



California Fair Political Practices Commission

July 18, 1991

Donald E. Craig
7738 Carrleigh Parkway
Springfield, VA 22152

Re: Your Request for Informal
Assistance
Our File No. I-91-307

Dear Mr. Craig:

You have requested advice concerning the campaign provisions of the Political Reform Act.^{1/} The organization you describe in your letter has not yet been formed and it is not clear from the information provided whether the organization will raise or spend funds to support state candidates (e.g., Governor, State Assembly), or will be formed solely to support candidates for federal offices. Therefore, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed) and hope the following general information is helpful.^{2/} Please note that the Political Reform Act does not regulate candidates or committees involved in federal elections.

QUESTION

What filing and reporting obligations exist if funds are raised to support California state candidates for elective office?

CONCLUSION

When two or more people combine their funds in order to make contributions to state or local candidates or other committees, they must register as a committee if they raise or spend \$1,000 in a calendar year for political purposes.

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 18329(c)(3).)

D. E. Craig
July 18, 1991
Page 2

FACTS

You intend to begin a political movement entitled Economic Justice Movement ("EJM"). Toward achieving the stated goals of EJM, candidates may be supported for state and federal office.

You do not intend to raise or contribute funds yourself, but you have asked what requirements exist for establishing an organization which does raise money to support candidates for state elective office.

ANALYSIS

Section 84101 requires every organization which qualifies as a "committee" under Section 82013(a) formed to support or oppose California state or local candidates and measures to file a statement of organization (Form 410) with the Secretary of State within 10 days of qualifying as a committee. Section 82013(a) defines "committee" as:

...any person or combination of persons who directly or indirectly...receives contributions totaling \$1,000 or more in a calendar year.

"Contribution" is defined in Section 82015 as:

...a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes.

Regulation 18215 specifies, in part, that:

...a payment is made for political purposes if it is:

(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure.

Sections 84200 and 84200.5 require committees to file periodic reports disclosing contributions received and expenditures made in connection with California elections. The enclosed 1990 Information Manual C: Campaign Provisions of the Political Reform Act for: General Purpose Recipient Committees, along with the enclosed Summary of 1991 Legislative Changes and

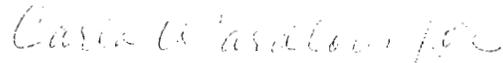
D. E. Craig
July 18, 1991
Page 3

1991 Filing Schedule, discuss these and other reporting obligations in detail. Also enclosed are a statement of organization and instructions for its completion, reporting Forms 420 and 450, and termination Form 415.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Scott Hallabrin
Acting General Counsel



by: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosures

Donald E. Craig

7738 Carrleigh Parkway

Springfield, VA 22152

Telephone (703) 451-7973

Secretary of State
P.O. Box 1467
Sacramento, CA 95807



June 4, 1991

Dear sir or madam:

Yesterday my office mistakenly forwarded to you an unsigned draft letter. Please process this letter in lieu of the unsigned draft.

I have written a book entitled *Economic Justice*. The book addresses (1) how mankind can survive the threats posed by atmospheric pollution, global overpopulation, and nuclear weapons and (2) how the USA can reverse its 40-year economic decline relative to other advanced nations; provide retirement income for baby boomers; and reverse the injustice of unfair taxes, inflation, maldistribution of wealth, and oligarchy. My analysis indicates that, if mankind is to survive, all advanced nations during the next 25 years must become (1) four times richer and (2) parts of a supranational Economic Union that is a true democracy (electorate is legislature), not a republic. As one step toward those results, the book proposes converting the USA from a republic to a true democracy—by taking over the Democratic Party, winning elections within the existing election system, initiating a constitutional convention, rewriting the U.S. Constitution, and submitting the revised constitution to popular election. The book is oriented to winning the 1992 elections, but because of publication delays, that now seems totally unrealistic.

The book proposes calling the political movement to effect the proposed changes the Economic Justice Movement (EJM). I have no idea what the response may be. The book states that I have no intention of running for office or becoming an officer of EJM but that I will collect the money and resumes to get EJM started. It also states that I will turn the money and data over to the EJM national headquarters if and when it comes into existence. The exact wording of this section of the book is presented in the enclosure. EJM clearly must try to get people elected to federal office. Whether EJM, when and if it is established, will ever produce candidates for state offices is something I cannot predict. In helping EJM get started, I do not intend to produce a candidate for any office or to provide funds for any political candidate. No money has been collected to date. From my viewpoint, I am just exercising my right of free speech and offering to perform a temporary public service. But I recognize that life is not always that simple, and I do not want to have violated any of your state's laws.

Please advise me whether you believe that it is necessary for me to take some related action to comply with your state's laws, such registering as a funds raiser. If your answer is affirmative and requires use of your state's forms and publications, please furnish them. If some other office is responsible for the relevant matters in your state, I trust you will refer this letter to that office. Thank you for your assistance.

Very respectfully,

Donald E. Craig

Donald E. Craig

*Formal
advice*

Enclosed: Excerpt from book concerning fund raising

10 JUN 11 1991

EXCERPT FROM BOOK *ECONOMIC JUSTICE*

Most Americans have never contributed a cent or a man-hour to any political organization. If EJM is to succeed, that must change. Rich people are unlikely to fund this political movement. Ordinary people must do it. If you want a habitable Earth and a nation that you can be truly proud of and pleased to live in, then you must contribute money and man-hours now. It is not possible to create an effective EJM without spending money for political organization, a constitutional committee, a shadow civic organization, and elections.

Now let us divide the following request for funds into two parts: (1) helping to get EJM started and (2) winning the 1992 elections. The author is not pleased to have to ask anyone who is not personally acquainted with him to put any money under his care, but it seems essential to getting EJM started. The author will collect and use type 1 funds and will accept and deposit such type 2 funds as are donated. Toward the first end, some very small amount—\$1 to \$20 or whatever is very small to you—is all that is requested.

The initial, type 1, donations will be placed in an EJM bank account with First Virginia Bank with the author's signature being the only valid signature. The money will be used to hire clerical help to sort, save, and record incoming data in computer files; pay for necessary telephone calls; and pay for other initial organization work that the author finds essential. If the incoming mail becomes so great as to require a special office, the money may also be used to rent office space and perhaps to buy more computers. (The author already can provide office space, file cabinets, and computers ample for a start-up effort.) As soon as a national EJM political organization exists, all unused type 1 funds will be turned over to its duly-appointed or elected treasurer, and the author will request that a CPA audit of his handling of funds be conducted and reported to the EJM national committee. Any type 1 donation will be assumed to be available for such use at the author's discretion.

Now for type 2 donations. Winning the 1992 national and state elections will require approximately 50 million votes and \$2 billion. Divided equally among 50 million people that comes to \$40 each, which is about equal to an average worker's direct FICA tax for 1 week. (The proposed system will abolish consumption taxes amounting to \$6,700 per year for the average worker.) Recognizing that everyone will not contribute funds, the author recommends a donation of 2 1,000ths of your annual income, which is \$20 if you make \$10,000 per year, \$200 if you make \$100,000 per year, or \$50 for the average worker. You may have to repeat that donation a year later, or talk someone else into matching your contribution. No matter what it costs, this donation is a bargain: what is it worth to you to provide for the survival of

mankind, a better world for your children, and a 7 to 10 percent increase in living standard for your family every year? It is an intelligent decision for the average worker to risk \$50 or twice that amount on being able to get those results, even if he has to pay it by installments of \$4 per month.

Congress is making this collecting of funds difficult. To start the process of organizing the EJM, the author originally intended to establish and manage a political action committee (PAC). In July and August 1990, Congress began to consider prohibiting PAC donations to Senate and House elections and authorizing the use of appropriated federal funds in these elections. You do not need to read newspapers to guess that Congress will twist this supposed reform into increasing the reelection chances of incumbents, which are already at 98 percent. Congress would be delighted to make itself into a closed club that can vote itself pay raises and large pension increases at will (which it recently has done) and that has ended its own need to raise campaign funds. Unchecked, Congress will continue to move in that direction. It already has made election of independent candidates and all challengers to incumbents extremely difficult. Faced with a real challenge from EJM, Congress would restrict PACs further. It is necessary for EJM to act outside the reach of Congress, and that is truly deplorable.

However the law comes out, EJM will comply with it and publish periodic accounting of donated funds, but EJM needs flexibility to keep ahead of Congress. In essence, EJM needs a power-of-attorney statement from each contributor to this effect: "EJM is authorized to apply the enclosed contribution in my name for any lawful purpose that EJM deems advisable." Call this rule A. To thwart this approach, Congress would have to pass a law saying that individuals cannot spend their money as they see fit or cannot delegate that authority to an agent, in this case the EJM national and state committees. In Senate and House elections, EJM will apply funds from contributors in the affected states in lawful amounts. Accounting will separate the funds by state and congressional district.

Given this published explanation, it will be sufficient for you to write at the top center of a check a notation such as this example: "Rule A, VA 8" meaning "Contributed per Rule A from Virginia congressional district 8." You must be ready to testify in court that you understood what you were doing in authorizing EJM to act as your agent in this manner. If you do not know what congressional district you live in, your local library or election board will tell you. EJM will ensure that your donation to any candidate does not exceed the legal limit. After the law is defined, EJM may become a nonprofit association. For now, EJM must be just an informal club, if you can realistically call something based on a book-length explanation informal. (Most corporations' bylaws fill 5 to 10 pages.)

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