



California Fair Political Practices Commission

December 22, 1989

Brenton F. Goodrich
333 South Hope Street
Los Angeles, CA 90071

Re: Your Request for Advice
Our File No. A-89-678

Dear Mr. Goodrich:

You have requested advice concerning the campaign provisions of the Political Reform Act.^{1/}

QUESTION

Are you required to disclose as non-monetary contributions two newspaper advertisements which were published without your prior knowledge or consent?

CONCLUSION

You are not required to report the advertisements because they were independent expenditures made by a third party.

FACTS

You were elected a Trustee on the Palos Verdes Peninsula Unified School District Board on November 7, 1989. A few days prior to the election, two newspaper advertisements appeared in the local newspaper supporting your election. You did not request, suggest or review the ads before their publication, nor do you know who paid for the ads.

ANALYSIS

An expenditure made at the behest of a candidate is a contribution to the candidate unless full and adequate consideration is received for making the expenditure. (Section 82015.) A payment is "made at the behest of" a candidate if it is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of the candidate. (Regulation 18215.)

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.

In addition, the Act defines an "independent expenditure" as an expenditure made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate but which is not made to or at the behest of the affected candidate. (Section 82031.)

According to the facts presented in your letter of November 2, 1989, the communication supporting your candidacy was not made at your behest and is therefore an "independent expenditure."

Section 84211 of the Act requires candidates to disclose contributions, including non-monetary contributions received. The Act does not require candidates to disclose independent expenditures made on their behalf.

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

BRENTON F. GOODRICH
333 SOUTH HOPE STREET
27TH FLOOR
LOS ANGELES, CALIFORNIA 90071
TELEPHONE: (213) 891-0319

FFPC
Nov 27 7 47 AM '89

November 22, 1989

Mrs. Jeanne Pritchard
Fair Political Practices Commission
428 J Street
Suite 700
Sacramento, California 95814

Dear Mrs. Pritchard:

I am writing this letter to request an opinion.

In the November 7, 1989 election, I was a (successful) candidate for election to the Board of Trustees of the Palos Verdes Peninsula Unified School District.

The election involved seven candidates competing for three seats on the five-member board. It was vigorously contested, and developed essentially into a struggle between two incumbents and myself on the one hand, and a bloc of three candidates who were closely associated with an east-side citizens group, the East Peninsula Education Counsel (EPEC), which has been attempting to block an earlier decision by the school board to close Miraleste High School (one of three on the Peninsula), due to declining enrollment.

Late in the campaign, an acquaintance of mine--I do not recall who--commented that several unidentified people were upset at what they viewed as misinformation which the three so-called EPEC candidates were circulating regarding the EPEC candidates' policies and plans, and that these people were considering running a newspaper ad setting the record straight.

No one ever asked my permission or approval for the ad--either then or later--and I neither suggested that the ad be run nor encouraged nor discouraged the idea. As far as I was concerned, it was not part of my campaign and simply not my business.

On the Thursday and Saturday before the November 7th election, the enclosed ad ran in the Peninsula News, our local paper. (All the candidates, including me, were also running our own, entirely separate ads in the same editions, as is customary in Palos Verdes Peninsula elections. My own ad was paid for by my campaign.)

I am informed that such an ad run twice, costs \$1,026.00. I do not know what or who the Concerned Citizens For Truth In Elections is, nor have I played any role in any such organization.

At a subsequent school board meeting on Monday, November 6, 1989, an EPEC candidate and an EPEC supporter decried the enclosed ad and stated that he had inquired of the paper and was told that it had been paid for by a check drawn on an account of "REM Associates," and that the check had been delivered to the paper by one George Haddad (an acquaintance of mine and a supporter). It was also asserted that REM Associates might be Mr. Richard E. Mahmarian, also an acquaintance of mine and a supporter. (I had hundreds of supporters in my campaign.)

After the board meeting, the same EPEC supporter stated that he believed I had a reporting obligation regarding the ad.

As stated above, I did not direct or suggest or request that the ad be run, nor urge it. Also, my campaign did not pay for it, nor did I; nor did I see the ad or its text before it ran, nor did I play any role in creating its text. Nor do I know who ran the ad, nor who paid for it--though I do know both Mr. Haddad and Mr. Mahmarian. Moreover, no one asked my permission or consent to run the ad, nor to use my name in it, nor did I give such permission or consent, nor did I know ahead of time that my name would be used.

It never would have dawned on me that I was somehow responsible to report, based on what some other citizens decided to do on their own volition. However, given the EPEC supporter's assertion of my supposed reporting duty, and given the unpleasant recent propensity of a certain segment of our community to make accusations and register complaints, I wish to be entirely sure of my legal obligations. Thus, per the suggestion of your colleague, Kevin Moen, I am setting out these facts and requesting an opinion as to whether or not I have a reporting obligation for the ad.

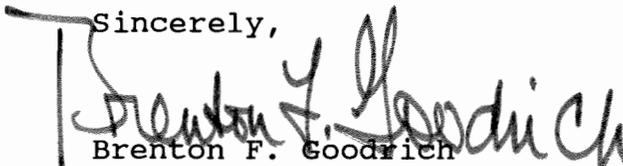
Mrs. Jeanne Pritchard

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November 22, 1989

I would appreciate your early attention to this request since I understand I have a report due January 31, 1990. If you require any further information, please let me know. I shall be happy to provide it if I have it.

Sincerely,


Brenton F. Goodrich

BFG:gjv
Enclosure

An EPEC Primer . . .

or

EPEC's Miraculous Metamorphosis

FACT:

- EPEC spent over \$300,000 in the past two years trying to rip our School District apart. This has cost the district hundreds of thousands in legal fees and over \$1,000,000 per year to be diverted from our childrens' classrooms.
- EPEC's followers conducted a "McCarthy style" witch-hunt and a systematic campaign of personal and vicious attacks against our district's superintendent, eventually hounding him from office.
- Following EPEC's example, some of its supporters have stopped at nothing — misrepresentations, frivolous lawsuits, slitting tires, and even shooting out the window of the small daughter of a present School Board member (who happens to live on the "East Side") just because he voted to close and consolidate Miraleste High School.
- The vote to close Miraleste High School was made, after much agonizing by the Board and the community, in order to maintain a high quality of education for all our community's children. Declining enrollment, a severe shortage of district funding, and the benefits of consolidation for the educational programs of ALL students were the only criteria considered.
- EPEC singlehandedly (and artificially) divided our Peninsula into "East Side" and "West Side" causing friction and pitting many good friends against each other. All just to keep an underpopulated high school open, which cannot offer its students as full a curriculum and choices as the other two high schools.
- EPEC has since continued to coerce and inflame other residents of the "East Side" convincing them of the "unfairness" of the School Board and to strike out against the Board Members and the School District Administration.
- EPEC has tried every trick and tactic it could to SECEDE from our school district . . . and LOST . . . at both State and local levels.
- And EPEC did all of the above (and a lot more) just to keep Miraleste High School open.
- Now after spending over \$300,000 to rip the district apart, and losing, EPEC wants to **BUY** control of our school district by electing a hand-picked "gang of three" School Board candidates (its own Board members of course) — Kipper, Gardiner, and Hildebrand.
- They are *depending* on voter apathy in the community, and a low turnout at the polls, to "sweep" them into office.

❖ **Despite all of EPEC's claims, we still have one of the *finest* school districts in the State. It is one of the major reasons many people moved to and live**

and have really *always* wanted a single uni
claim. (Hard to believe after their actions f

- That the EPEC candidates care about "ALL"
(They only care about achieving their own
to keep Miraleste High School open at AN
- That the EPEC candidates really "resigned"
not continue to be **controlled** by it. (Even
easier.)
- That closing Miraleste High School will ca
the East Side. (Actually, not closing Mirale
in savings could reduce the educational qu
could have a much more devastating and la

❖ **Don't Let EPEC Steal Our**

To ensure the continued high quality of edu
polls and VOTE on November 7th and enc
to vote for the **ONLY** candidates dedicated
children on the Palos Verdes Peninsula:

☆ **VOTE** ☆ N

for

✓ **JEFF YOU**

✓ **BRENT GO**

✓ **MARLYS**

Paid for by Concerned Citizens



California Fair Political Practices Commission

November 29, 1989

Brenton F. Goodrich
333 South Hope Street, 27th Floor
Los Angeles, CA 90071

Re: Letter No. 89-678

Dear Mr. Goodrich:

Your letter requesting advice under the Political Reform Act was received on November 27, 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
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh