

April 18, 2013

Lisa Lloyd  
[REDACTED]  
[REDACTED]

Re: Your Request for Advice  
**Our File No. A-13-043**

Dear Ms. Lloyd:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> Nothing in this letter should be construed to evaluate any conduct that has already taken place. In addition, this letter is based on the facts presented. The Fair Political Practices Commission (the "Commission") does not act as the finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

Please note that our advice is based solely on the provisions of the Act. There may be other campaign provisions applicable to your facts, such as local ordinances.<sup>2</sup>

### QUESTIONS

1. Whether you and the two other individuals need to register as a committee?
2. Whether you and the two other individuals have to include your names on the post card supporting a Santa Cruz and Santa Clara joint local measure to remove properties from the school district?
3. Whether there is an individual contribution limit that would prevent you personally from paying the entire cost of the post card upfront and then getting reimbursed by the other individuals later?

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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> Local ordinances in Santa Cruz and Los Gatos place limits on the contributions an individual can make to a local candidate, here, you are making an expenditure to support a ballot measure not a candidate.

## CONCLUSION

Because you and the two other individuals do not meet the contribution or expenditure thresholds to qualify as a committee, the campaign disclosure provisions of the Act are not applicable to your facts. However, if the three of you receive contributions or make expenditures totaling \$1,000 or more in a calendar year then you would qualify as a committee and be required to file campaign reports.

## FACTS

You and two other individuals would like to send out a post card supporting a Santa Cruz and Santa Clara joint local measure to remove properties from the school district. The total cost of the mailing lists, printing, and postage for the post card will be less than \$1,000. The three of you plan to split the cost equally, with you paying the cost of the printing initially and the other two individuals reimbursing you for their portions. You do not want to include your names on the post card so that if the measure fails, your names will not be identified in connection with the measure.

## ANALYSIS

The Act defines a committee as any person or combination of persons who directly or indirectly receives contributions or makes independent expenditures totaling \$1,000 or more in a calendar year, or makes contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates or committees. (Section 82013.) A contribution is any payment made for political purposes for which full and adequate consideration is not made to the donor. (Section 82015, Regulation 18215.) Attempting to influence the action of the voters for the passage of a measure is a political purpose. (Regulation 18215(a)(1).) An independent expenditure is a payment made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure. (Section 82013.)

The post card you plan to send is for the purpose of influencing the action of the voters for the passage of a measure, therefore, you have a political purpose. Additionally, any payments made for the post card are independent expenditures. If you and the two other individuals were to spend one thousand dollars (\$1,000) or more this calendar year on this post card, or in combination with other political expenditures, the three of you would qualify as a committee under the Act. As a committee you would be required to file campaign reports of your political expenditures. (Section 84101.) Because the cost of this post card is less than \$1,000, and you have not indicated an intention to make any other payments for political purposes, you do not qualify as a committee at this time. Therefore, you do not currently have any reporting obligations under the Act. If you and the two other individuals together make additional political payments that meet or exceed \$1,000 in 2013, disclosure forms will be required to be filed.

You have asked specifically whether you and the two other individuals must include your names on the post card you plan to send. The Act defines a mass mailing as over two hundred substantially similar pieces of mail that are sent within a calendar month. (Regulation 18435.) You have not indicated how many post cards you plan to send, presumably it is more than two hundred, making your post card a mass mailing.<sup>3</sup> Section 84305 and Regulation 18435 provide the requirements for a mass mailing, specifically, they require that a candidate or committee sender include their name and address on the outside of each piece of mail. (Section 84305.) Because this provision requires disclosure of the name and address of the committee or candidate and the three of you are neither a committee nor candidates, this provision does not apply to your mass mailing. Therefore, you do not need to include your names on the post card.

Finally, you have asked whether there is an individual contribution limit that would bar you from paying for the entire cost of the post card yourself and then being reimbursed by the other individuals involved with the post card. The Act does have individual contribution limits, however, these limits apply to contributions made to State candidates and committees. (See Sections 85301-85303.) Because you are not making a contribution to a State candidate or committee, these provisions are not applicable to your facts.

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

Sincerely,

Zackery P. Morazzini  
General Counsel

By: Whitney Prout  
Legal Intern, Legal Division

WLP:jgl

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<sup>3</sup> The Act has special provisions for “slate mailers.” A slate mailer is a mass mailing which supports or opposes a total of four or more candidates or ballot measures. (Section 82048.3) Your facts indicate that your post card is only addressing one ballot measure and thus is not a slate mailer; therefore, the provisions on slate mailers are not discussed. If you change your post card to include four or more ballot measures (or candidates) you should seek further advice on the provisions governing slate mailers.