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State of California
Fair Political Practices Commission
P.O. BOX 807 · SACRAMENTO, 95804 ··· 1100 K STREET BUILDING, SACRAMENTO, 95814

August 19, 1977

A-77-08-017

Terry C. Andrus
Deputy County Counsel
Orange County
P. O. Box 1379
Santa Ana, CA 92702

Re: Opinion Request No. 77-020

Dear Mr. Andrus:

Thank you for your letter of July 27, 1977. You request an opinion concerning the reporting obligations that arise from the establishment of a legal defense fund on behalf of Ralph Diedrich, Orange County Supervisor. Mr. Diedrich was indicted on July 1, 1977, for alleged violations of the reporting requirements of the Political Reform Act. You ask whether monies donated to help defer Mr. Diedrich's legal expenses are reportable as "income" under Chapter 7 of the Act or as "campaign contributions" under Chapter 4. Because your question does not raise a substantial question under the Act, no opinion will be issued. However, I hope you find the following comments helpful.

The Commission has adopted a regulation, 2 Cal. Adm. Code Section 18215, which defines a campaign contribution to include:

> . . . any monetary or non-monetary payment for which full and adequate consideration is not made to the donor that is received or made at the behest of:
>
> (1) A candidate, unless it is clear from surrounding circumstances that the payment was received or made at his behest for personal purposes unrelated to his candidacy or status as an officeholder. . . .
>
> 2 Cal. Adm. Code §18215(b)

2.16

Since the indictment of Mr. Diedrich relates to his obligations as an officeholder, the standard set forth in the regulation is met so long as Mr. Diedrich is considered a "candidate." Government Code Section 82007 defines "candidate" to mean:

> . . . an individual . . . who receives a contribution or makes an expenditure or gives his consent for any other person to receive a contribution or make an expenditure with a view to bringing about his nomination or election to any elective office, whether or not the specific elective office for which he will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he has announced his candidacy or filed a declaration of candidacy at such time.

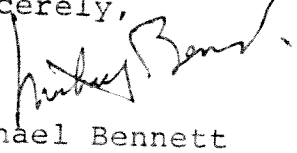
You indicate in your letter than "[o]n different occasions, the Supervisor has publicly expressed an intent not to run for reelection, as well as an intent to run under certain conditions. His present term expires in 1980." Since the possibility exists that Mr. Diedrich will run again for elective office, and since, although he is apparently unsure, he has not categorically ruled out that possibility, we would regard him as a "candidate" within the meaning of Section 82007. The fact that the outcome of his trial could influence voter opinion on this question strengthens our view that money collected for this purpose will be more political than personal in nature.

This interpretation of Section 82007 is consistent with previous opinions of the Commission which have held that left-over campaign funds which are used by an officeholder to support political activities, such as traveling to speeches and meetings and printing newsletters, retain their political character and should be reported as Chapter 4 transactions even though the election for which the funds were raised has been concluded. See opinions requested by Janet Gray Hayes, 1 FPPC Ops. 210 (No. 75-145, Dec. 4, 1975) and Willie L. Brown, Jr., 1 FPPC Ops. 67 (No. 75-055, July 2, 1975).

The raising of money for a legal defense fund because of possible violations of the Political Reform Act by a current officeholder seems similarly political in nature. Accordingly, the appropriate place to disclose these transactions would be on a campaign statement filed pursuant to Chapter 4.

If you wish to appeal the denial of your opinion request, you may do so pursuant to 2 Cal. Adm. Code Section 18321. If you have any questions, please contact Michael J. Baker, Chief of the Commission's Legal Division.

Sincerely,



Michael Bennett
Executive Director

MB:MJB:jo

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77-020

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County Of Orange

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Deputies

July 27, 1977

Fair Political Practices Commission
State of California
P. O. Box 807
Sacramento, California 95804

Re: Request for Opinion

Gentlemen:

File No. P-297

On behalf of Ralph A. Diedrich, Orange County Supervisor, and pursuant to California Government Code Section 83114 and 2 California Administrative Code Section 18320, your opinion and advice is requested concerning Supervisor Diedrich's duties under the Political Reform Act of 1974. The facts are as follows:

Supervisor Diedrich and others were indicted by the Orange County Grand Jury on July 1, 1977, for alleged violations of the Political Reform Act. A number of individuals have expressed interest in creating a legal defense fund, wherein the monies raised would be used for the Supervisor's legal defense, and surplus funds, if any, would be returned to the donors on a pro rata basis.

On July 15, 1977, a "Committee Statement of Organization" Form 410 was filed with the Secretary of State for the above-referenced purpose (copy attached).

The question presented is whether monies received for this purpose are to be considered "income" reportable under Chapter 7 of the Act, or "campaign contributions" reportable under Chapter 4.

On different occasions, the Supervisor has publicly expressed an intent not to run for reelection, as well as an intent to run under certain conditions. His present term expires in 1980. Would that fact alter your analysis?

Thank you for your prompt assistance.

Very truly yours,
ADRIAN KUYPER, COUNTY COUNSEL

By Terry C. Andrus
Terry C. Andrus, Deputy

TCA:mr
CC: Supervisor Diedrich

COMMITTEE
STATEMENT OF ORGANIZATION
(GOVERNMENT CODE SECTION 84101–84103)

F P
AUG 1 8 45 AM '77

DIEDRICH DEFENSE FUND
FULL NAME OF COMMITTEE

964 Rancho Circle, Fullerton, California 92635 (Orange County)
STREET ADDRESS (NO. AND STREET) (CITY) (COUNTY) (STATE) (ZIP CODE)

Off. (213) 587-0763
Res. (714) 992-4773
(AREA CODE) PHONE NO.

A

B

DATE QUALIFIED AS COMMITTEE

FOR OFFICIAL USE ONLY

I TREASURER AND OTHER PRINCIPAL OFFICERS

POSITION	NAME AND ADDRESS	(AREA CODE) PHONE NO.
TREASURER	JOSEPH ROSA 964 Rancho Circle, Fullerton, California 92635	Off-(213) ~~587-076~~
		Res - (714) 992-477

Attach additional information on appropriately labeled continuation sheets.

II IS THIS A CONTROLLED COMMITTEE?

(A controlled committee is one which is controlled directly or indirectly by a candidate or which acts jointly with a candidat controlled committee in connection with the making of expenditures. A candidate controls a committee, if he, his agent or other committee he controls, has signficant influence on the actions or decisions of the committee)

☒ YES (Complete Section III) ☐ NO (Section III is not applicable)

III CANDIDATES AND COMMITTEES BY WHICH THIS COMMITTEE IS CONTROLLED OR WITH WHICH IT ACTS JOINTLY

FOR OFFICIAL USE ONLY	NAME OF CANDIDATE OR COMMITTEE	IDENTIFICATION NC (If Committee)
	ORANGE COUNTY SUPERVISOR RALPH A. DIEDRICH	

Attach additional information on appropriately labeled continuation sheets.

IV ORGANIZATIONS, IF ANY, WITH WHICH THIS COMMITTEE IS AFFILIATED OR CONNECTED

NAME AND ADDRESS	(AREA CODE) PHC N
NONE	

DIEDRICH DEFENSE FUND

Form 410

V CANDIDATES BEING SUPPORTED OR OPPOSED

NAME	OFFICE SOUGHT (Include district number, city or county, as applicable.)
RALPH A. DIEDRICH	ORANGE COUNTY BOARD OF SUPERV
	DISTRICT 3
THIS COMMITTEE IS BEING FORMED TO RAISE	
FUNDS FOR THE LEGAL DEFENSE OF SUPERVISOR	
DIEDRICH. SURPLUS FUNDS RAISED, IF ANY,	
WILL BE DISTRIBUTED AS SHOWN IN SECTION	
VII BELOW.	

Attach additional information on appropriately labeled continuation sheets.

VI MEASURES SUPPORTED OR OPPOSED

FULL TITLE (Include city, county or area where voted upon.)	No. or Letter	CHECK ONE
NONE		☐ Support ☐ Opp
		☐ Support ☐ Opp
		☐ Support ☐ Opp

VII IN THE EVENT OF DISSOLUTION, WHAT DISPOSITION WILL BE MADE OF SURPLUS FUNDS?

SURPLUS FUNDS WILL BE RETURNED TO DONORS ON A PRO-RATA BASIS.

VERIFICATION

declare under penalty of perjury that to the best of my knowledge this statement is true, correct and complete and that I have use easonable diligence in its preparation.

xecuted on 15 July (DATE) at Santa Ana Calif (CITY AND STATE) by Joseph Rosa (SIGNATURE OF TREASURER)