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State of California



Fair Political Practices Commission

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

Technical Assistance	• • •	Administration	• • •	Executive/Legal	• • •	Enforcement	• • •	Conflict of Interest
(916) 322-5662		322-5660		322-5901		322-6441		322-6444

September 29, 1978

A-78-09-019

Michael J. Narvid
 Treasurer and Counsel
 Corman Campaign
 P.O. Box 273
 Van Nuys, CA 91408

Dear Michael:

In response to your letter of September 19, 1978, requesting advice concerning compliance with the Political Reform Act, I am providing the following advice.

The basic facts as you have outlined them are that the Corman Campaign Committee desires to purchase advertising in a mailer being prepared by Alexander Pope, a candidate for Los Angeles County Assessor. The Corman Campaign will pay for the cost of a page in the mailer and a pro rata share of the cost of the portion of the mailer which will contain a statement of issues. Government Code Section 82015^{1/} generally excludes from the definition of contribution any payment for which full and adequate consideration is received. Therefore, if the Corman Committee receives full and adequate consideration, i.e., if it pays the cost of its share of the mailer and nothing more, it will not have made a contribution to Pope.

With respect to your question concerning identification of the Corman Committee on the mailer, Section 84305 provides that an expenditure for a mass mailing shall not be made

...unless the sender shows on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of such mailing the sender's name, street address and city in no less than six-point type. A post office box may be stated in lieu of a street address if the organization's address is a matter of public record with the Secretary of State.

^{1/} All statutory references are to the Government Code unless otherwise noted.

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A mass mailing is defined as 200 or more identical or nearly identical pieces of mail. Section 82041.5. However, by regulation the Commission has defined the term "sender" in Section 84035 as "the person who incurs the largest portion of expenditures attributable to the designing, printing, and posting of the [mass] mailing." 2 Cal. Adm. Code Section 18435. Therefore, if the Corman Committee is not paying the largest portion of the cost of the Pope mailer, it is not necessary that the Corman Committee be identified in the manner set out in Section 84035. However, federal regulations may require some further identification on the part of the Corman Committee.

Additionally, Mike Justl, the accountant for the Corman Committee, has asked whether or not the committee will incur any filing obligations under the Political Reform Act by virtue of making contributions to California state and local candidates. As I understand it, the Corman Committee has made contributions in past years and intends to do so this year.

Generally, payments to an organization such as yours are contributions for Political Reform Act purposes only if the donors know or have reason to know that all or part of the payments will be used to make contributions to state or local candidates. 2 Cal. Adm. Code Section 18215(d). In applying the "know or reason to know" standard, one of the most important factors is the past practice of the organization. If the organization has previously made contributions to state and local candidates, then current donors have reason to know that such contributions will be made presently. Therefore, payments received by the Corman Committee will be "contributions" to the committee under the terms of the Political Reform Act.

However, the total amount of each payment received by the Corman Committee will not be a contribution. 2 Cal. Adm. Code Section 18215(d) requires that the payment be apportioned on a reasonable basis. Only that part of the payment that is allocable to contributions to state and local candidates is a contribution. A reasonable apportionment can be made by calculating the percentage of total expenditures which the organization has in the past or expects in the future to contribute to state and local candidates and then applying that percentage to each contribution. For example, if the Corman Committee expects to spend \$100,000

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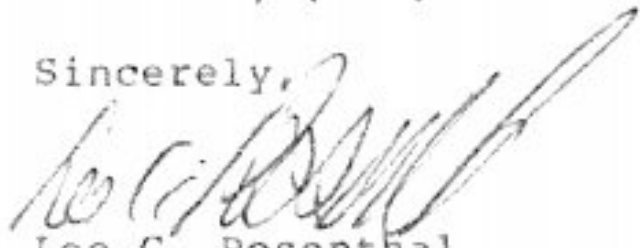
of which \$1,000 will be contributed to state and local candidates, it would be reasonable to use a 1% apportionment factor to payments received from donors. Therefore, a payment of \$1,000 (the limit under federal law) would be a Political Reform Act "contribution" of only \$10.

If, after making the calculations described above, it appears that the Corman Committee has received \$500 in contributions, it will qualify as a recipient committee, will be required to register with the Secretary of State and to file any required campaign statements. Sections 82013(a), 84101. You should note, however, that the threshold for reporting itemized information concerning a contributor is \$50. Section 84210(g). Therefore, because of the federal law's \$1,000 contribution limit, the Corman Committee will not be required to report any itemized information concerning contributors if a reasonable apportionment percentage of less than 5% is used.

If the Corman Committee does not receive contributions of \$500, it will not be required to register with the Secretary of State and will have no obligation to file campaign statements unless it makes contributions of \$5,000 or more in a year to or at the behest of California candidates or committees. Sections 82013(c), 84101.

I hope this information proves helpful. If you have any further questions, please do not hesitate to call me or Helen Andino in our Los Angeles office, (213) 620-5196.

Sincerely,



Lee C. Rosenthal
Chief
Legal Division

LCR:kp

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LAWRENCE SILVERTON
Campaign Chairman

MICHAEL J. NARVID
Treasurer

P.O. Box 273
Van Nuys, Calif. 91404
989-2100



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September 19, 1978

The Fair Political Practices Commission
P. O. Box 807
Sacramento, California 94804

Attention: Lee Rosenthal, Esquire

Dear Mr. Rosenthal:

As you know, I am treasurer for the Corman Campaign Committee.

The Committee is now considering contributing to a general Democratic mailer being prepared by Alexander Pope.

The contemplated mailer will contain statements from various candidates with a general statement of issues, etc. Our contribution would be limited to the cost of the page with respect to the Corman Campaign and the pro rata cost of the statement of issues page.

I am under the impression that statutory requirements promulgated under Proposition 9 do not require reporting of such contributions inasmuch as they are not direct contributions to a candidate. Would you please issue an opinion letter confirming that no reporting will be required by the Corman Campaign Committee and further indicate whether the mailer must contain a statement that a portion thereof pertaining to Congressman Corman was paid for by the Corman Campaign Committee.

Your prompt attention would be very much appreciated.

Sincerely,

MICHAEL J. NARVID
Treasurer and Counsel
to Corman Campaign

MJN:syb

cc: Congressman James C. Corman

A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C.