

November 1, 2011

Jack Scott, Ph.D.  
Chancellor, California Community Colleges  
1102 Q Street  
Sacramento, CA 95811-6549

Re: Your Request for Advice  
**Our File No. A-11-170**

Dear Mr. Scott:

This letter responds to your request for advice regarding campaign provisions of the Political Reform Act (the "Act").<sup>1</sup>

### **QUESTION**

You recently became aware of a misdirected political contribution incorrectly sent to Carmel, California, for which Cigna sent a new \$1,000 check made out in your name. You ask how to negotiate that check, whether it is permissible under the Act to use the proceeds personally, donate them to a charity, or donate them to another political campaign for local or statewide office?

### **CONCLUSION**

Assuming your campaign bank accounts are closed and your campaign committees are all terminated, you may sign the check over to a charitable organization or other entity permissible under the Act's surplus funds rules and file a campaign report showing the receipt and disposition of the funds.

### **FACTS**

You are a former State Senator (2000-2008). Recently you were informed that there was a political contribution of \$1,000 made to your campaign from Cigna that had been sent

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

incorrectly to Carmel, California. You called the phone number designated in the letter and recently received a \$1,000 check made out to yourself.

You have three questions before cashing the check. May you use the proceeds personally, donate the \$1,000 to a charity, or donate the \$1,000 to another political campaign, either for local or statewide office?

### ANALYSIS

The Act requires candidates and officeholders to establish a campaign bank account into which all campaign contributions<sup>2</sup> must be deposited and from which all campaign expenditures must be made.<sup>3</sup> (Section 85201.) The Act's prohibition on the personal use of campaign funds would not permit you to retain for personal purposes funds received as a political contribution. (See Sections 89510-89522.)

This single misdirected \$1,000 political contribution you received after you have left office and terminated your committees is required to be spent pursuant to the surplus funds rules. (See *Bauer* Advice Letter, No. A-11-088 and *Ranish* Advice Letter, No. A-94-080.) Section 89519 provides that “[u]pon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds . . . under the control of the former candidate or elected officer shall be considered surplus campaign funds” and may only be used for certain restricted purposes. Under Section 89519, a candidate may only spend surplus funds on the following expenses:

- Payment of outstanding campaign debts or officeholder expenses.
- Repayment of contributions.
- Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the candidate, any member of his or her immediate family, or the campaign treasurer.
- Contributions to a political party or committee, so long as the funds are not used to make contributions in support of or in opposition to a candidate for elective office. Contributions to support or oppose any candidate for federal office, any candidate in another state, or any ballot measure.

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<sup>2</sup> The definition of what is a “contribution” is found in Section 82015 and Regulation 18215.

<sup>3</sup> There is an exception to this rule for the use of a candidate's personal funds for a candidate's filing fee or a statement of qualifications fee. (Sections 82015(c) and 85201(f).)

- Professional services, such as legal or accounting services reasonably required by the committee to assist in its administrative functions.
- A home or office security system, if the candidate has received threats to his or her physical safety and other conditions are met.

You wish to donate the \$1,000 check to a charity or to another political campaign either for local or statewide office. Section 89519(b)(3) permits you to make a charitable donation of the remaining funds if no substantial part of the proceeds will have a material financial effect on you, any member of your immediate family, or on the campaign treasurer. Under Section 89519(b)(4) and (5), surplus funds may be donated to a political party or a federal candidate, but not to a state or local candidate in California.

When you endorse the check over to a charity or another entity that meets the requirements of Section 89519, you should file a campaign statement on Form 460 showing the receipt of the \$1,000 contribution and the expenditure of the funds. A letter explaining the reason for the additional filing should accompany the statement.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini  
General Counsel

By: Hyla P. Wagner  
Senior Counsel, Legal Division

HPW:jgl