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March 5, 2002

Karen Getman, Chair
Lawrence T. Woodlock
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: Proposed Adoption of 2 Cal. Code Regs. Section 18428

Dear Ms. Getman and Mr. Woodlock:

This law firm is counsel to California Laborers for Equality and Progress (Cal-LEAP), a general purpose recipient committee sponsored by the Northern California District Council of Laborers and the Southern California District Council of Laborers. The two district councils are labor organizations representing over 54,000 laborers in California.

In general, Cal-LEAP finds the proposed regulation (2 Cal. Code Regs. Section 18428) to be unobjectionable. However, there are a number of issues that are raised by the regulation, as drafted, which should be clarified prior to adoption.

1. Section 18428(b) should be clarified as follows:

(a) It is clear under Section 18428(c) that an affiliated entity that is a committee is to file its campaign statements separately from the controlling person or persons. It is also clear that, under Section 18428(b), one or more individuals who direct and control one or more affiliates must file a single campaign statement "indicat[ing]" the name(s) and listing the activities of those affiliates included in the statement. It is not clear, however, whether the controlling individuals must "indicat[e]" on the campaign statements affiliates that are committees and, thus, the activities of which are not included in the statement. A sentence clarifying this point should be added to section 18428(b).

(b) The use of the word "committee" in the sentence of Section 18428(b) beginning on line 10 is confusing in that it introduces uncertainty as to whether, under this regulation, an affiliated entity that is a committee and, thus, is reporting separately must identify on its campaign statements a change in the identity of its affiliates. Such a requirement would, however, be nonsensical inasmuch as such a committee is not otherwise obligated to list affiliates (except if it is a sponsored committee governed by Section 18419). Accordingly, the word "committee" on line 10 should be replaced by the word "filer" or some synonym thereof.

2. It would help clarify matters if there were a roadmap indicating how this proposed new section interrelates with 2 Cal. Code Regs. Section 18419 (dealing with sponsored committees).

Cal-LEAP submits that it would be ideal if this Section 18428 had a new subsection specifically stating that subsections (b) and (c) do not apply to sponsored committees governed by Section 18419.

3. It is unduly burdensome and exalts form over substance to require an affiliated entity to comply with subsections (d) and (e) when the contribution is to another affiliated entity or from a sponsor to a sponsored committee. Given this, there should be an express exception in both Section 18428(d) and 18428(e) for such transactions.

4. It is not clear whether Section 18428(e) requires recipients to maintain a listing with the name of each affiliated entity listed on any notice pursuant to Section 18428(d) or whether it will suffice to keep a list of the name(s) of the contributor(s) which have affiliated entities. The latter would seem to be sufficient. A clarifying sentence so stating should be included in the regulation.

I trust that these comments are helpful to the Commission. If I may be of additional assistance, or you would like additional information concerning Cal-LEAP's position, please give me a call.

Very truly yours,

Laurence S. Zakson
of REICH, ADELL, CROST & CVITAN

LSZ/caw

cc: Mike Quevedo, Jr.