

82015

State of California



Fair Political Practices Commission

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

June 24, 1977

A-77-06-013

Vigo G. Nielsen, Jr.
Dobbs, Doyle & Nielsen
One Maritime Plaza, Suite 2500
San Francisco, Ca. 94111

Dear Mr. Nielsen:

Thank you for your letter of June 2, 1977, requesting advice with respect to your reporting obligations. This letter will confirm the advice which I provided to you over the telephone on June 15.

The facts as I understand them are as follows: Your law firm files Form 650 as required by Government Code Sections 86108(b) and 86109.^{1/} You have asked whether the firm must report the value of legal or campaign services performed without cost for the benefit of a candidate or committee on your Form 650.

Before answering your question with respect to disclosure of contributions pursuant to Section 86109(f), a discussion of some pertinent background information is appropriate. The Commission has defined the term "contribution" in 2 Cal. Adm. Code Section 18215 for the purpose of disclosure. Pursuant to Chapter 4 of the Act, the regulation provides that a contribution includes any payment made to or at the behest of a controlled committee, the official arm of a political party, a primary purpose committee or a candidate unless it is clear from the surrounding circumstances that the payment was received by him in his personal capacity unrelated to his status as a candidate or officeholder. Subsection (c) of the regulation provides that a payment is made at the behest of a person whenever a contribution is under his control or made at his direction. Since every contribution potentially is the subject of disclosure by both the donor and the donee, "contribution" had to be interpreted so as not to require the supposed donee to disclose the items or services which he did not know he had received. Thus, contributions are those political benefits

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All statutory references are to the Government Code unless otherwise noted.

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over which the donee exercises control whereas independent expenditures are those political benefits over which he exercises no control. Both types of payments must be reported by the donor but only contributions need be reported by the donee.

Section 86109(f) requires lobbyists' employers and other persons attempting to influence legislative or administrative action to disclose all contributions made during the filing period. Unlike Chapter 4 which applies to both donors and donees, this provision applies only to persons making contributions. Because this provision imposes no obligations on the recipients of contributions, the need for a restrictive interpretation of "contribution" is not present. Moreover, we think that the intent of Section 86109(f) was to obtain disclosure of all payments made for a political purpose by the filer. Accordingly, we conclude that "contribution" refers to any payment made to or on behalf of or for the purpose of benefiting or opposing any candidate, measure or committee. Thus, donations of legal services which would constitute in-kind contributions or independent expenditures in the Chapter 4 sense must be reported by your law firm on its 650 report.

As you know, Section 82015 expressly excludes volunteer personal services from the definition of contribution. In addition, the Commission has construed this exclusion to be equally applicable with respect to independent expenditures. Thus, volunteer personal services need not be reported on your Form 650. In addition, you need not report general overhead expenses nor employee salaries if the employee spends less than 10 percent of his compensated time performing political activities. See 2 Cal. Adm. Code Sections 18423 and 18225, and opinion requested by W. Dean Cannon, 1 FPPC Opinions 133 (76-001, Aug. 3, 1976). If the attorney or the law firm incurs any additional expenses, they must be reported as contributions pursuant to Sections 84200, et seq.

If such contributions equal \$500 or more in a calendar year, the law firm or attorney will be a committee pursuant to Section 82013(b) and will be required to file campaign statements pursuant to Section 84200.

If you have any further questions please do not hesitate to call me.

Sincerely,

Ted Prim
Ted Prim
Staff Counsel
Legal Division

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