

March 4, 2013

Amar Shergill
Shergill Law Firm | Sacramento | San Francisco | Yuba City
2150 River Plaza Drive, Suite 295
Sacramento, CA 95833

Re: Your Request for Advice
Our File No. A-13-014

Dear Mr. Shergill:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the “Act”).¹ Please note that the Commission does not provide advice on legal requirements imposed outside the confines of the Act.

You have asked whether the Act prohibits the American Sikh Political Action Committee, a California-registered PAC, from making out-of-state contributions to candidates for the New Jersey Assembly. While there are provisions relating to the “personal use” of campaign funds designed to prevent candidates, elected officials, and others who control the expenditure of such funds from benefiting privately from their campaign activities, the Act contains no provisions prohibiting a PAC from making out-of-state contributions.²

The general rule is that an expenditure of campaign funds must be reasonably related to a political, legislative or governmental purpose. (See Section 89512.5(a).) Making contributions to New Jersey candidates running for the Assembly would certainly appear to be reasonably related to a political purpose, and therefore an appropriate expenditure of campaign funds. Accordingly, the Act does not prohibit the American Sikh PAC from making such contributions.

¹ 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.

² This does not foreclose the possibility that New Jersey may have its own laws addressing state-candidate contributions coming from outside of the state. However, such laws would fall outside of the purview of the Act, so we do not address them.

You have also inquired whether the Act prohibits a charitable non-profit organization and a PAC from having identical board membership where the financial accounting is separately maintained and all other legal requirements involving such entities are followed. The Act contains no provisions governing the composition of the board of a political committee or a nonprofit 501(c)(3) organization. However, you should consult federal tax law which restricts a nonprofit 501(c)(3) organization from engaging in partisan political activity concerning a 501(c)(3) organization establishing a PAC.³

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

Sincerely,

Zackery P. Morazzini
General Counsel

By: Jack Woodside
Senior Counsel, Legal Division

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³ In addition, because your facts suggest that the charitable nonprofit is a 501(c)(3) organization that will not be operated for political purposes such that it would make contributions to candidates or spend funds to influence legislative action, the aggregation requirements involving affiliated entities under Section 85311 would not be triggered.