

October 29, 2012

Pedro Nava  
P.O. BOX 90459  
Santa Barbara, CA 93190

Re: Your Request for Informal Assistance  
**Our File No. I-12-155**

Dear Mr. Nava:

This letter responds to your request for advice regarding provisions of the Political Reform Act (the “Act”)<sup>1</sup> applicable to the imposition of fines. Since your request concerns an issue of general application and, as explained below, does not directly involve duties the candidates in question would have under the Act, we treat it as a request for informal advice. (See Regulation 18329(c).)<sup>2</sup>

### **QUESTION**

If a slate mailer organization is fined by the Fair Political Practices Commission (the “Commission”) for violations of the organization’s duties under the Act regarding a particular slate mailer, are candidates who paid the organization for inclusion in the slate mailer potentially liable for payment of all or part of the fine?

### **CONCLUSION**

So long as a candidate who paid the slate mailer organization for inclusion in the slate mailer does not own or act on behalf of the slate mailer organization, the candidate is not liable or potentially liable in any way for the slate mailer organization’s violations of the Act in relation to the mailer.

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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.

<sup>2</sup> Although not an issue in regards to your question, please note that informal advice does not provide immunity from prosecution by the Fair Political Practices Commission under the Act (see Section 83114(b)).

## ANALYSIS

The Act regulates slate mailer organizations under Sections 84218 through 84221, and 84305.5.

The Act defines a “slate mailer” as a “mass mailing which supports or opposes a total or four or more candidates or ballot measures.” (Section 82048.3.) Subject to certain exceptions, a “slate mailer organization” is any person who: (1) Is involved in one or more slate mailers and “exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers” and, (2) Receives or is promised payments totaling \$500 or more in a calendar year for the production of slate mailers. (Section 82048.4.)

Sections 84218 through 84221 set forth various requirements imposed upon slate mailer organizations regarding the filing of campaign statements reporting their financial activities when accepting and spending funds in producing slate mailers. The language of each of these sections specifically places these duties on the slate mailer organization itself and no other person. For example, in prefacing the requirement that a slate mailer organization file semi-annual campaign reports, Section 84218 states “A slate mailer organization shall . . .” (Emphasis added.) Sections 84219 through 84221 all have identical or virtually identical language. Section 84305.5 provides that “[n]o slate mailer organization . . . shall” send a slate mailer unless the mailer contains specified identification and disclaimer information. Again, Section 84305.5 does not impose these duties on any person other than the slate mailer organization itself.

Therefore, reading the definition of slate mailer organization in Section 82048.4 in conjunction with the various requirements in Sections 84218 through 84221 and Section 84305.5, the only persons who have a duty to comply with the Act’s slate mailer requirements, and thus the only persons who can be fined by the Commission for their violation, are those who exercise control over the selection of the candidates and measures listed in the slate mailer. This obviously does not include a candidate who merely pays the slate mailer organization for inclusion in the slate mailer and does not control the slate mailer organization or its slate mailer decisions.

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

Sincerely,

Zackery P. Morazzini  
General Counsel

By: Scott Hallabrin  
Counsel, Legal Division

SH:jgl