?

The reason for my concern is that City Councilmember Lyla Ferris sits on the LAFCO Board and may not vote on any projects if she has received more than \$250.00 in contributions during a one-year period from any one source. In the case I just mentioned above, husband may have a project that will be brought before the LAFCO Board. It is urgent that you respond with answers to my questions below so that I know if the husband will exceed the \$250.00 limit (his wife's contribution, if included in his cummulative total, will exceed this limit).

- \* Can husband and wife, as holders of a joint checking account, each make a contribution if each check is signed by the husband and an additional check (same checking account number) is signed by the wife?
- \* Will the husband and wife contributions (joint checking account and, checks are signed by either husband or wife) be considered as one or may I count them as a contribution from husband at "X" amount of dollars and a contribution from wife at "X" amount of dollars -- should the cummulative total for each spouse be counted together or separately?

Margaret Ellison  
CA FPPC Legal Department  
October 30, 1989

- \* Please provide information on the community property issue. I understand that there may be a problem if husband contributes from the corporation account and his wife contributes from their joint checking account or from her own personal account even though the husband is not a signatory on the account. In this case, if the husband and wife contribute in this manner, are the contributions cummulated together or separately?
- \* Finally, please let me know if there is any deadline for raising money to erase the committee's campaign debt. Is it January 1, 1990?

Please provide answers to these most pressing questions. I have received numerous checks that pertain to the issues in question. I would very much like to make a timely deposit or return the checks as soon as possible.

I look forward to your reply. I can be reached during the day, in my office, at (916) 441-4111.

Gratefully,



LORI C. KAMMERER  
Treasurer  
Friends of Lyla Ferris  
Committee I.D. #870520

cc: John Wallace, FPPC Legal Department  
City Councilmember Lyla Ferris  
David Paul & Dixie Howard, Office of the City Clerk



# California Fair Political Practices Commission

November 2, 1989

Lori Kammerer  
Treasurer  
Friends of Lyla Ferris  
3520 Las Pasas Way  
Sacramento, CA 95864

Re: Letter No. 89-632

Dear Ms. Kammerer:

Your letter requesting advice under the Political Reform Act was received on October 31, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jill Stecher 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, appearing to read "Kathryn E. Donovan".

Kathryn E. Donovan  
General Counsel

KED:plh