

California
Fair Political
Practices Commission

October 5, 1989

Morraine Coyle
City Clerk & Auditor
City of Modesto
801 11th Street
Modesto, CA 95353

RE: Your Request for Informal
Assistance
Our File No. I-89-344

Dear Mrs. Coyle:

You have requested assistance concerning the campaign provisions of the Political Reform Act. 1/ Because we do not have sufficient facts to provide a specific answer to your request, we treat your letter as a request for informal assistance, rather than formal advice. 2/

I hope the following general guidelines will be of assistance to you.

You have provided a copy of a newsletter recently published in Modesto. The newsletter discusses Measure S, which was voted upon in a June special election. You have been asked whether the person publishing the newsletter has incurred any campaign disclosure obligations.

Section 82025 defines the term "expenditure" as "a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes..."

Regulation 18225 further defines the term "political purposes." In the case of a newsletter, an expenditure for political purposes is made if the communication "expressly advocates" the nomination, election or defeat of a candidate... contains express words of advocacy such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," or taken as a whole, unambiguously urges a particular result in an election..."

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 18329; Regulation 18329(c)(3).)

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Page 2

There is an exception in the definition of "expenditure." Section 18225(4)(C) states:

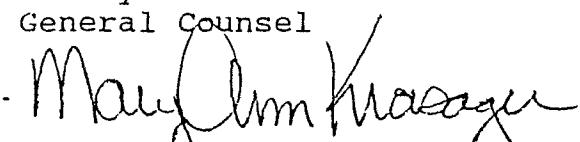
Notwithstanding the provisions of this subsection, the term expenditure does not include costs incurred for communications which expressly advocate the nomination, election or defeat of a clearly identified candidate or candidates or the qualification, passage or defeat of a clearly identified measure or measures by a regularly published newsletter or regularly published periodical...whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This paragraph applies only to the costs regularly incurred in publishing and distributing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size or format, the additional costs are expenditures.

I have enclosed copies of the following FPPC advice letters which address costs incurred for publishing newsletters, periodicals, etc., and whether or not the costs are expenditures for political purposes and therefore required to be reported: John C. Petry, A-76-092; Jim Warren, A-86-120; Michael G. Loeffler, A-86-247; Greg Taber, A-88-285.

If you have additional questions about the foregoing, please contact me at 916/322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Mary Ann Kvasager
Political Reform Consultant

Enclosures



CITY of MODESTO

Office of City Clerk:

(209) 577-5396

801 11th Street, P. O. Box 642, Modesto, CA 95353

[TDD (209) 526-9211 Hearing and Speech Impaired only]

May 30, 1989

Ms. Mary Ann Kvasager
Fair Political Practices Commission
Technical Assistance and Analysis Division
P. O. Box 807
Sacramento, CA 95804

Dear Mary Ann:

Would you mind referring another question to the proper person for me?
I'm not sure who to contact.

Enclosed is a new "newsletter", "Check and Balance," which has recently arrived on the scene. Although there is no "editor" or "writer" shown anyplace, there is an address.

People have asked me if whoever this is has to report funds collected and expenditures, since they are asking people to subscribe, and because they are suggesting how to vote on Measure S, a measure for which we are having a special election on June 6, 1989.

By the way, I didn't threaten anyone with jail. Mr. Munoz, referred to in the last paragraph, and I are getting along fine. I've helped him with all of his filings, etc. The newspaper quoted me correctly, but this newsletter doesn't quote the Bee article correctly.

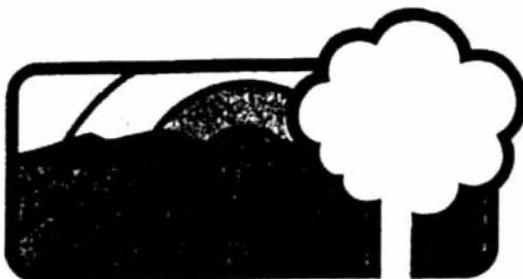
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Thanks again, Mary Ann, for all of your help in the past. I don't know what I'd do without you.

Sincerely,

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City Clerk & Auditor

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CHECK AND BALANCE

A MONTHLY POLITICAL AND ECONOMIC NEWSLETTER

Volume 1 Number 1

MAY 1989

WELCOME TO CHECK AND BALANCE

CHECK AND BALANCE is a monthly newsletter that will provide you with the necessary information to evaluate your local government. You are entitled to the best possible service for your tax dollar. That is not going to happen unless you have facts which will enable you to make those decisions which will protect your tax dollar.

Information is a two way street. CHECK AND BALANCE will do its level best to provide you with information you do not have access to otherwise, but in return, we need you to provide us with your experiences with local government. We need your letters. As important as your input is, we also need you to make CHECK AND BALANCE bigger and better by becoming a Charter Subscriber.

MEASURES . . . PREDICTABLE

uring the 1985 Modesto City Council election, then candidate, Carmen Sabatino, wanted to protect our city services. The following is a direct quote from his campaign literature.

"By pursuing special interest projects, the city has had to cut corners by buying used fire equipment and delaying for years the expansion of police facilities meant to better protect the citizens of Modesto. And it won't end here. The city will have to raise taxes and fees to pay for the convention center, or maybe the quality of service will just have to be lowered. Carmen wants to make sure that the people who protect us have the best equipment and facilities possible."

Perhaps you remember the full page ads in the Modesto Bee

and fire facilities, because the City of Modesto has spent over \$29 million for the convention center.

They have formed a group called Safety First and have budgeted over \$40,000 to convince you that unless you tax yourself you might not be safe in Modesto. Can you believe that? The Modesto Police Chief has stated that the money from Measure S will not put one additional police officer on the street. The fire department must wonder where operational money will come from if it is spent on facilities.

Carmen Sabatino was right, we do need to support our police and fire department. However, do we want the same people who built the convention center to build the police and fire facilities? Do you want to give them over \$30 million to spend? Will the City enter into negotiations with Allen Grant to build these facilities? If you fail to vote NO in this

Only source of information about local government is the local newspaper, you need the monthly newsletter, **CHECK AND BALANCE**. Your subscription will insure that you receive relevant political and economic information on a monthly basis

CHECK AND BALANCE
P.O. BOX 3412
MODESTO, CA. 95353

- Yes, send me 12 issues of **CHECK AND BALANCE** for only \$15.00.
- Yes, send 12 issues to five of my friends for only \$60.00.
- Yes, send 12 issues to ten of my friends for only \$95.00.

Name Please Print

Address

City State Zip

PAYMENT ENCLOSED **BILL ME LATER**
(Please list names and addresses)

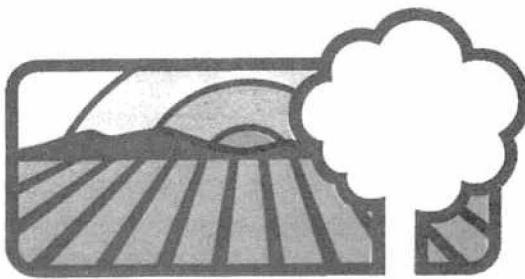
NEXT MONTH ...

- DOES BUILDING IN MODESTO COST THREE TIMES MORE THAN IT DOES IN PALM SPRINGS? OUR CITY COUNCIL SAYS YES.
- WHO REPRESENTS THE ELDERLY IN STANISLAUS COUNTY?
- LETTERS FROM THE PEOPLE...AND MORE.

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BULK RATE
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Modesto, Calif.
Permit No. 207



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California Fair Political Practices Commission

June 7, 1989

Norrine Coyle
City Clerk & Auditor
P.O. Box 642
Modesto, CA 95353

Re: Letter No. 89-344

Dear Ms. Coyle:

Your letter requesting advice under the Political Reform Act was received on June 5, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard *by plh*
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh