



California Fair Political Practices Commission

December 10, 1989

Michael P. White
Legal Counsel
Alliance of Trades and Maintenance
660 J Street, Suite 443
Sacramento, CA 95814

Re: Your Request For Advice
Our File No A- 89-660

Dear Mr. White:

You have requested advice under the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/}

QUESTIONS

1. Does a loan made by the Alliance of Trades and Maintenance political action committee (ATAM-PAC) for the purpose of raising funds for a non-profit charitable trust fund violate Elections Code Section 12401?

2. Must the loan made by ATAM-PAC be disclosed on the committee's campaign disclosure statement?

CONCLUSIONS

1. We are unable to provide advice concerning this question. The Fair Political Practices Commission has no authority to interpret the Elections Code.^{2/} The California Attorney General

^{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/} Legislation effective January 1, 1990, amends the Political Reform Act to include provisions concerning permissible uses of campaign funds after January 1, 1989. (Senate Bill No. 1431, Chapter 1452, Stats. 1989.)

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is responsible for interpreting the Elections Code. You may contact Ted Prim, Deputy Attorney General, at (916) 324-5481 to discuss this question.

2. All funds received by a political action committee are considered campaign funds. All expenditures made from campaign funds must be disclosed on a committee's campaign disclosure statement. Therefore, the ATAM-PAC must disclose on its semi-annual campaign disclosure statement (Form 420) the loan made from committee funds, and also must disclose on subsequent statements the receipt of loan repayments from the recipient of the loan.

ANALYSIS

The Act requires that committees disclose, at specified times, all contributions and other receipts, and all expenditures. (Section 84211.)^{3/} (Sections 82015 and 82025 define the terms "contribution" and "expenditure.")

The loan in question is a reportable expenditure because it was made with committee funds.

Section 82025 provides that the term "expenditure" means "...a payment...." Section 82044 provides that "payment" includes "a loan."

Regulation 18225 (copy enclosed) further defines "expenditure," in part, as:

... any monetary or nonmonetary payment made for political purposes. A payment is made for political purposes if it is:

....

(2) Made by:

....

(D) An organization formed or existing primarily for political purposes as defined in subsection (a)(1), including but not limited to a political action committee established by an membership organization, labor union or corporation.

^{3/} Sections 82015 and 82025 define the terms "contribution" and "expenditure."

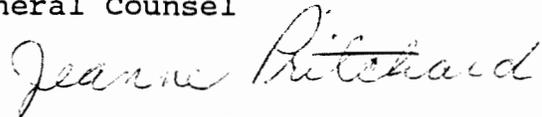
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The loan must be reported on Schedule EE, Part 1 of the committee's Form 420 covering the period during which the loan was made. Receipt of loan payments are reported on Schedule EE, Part 2 on the campaign statements covering the periods during which loan repayments are received.

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

Sincerely,

Kathryn E. Donovan
General Counsel

A handwritten signature in cursive script that reads "Jeanne Pritchard".

By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division



FPPC
Nov 16 3 32 PM '89

November 14, 1989

Kathryn Donovan
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95804-0814

Dear Ms. Donovan:

Pursuant to California Government Code Section 83114, the Alliance of Trades and Maintenance (ATAM), a state employee, non-profit labor union and its affiliated ATAM-PAC (political action committee) request written advice in the form of an opinion regarding the two issues articulated in the enclosed ISSUE/FACTS statement.

Also enclosed is an advertisement flyer and a copy of the ATAM-PAC bylaws for your reference and convenience.

The ATAM-PAC must file a semi-annual disclosure statement with the FPPC on or before January 1, 1990. Thus, the timeliness of a response from the FPPC, especially in regard to ISSUE 2, concerning the reporting of an ATAM-PAC fund loan, is essential and the primary reason for this inquiry.

The ATAM-PAC Board of Trustees wants to know if they have breached the law or regulation in any way in initially making the loan of ATAM-PAC funds and whether the loan of ATAM-PAC funds must be reported as a result in disclosure statements to the FPPC.

The ATAM-PAC Board of Trustees is particularly concerned about whether Elections Code Section 12401 has any applicability to the stated facts?

In addition, the ATAM-PAC Board of Trustees needs to know whether all funds solicited and collected by the ATAM-PAC are synonymous with "campaign funds" and thus whether Government Code Section 84216.5 applies to the facts and requires the ATAM-PAC loan to be reported on its semi-annual disclosure statements to the FPPC?

Headquarters	660 J Street, Suite 480	Sacramento, California 95814	(916) 442-1656
Los Angeles	505 North Brand Boulevard, Suite 780	Glendale, California 91203	(818) 500-8177
San Francisco	1390 Market Street, Suite 925	San Francisco, California 94102	(415) 431-5621
ATAM "Hotline":	Sacramento (916) 448-6144	Telefax: Headquarters (916) 442-0651	
	Statewide (800) 338-3932	Los Angeles (818) 247-2348	

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Obviously, time is of the essence here if the ATAM-PAC loan needs to be reported. Government Code Section 83114 states that the FPPC will respond within 21 days of receipt of a request for advice or opinion. ATAM would appreciate a complete and timely response to this request.

Should you have any questions or concerns regarding this request, please contact:

MICHAEL P. WHITE
LEGAL COUNSEL TO ATAM
660 J STREET, SUITE 443
SACRAMENTO, CA 95814

Sincerely,



Michael P. White
Counsel to ATAM

cc: File
Bill Biggs, ATAM President

Enclosure



California Fair Political Practices Commission

November 17, 1989

Michael White
Alliance of Trades and Maintenance
660 J Street, Suite 480
Sacramento CA 95814

Re: Letter No. 89-660

Dear Mr. White:

Your letter requesting advice under the Political Reform Act was received on November 16, 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 by Jld
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh