

August 8, 2014

Jonathan Mintzer  
The Sutton Law Firm  
150 Post Street, Suite 405  
San Francisco, CA 94108

Re: Your Request for Advice  
**Our File No. A-14-123**

Dear Mr. Mintzer:

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

### **QUESTION**

Does Section 84223, requiring the maintenance of a list of top 10 contributors by committees that raise over \$1,000,000 and are "primarily formed to support or oppose a state candidate," apply to a committee set up by a state candidate for his or her own election or reelection effort?

### **CONCLUSION**

No, Section 84223, requiring committees primarily formed to support or oppose a state candidate that raise over \$1,000,000 to submit a list to the FPPC of their top 10 contributors, does not apply to a committee controlled by a state candidate for his or her own election or reelection.

### **FACTS**

Senate Bill 27 was passed by the Legislature and signed by the Governor on May 14, 2014. The bill contains an urgency clause and became effective July 1, 2014. The legislation describes when a multipurpose organization that is making political expenditures in California qualifies as a committee under the Act and must file campaign reports disclosing donors.

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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.

The legislation also includes top contributor disclosure lists. State ballot measure committees and committees that are primarily formed to make independent expenditures supporting or opposing state candidates that have raised \$1,000,000 or more are required to provide updated top 10 contributor lists to the Fair Political Practices Commission (“FPPC”) for posting online. In addition, the bill requires the FPPC to compile and display on its website a list of the top 10 contributors supporting and opposing each state ballot measure.

### ANALYSIS

Section 84223 of the Act, added by SB 27, provides:

“(a) A committee primarily formed to support or oppose a state ballot measure or state candidate that raises one million dollars (\$1,000,000) or more for an election shall maintain an accurate list of the committee’s top 10 contributors, as specified by Commission regulations. A current list of the top 10 contributors shall be provided to the Commission for disclosure on the Commission’s Internet Website, as provided in subdivision (c).”

The requirement to submit top 10 contributor lists to the FPPC contained in Section 84223(a) only applies to committees primarily formed to support or oppose a state ballot measure, and to committees primarily formed to make independent expenditures supporting or opposing a state candidate. The requirement does not apply to a state candidate’s own controlled committee for election to office.

As you noted, this is made clear in the legislative findings and declarations for SB 27 which provide:

“(e) It is therefore the intent of the Legislature to strengthen the laws requiring the disclosure of contributions and expenditures in California elections by multipurpose organizations and to require committees that raise or spend one million dollars (\$1,000,000) or more to support or oppose state ballot measures or make independent expenditures on behalf of a state candidate to disclose a list of their top 10 contributors on the Internet Web site of the Fair Political Practices Commission.”

It is also clearly stated on new FPPC forms and instructions for the top 10 contributor lists. In describing “Who Files,” the instructions state “committees primarily formed to support or oppose a state candidate that raise \$1,000,000 or more and have received contributions of \$10,000 or more from a single source,” and specify that “this does not include a committee controlled by a state candidate for his or her own election.”

The statute only requires top 10 contributor lists from committees making independent expenditures on state candidates, because of the reasons you noted. First, the Act and regulations

distinguish between a committee controlled by a state candidate for his or her own election and a committee primarily formed to support or oppose a state candidate through independent expenditures. Second, a committee controlled by a state candidate for his or her own election is subject to contribution limits under the Act, so there would not be many contributors giving large amounts in excess of \$10,000 for such candidates to list with the exception of candidates for the office of Governor.

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