



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329  
(916) 322-5660 • Fax (916) 322-0886

February 27, 2015

✓ Mr. Charles Johnson  
Mrs. Ann Johnson  
c/o Mr. Steven Lucas, Esq.  
NIELSEN MERKSAMER, et al.

[REDACTED]  
[REDACTED]

**Re: Advisory Letter**  
FPPC Case No. 14/1241

Gentlepersons:

The Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act (the “Act”).<sup>1</sup> In April 2011, the FPPC commenced a proactive campaign money laundering investigation regarding six contributions (totaling \$102,000) that the two of you made in 2010 to three different county central committees, including the Santa Clara County Republican Party and the Yolo County Republican Central Committee. This file was opened for three main reasons.

First, the three different central committees each received \$34,000 from you at around the same time—shortly before the 2010 general election. (Each central committee received one check in the amount of \$17,000 from Mr. Johnson and another check in the same amount from Mrs. Johnson.)

Second, soon after receiving the money, the Santa Clara and Yolo central committees appeared to keep a small “cut” for themselves and forwarded the rest to a committee known as Damon Dunn for Secretary of State 2010. At the time, the two of you were “maxed out” contributors to the Dunn committee for the California primary and general elections, having each contributed \$13,000.

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<sup>1</sup> The 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.

Third, the remaining central committee, known as the Placer County Republican Party, wound up returning your money. (Ultimately, the Placer central committee would describe the transaction as “tainted.”)

After investigation, the FPPC is closing its file on this matter with an advisory letter as discussed below.

At the core of the Act’s campaign reporting system is the requirement that major donors (of \$10,000 or more during a calendar year) and candidates/committees, must file campaign statements/reports for certain reporting periods and by certain deadlines. (See Sections 82013 and 84200, et seq. as they were in effect in 2010. Also, see Section 81002, subd. (a): “Receipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.”) In addition to promoting transparency in elections with respect to the true sources and the true recipients of contributions, this reporting system facilitates enforcement of contribution limits.

The Act imposes campaign contribution limits with respect to the making and receiving of certain contributions. However, these limits are adjusted periodically, and different limits apply depending upon who is contributing and who is receiving.

For example, in 2010, an individual wishing to contribute to a candidate for California Secretary of State could not contribute more than \$6,500 per election. However, at that time, there was no limit on contributions from a political party committee (such as a county central committee) to that same candidate.<sup>2</sup> (Sections 83124, 85301, 85303; also, see Regulation 18545 as it was in effect in 2010.)

Money laundering occurs when an individual makes a contribution in the name of another. This is prohibited by Section 84301 because it deprives the public of important information about the true source of campaign contributions, and it facilitates the unlawful circumvention of campaign contribution limits.

For this reason, Section 84302 requires full disclosure when a person makes a contribution on behalf of another, or while acting as the intermediary or agent of another. Along these lines, Section 85704 prohibits earmarking by providing: “A person may not make any contribution to a committee on the condition or with the agreement that it will be contributed to any particular candidate unless the contribution is fully disclosed pursuant to Section 84302.”

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<sup>2</sup> At the time, there was a calendar year limit of \$32,400 with respect to how much an individual could contribute to a political party committee, but individuals could exceed this amount so long as the excess was not used by the committee to support/oppose candidates for state office.

For example, an individual wants to contribute roughly \$30,000 to a candidate, but he is prohibited from doing so because of a contribution limit of \$6,500 per election. However, this same limit does not apply to contributions from a county central committee to the candidate—so the individual uses a county central committee as a “straw donor” or intermediary for the contribution to the candidate. Thereafter, the individual files campaign statements/reports to the effect that he simply made a sizable contribution to a county central committee, and the committee files statements/reports to the effect that it decided to contribute the money to the candidate—effectively concealing the fact that the individual was the true source of funds, and the committee was a mere “straw donor” or intermediary. By laundering the contribution in this way, the original donor has committed multiple violations of the Act (making a contribution in the name of another, making an over-the-limit contribution, and false reporting).

Campaign money laundering schemes come in many forms. Some are straightforward—where the true source of funds makes the earmarking arrangements directly with the intermediary. Others are more convoluted—with multiple layers of people between the true source of funds and the earmarking.

In this case, it appears that your daughter, Jennifer Johnson, acted on Mr. Johnson’s behalf in interactions with Michael Sowers, a fundraising consultant for the Dunn committee. In turn, Mr. Sowers was in communication with Matt Rexroad, the Dunn committee’s senior strategist/campaign manager—and Mr. Rexroad was in communication with the central committees. Based upon the emails, telephone records, and other evidence collected in this case, it appears that the Yolo and Santa Clara central committees secretly became intermediaries for your contributions to the Dunn committee pursuant to earmarking arrangements that they made with Mr. Rexroad. For example, both central committees recently agreed to pay fines (\$5,000 each) for failing to disclose that they were intermediaries for your contributions to the Dunn committee.<sup>3</sup>

To ascertain whether there might be another plausible explanation for the evidence collected in this case (something other than earmarking), we sought to interview you, your daughter, and Mr. Rexroad. However, Mr. Rexroad retained a criminal defense attorney. Through his attorney, he pled the Fifth and refused questioning. Likewise, you retained an attorney and refused to speak with the FPPC. Your daughter almost cooperated, but ultimately, her attorney canceled the interview, citing the possible involvement of other law enforcement agencies.

It is important to note that the Act prohibits both direct and indirect money laundering. (Section 84301.) Also, the Act prohibits campaign money laundering and earmarking by persons

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<sup>3</sup> For more information, please visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov) and navigate to the past meeting agenda for the public meeting of October 16, 2014. Items 4 and 5 of the online agenda pertain to the above-described fines against the central committees. Both items provide links to supporting documents, including the declaration of program specialist Robert Perna, which contains a summary of evidence.

acting in concert. (Sections 82047, 84301, and 85704.) Additionally, persons may be held accountable for money laundering and earmarking schemes based upon the acts of their agents. (See *In the Matter of Bill Berryhill, Tom Berryhill, Bill Berryhill For Assembly - 2008, Berryhill For Assembly 2008, Stanislaus Republican Central Committee (State Acct.), and San Joaquin County Republican Central Committee/Calif. Republican Victory Fund*, FPPC Case No. 10/828, approved Apr. 24, 2014 [former Assemblyman Bill Berryhill fined \$10,000 in connection with a money laundering scheme based upon agency theory].)

Our investigation found no evidence that you interacted directly with Mr. Rexroad. Also, it is unclear whether you knew or had reason to know about the earmarking arrangements with the central committees. Additionally, it is unclear whether Mr. Rexroad (or his firm, Meridian Pacific, Inc.) was acting as your agent in his dealings with the central committees.

Although we are closing this matter with an advisory letter, the information in this case will be retained and may be used against you should an enforcement action become necessary due to newly discovered information and/or failure to comply with the Act in the future. Failure to comply with the Act in the future may result in the imposition of administrative or civil penalties against you by the FPPC. Also, certain violations of the Act may be prosecuted by law enforcement agencies as criminal offenses.

Please note that our Legal Division and Technical Assistance Division can provide advice and assistance for issues which may arise in the future. Should you have any questions, do not hesitate to contact either division by calling our toll-free number: 1-866-ASK-FPPC (1-866-275-3772). Also, you may refer to the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov) for current information.

Your cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated. Please feel free to contact me at (916) 322-5660 with any questions you may have regarding this letter.

Very truly yours,

A black rectangular redaction box covers the signature of Neal P. Bucknell. A thin horizontal line extends from the right side of the box.

Neal P. Bucknell  
Senior Commission Counsel  
Enforcement Division