

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

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Education Fund

322-3907

Employment

322-6441

Legislative Information

322-6444

December 19, 1977

A-77-12-024

Honorable Alister McAlister
The State Assembly
State Capitol
Sacramento, CA 95814

Dear Assemblyman McAlister:

Per your request I am writing to confirm the advice I gave you in our telephone conversation of November 28, 1977.

Under the facts as you have described them to me in our phone conversations and in your letter of December 13, 1977, Tom Cunningham has offered his services to you in connection with the obtaining of lists of persons to whom solicitations will be mailed. Mr. Cunningham will perform these services without compensation. Although he is not a registered lobbyist, Mr. Cunningham is a partner with Les Cohen, a registered lobbyist, in a business which renders service in connection with legislative newsletters. You also state that no assets of the partnership between Cunningham and Cohen will be used by Cunningham in his work for you.

Given the facts you have described, there would be no violation of the Political Reform Act. The Act in Section 86202 prohibits lobbyists from making contributions to candidates for, or incumbents in, the Legislature. While this prohibition might impose limits upon Mr. Cunningham's activities if his partnership with Mr. Cohen was a lobbyist employer,^{1/} a partnership which is engaged in providing newsletter services is not retained for the purpose of attempting to influence legislative or administrative action and is, therefore, not a lobbyist employer.^{2/} Accordingly,

^{1/} See opinion requested by Stephen Reinhardt, 3 FPPC Opinions 33 (No. 76-03), Sept. 7, 1977; 2 C.R. 430, Code Section 18619, copies of which are attached.

^{2/} See opinion requested by P. Cohen, 1 FPPC Opinions 19 (No. 75-60), May 1, 1976; 1 C.R. 430, Code Section 18619(b), copies of which are attached.

Honorable Alistair McAlister
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there is no prohibition upon Mr. Cunningham's donation of his services to your campaign. However, because one of the partners in the firm is a registered lobbyist, donation of any of the firm's assets to your campaign would constitute a contribution of a lobbyist's assets and would be prohibited.^{3/} It is my understanding that Mr. Cunningham will not use the assets of the partnership in his work for you and that, therefore, there is no question concerning donation of the partnership assets.

Mr. Cunningham's work for you will not be a reportable contribution. Section 82015 of the Act excludes "volunteer personal services" from the definition of contribution. I should point out that expenses incurred by you in purchasing lists obtained by Mr. Cunningham are reportable expenditures under Sections 82025 and 84210 or, if the lists are donated to your campaign, the value of those lists must be reported as in-kind contributions pursuant to Sections 82015 and 84210.

I hope this letter has been helpful. If you have any further questions concerning the issues discussed in this letter or the Political Reform Act, please do not hesitate to call me.

Sincerely,

Lee C. Rosenthal
Acting Chief
Legal Division

LCR:JO

Enclosures

^{3/} See opinion requested by Stephen Reinhardt, 3 FPFC Opinions 83 (No. 76-091, Sept. 7, 1977); 2 Cal. Adm. Code Section 18619(f).

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Assembly California Legislature

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ASSEMBLYMAN, TWENTY-FIFTH DISTRICT
CHAIRMAN
FINANCE, INSURANCE, AND COMMERCE



December 13, 1977

Fair Political Practices Commission
1100 K Street - P. O. Box 807
Sacramento, California 95814

Attention: Mr. Lee Rosenthal

Gentlemen:

I am writing to confirm my telephone conversations of November 28, 29, 1977, with Mr. Rosenthal, and am requesting your written confirmation of the same.

I explained to Mr. Rosenthal that I am contemplating soliciting campaign contributions for statewide office through mass mailings, and that I would be assisted in this regard by Mr. Tom Cunningham, who will provide the services of a mailing list broker or middleman.

Mr. Cunningham will assist me in obtaining lists of persons to whom solicitations will be mailed; he will obtain these mailing lists from persons who are in the business of compiling and distributing such lists. Mr. Cunningham is rendering his services voluntarily and without compensation.

Mr. Cunningham is associated with Les Cohen, a registered lobbyist, in a joint venture to provide legislative newsletter services. The joint venture renders services in connection with the newsletter programs of various members of the state legislature. They have never rendered such services to me. The profits of the joint venture are divided equally between Mr. Cohen and Mr. Cunningham. Mr. Cunningham is not a

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registered lobbyist. Mr. Cunningham informs me that he and Mr. Cohen have no business relationship on other matters and have no legal obligation to divide profits from other activities, although Mr. Cunningham has done so voluntarily on some other matters.

Mr. Cunningham would normally charge a brokerage fee for the services of the kind that he is rendering to me, but he will not charge any fee to me.

On November 29, Mr. Rosenthal informed me that the above relationship would violate no laws, provided that joint venture assets, i.e., mailing lists, were not used. I am advised by Mr. Cunningham that this is the case, that all mailing lists will be obtained by him from other persons in the business of compiling and distributing the same.

Mr. Rosenthal further informed me that no reporting requirements exist with regard to this relationship since Mr. Cunningham is a volunteer.

I would appreciate your written confirmation of the foregoing.

Sincerely yours,


ALISTER McALISTER

AM:egb

cc: Mr. Les Cohen
Mr. Tom Cunningham