



September 16, 2013

Fair Political Practices Commission  
428 J St, Ste 800  
Sacramento, CA 95814

Re: Online Political Communications Disclosure

Dear Chair and Commissioners:

The public has a right to know if the communications they're watching or reading have been paid for.

Campaigns once relied on US mail and television network broadcasts to deliver advertising to thousands or millions of Californians at a time. FPPC regulations set strict guidelines about what information those TV and radio ads, as well as newspaper and internet sites, postcards and posters must disclose at the point of contact with a voter.

Now, voters get more and more of their political information from online sources like blogs and social media, but the rules for disclosure for paid online communications remain in the Wild West.

When a political hack gets paid to post commentary on a candidate or ballot measure, there is currently no requirement he acknowledge those payments. This loophole in the law does a great disservice to California voters. It is especially troubling in a time when the lines between professional journalists, weekend bloggers and paid spokespeople have become so blurred. How can voters decide what messenger to believe if they don't know who's speaking?

Proposed regulation 18421.5 would go a long way to make transparency and accountability a reality for the information voters obtain online.

I would also like to express our strong support for a key amendment proposed last month, to waive the campaign reporting requirement for those paid bloggers who agree to disclose they have been paid *at the point of contact with the public*, instead of buried in a campaign report many weeks or months later. Real-time disclosure is and should be the end goal. Although point of contact disclosure should be mandatory, this amendment takes an important first step.

The political bloggers and consultants from both sides of the aisle who have repeatedly spoken against this reform are the poster children for why greater disclosure of payments for online communications is necessary. Journalists have an obligation to be truthful – political bloggers follow no such code yet try to hide behind the same first amendment protections. It's time to make them tell us who's paying for it.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink that reads "Carmen Balber". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Carmen Balber

## OPINION

OPEN FORUM *On Fair Political Practices*

# Bloggers should disclose who pays

By Jamie Court

Wednesday, the California Fair Political Practices Commission takes up the question of whether political bloggers should have to disclose who pays them to blog in political campaigns. Sacramento's consultant establishment, both on the left and the right, has been hiding behind free speech protections to propagandize and cut the legs out from under credentialed authorities on behalf of any interest group.

Because voters increasingly rely on information online, paid blogger-based attacks that masquerade as real journalism are one of the biggest rackets in Sacramento.

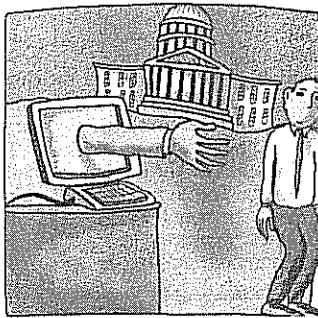
Journalists get fired for lying. Tax-exempt nonprofit groups can have their tax status revoked if they lie and propagandize. They are subject to disclosure requirements by the IRS, the state Fair Political Practices Commission and the U.S. attorney general. Political bloggers, on the other hand, can get paid to blog lies and are accountable to no one.

How does the paid-blogger racket work? A consumer group like mine finds itself in the crosshairs of a powerful industry. For example, this summer we qualified a ballot measure to regulate health, home and auto insurance rates that will be on the 2014 ballot. This fall, we successfully defeated Proposition 33, the \$17.5 million campaign by one insurance company billionaire to deregulate auto insurance.

We were outspent 70 to 1 on the Prop. 33 fight, but we had a strong online voice and large lists of supporters. Our enemies know that our credibility as a consumer group is our main asset. So suddenly a new group was created to "watch" Consumer Watchdog by a Democratic Sacramento political blogger and consultant, Steve Maviglio.

He misstated facts about our funding on his blog and on his new website, made an expensive online video that showed a fake picture of our founder's house to claim it was a mansion, and took out advertising on Google, YouTube and elsewhere around the Web. He claimed no one paid him for any of that work or advertising, but that he simply had a grudge. Remarkably, the day after the election, when voters rejected Prop. 33, the Google ads were no longer running.

Maviglio was joined in his online assault by a couple of Republican consultants and bloggers. None would disclose who, if anyone, paid them. A California Watch story noted an attack by "Republican consultant Rob Stutzman, who is working with an opposition research firm but wouldn't say who is



Margaret Scott / NewsAT

paying for the effort." Republican blogger Jon Fleischman wrote an attack blog without bothering to check the facts, then forwarded it to our founder saying: "Thinking about you this holiday season. Happy Hanukah." Very journalistic.

Who regulates Maviglio, Stutzman and Fleischman, or requires that they disclose their funding? That is the subject of the FPCC deliberations.

Not surprisingly, Maviglio and Fleischman are the most vociferous opponents of any changes to the status quo.

What should be done?

» Political bloggers should be required to comport themselves with the ethics of journalists if they are claiming First Amendment protection. Bloggers on political issues in California should be required to disclose financial conflicts of interest or face sanctions by the FPCC and public prosecution. "Paid for" political disclosures are cumbersome for bloggers and websites but requiring simple disclosure of payments made by entities involved in political issues in the context of content is no more than we ask of journalists.

» Legal loopholes allow monied interests to pay unlimited amounts to bloggers for attacks on their opponents. These payments are never disclosed so long as the bloggers don't expressly advocate how to vote on the ballot measure. Bloggers should be required to disclose such payments.

» Advertising on a blogger's website paid for by an interest group with a dog in a political fight should be disclosed. This is one way to compensate someone voicing an opinion without disclosing it.

The good news about the new media is that anyone can create their own media outlet. The bad news is that without regulation it will be harder than ever to decipher whose opinions and voices we are hearing online.

Jamie Court is president of Consumer Watchdog and a director of the Consumer Watchdog Campaign.