



California Fair Political Practices Commission

June 21, 1990

Maria Theresa Viramontes
District, Chief of Staff
Honorable Robert J. Campbell
Assemblymember, 11th District
2901 MacDonald Avenue
Richmond, CA 94804

Re: Your Request for Advice
Our File No. A-90-416

Dear Ms. Viramontes:

This is in response to your request for confirmation of telephone advice provided to you on behalf of Assemblymember Robert J. Campbell concerning the propriety of using campaign funds to pay for travel, accommodations and training expenses associated with a staff retreat for state legislative employees, district volunteers and staff pursuant to the new "personal use" provisions of the Political Reform Act (the "Act").^{1/}

This letter confirms that your letter dated June 12, 1990 accurately summarizes the telephone advice I provided to you on that date. As I stated in our telephone conversation, the general rule of the new personal use law^{2/} is that any expenditure of campaign

^{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. Sections 85800-85807, which describe the permissible uses of campaign funds, are referred to as the "personal use" laws.

^{2/} Please note that the Commission has recently assumed jurisdiction over the laws regarding the permissible uses of campaign funds. In the near future the Commission will begin considering regulations interpreting these laws which may be at variance with the advice given in this letter.

funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose associated with the candidate's office. (Section 85801.)^{3/}

You stated that the purpose of the staff retreat was to review services and issues in the assemblymember's district and develop legislation that responds to these needs. In addition, you stated that there will be staff training on communication and conflict resolution for new staff and volunteers. I advised that the costs of the training were reasonably related to a political, legislative or governmental purpose associated with the assemblymember's office and therefore it was appropriate to use campaign funds for training costs.^{4/}

However, the standards for travel and accommodations with respect to the retreat differ from those set forth in Section 85801. Section 85802(a)(1) provides:

(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or employees or staff of the campaign committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

^{3/} Where an expenditure confers a substantial personal benefit on the candidate or officeholder, the expenditure must be directly related to a political, legislative, or governmental purpose. A substantial personal benefit is defined as a direct personal benefit to the candidate or officeholder of \$100 or more. (Section 85800(b)(2).)

^{4/} If a staff member receives something of value, whether tangible or intangible, beyond that which is necessary to perform his present official duties, he may be deemed to have received a payment within the meaning of Section 82044. Such payment could be considered to be a gift or income to the staff member. However, according to your facts it does not appear the staff member is receiving anything of value beyond that which is necessary for him to perform his present official duties.

According to Section 85802(a)(1), the use of campaign funds for payments or reimbursements for travel and necessary accommodations for the assemblymember and the assemblymember's employees and staff is directly related to a political, legislative, or governmental purpose if the payments meet standards similar to the standards for the deduction of travel expenses pursuant to Internal Revenue Code Sections 162 and 274.

Internal Revenue Code Section 162(a)(2) sets forth a general rule which permits the deduction of all ordinary and necessary traveling expenses while away from home in the pursuit of a trade or business. According to your facts the travel expenses are ordinary and necessary expenses for a governmental purpose which is associated with the assemblymember's official duties. Consequently, use of campaign funds for the travel expenses is also permitted.^{5/}

You also asked which account the assemblymember may use to pay for the costs associated with the retreat. You stated that the assemblymember maintains an account for his current term of office and one for reelection. Section 85202(b) provides that all contributions deposited in the campaign bank account shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office that he or she intends to seek or expenses associated with holding that office.^{6/}

Regulation 18525 (copy enclosed) provides:

(a) An incumbent elected officer shall make expenditures for the following campaign expenses from the appropriate campaign bank account for election to a future term of office:

(1) Payments for fundraising and campaign strategy expenses for election to a future term of office.

(2) Payments for mass mailings, political advertising, opinion polls or surveys, and other communications in connection with election to a future term of

^{5/} However, accommodations outside the duration of the conference are personal expenses that should be paid for with personal funds.

^{6/} Due to the preliminary injunction in Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission, United States District Court, Eastern District of California, Case No. CIVS-89-0433, LKK-JFM, candidates may transfer campaign funds among their own campaign bank accounts.

office. For purposes of this section, a mass mailing, political advertisement, opinion poll or survey, or other communication shall be considered "in connection with election to a future term of office" if it makes reference to the officer's future election or status as a candidate for a future term of office, or if it is made by an incumbent officer within 3 months prior to an election for which he or she has filed any of the following:

(A) A statement of intention to be a candidate for a specific office, pursuant to Government Code Section 85200.

(B) A declaration of candidacy or nomination papers, as specified in Chapter 5 (commencing with Section 6400) of Division 6 of the Elections Code.

(C) Any other documents necessary to be listed on the ballot as a candidate for any state or local office.

(3) Payments for services and actual expenses of political consultants, the campaign treasurer and other campaign staff, pollsters and other persons providing services directly in connection with a future election.

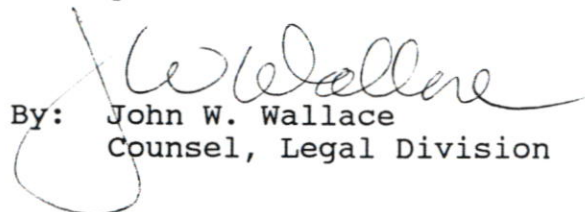
(4) Payments for voter registration and get-out-the-vote drives.

Generally, any other officeholder or political expenditures may be made from either a campaign bank account established for election to the current term of office or from a campaign account established for election to a future term of office. (Regulation 18525(b).) Consequently, the costs associated with the retreat may be paid from either of the assemblymember's campaign bank accounts.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel


By: John W. Wallace
Counsel, Legal Division

SH:JWW:dg
Enclosures