

California Fair Political Practices Commission

July 29, 1987

David L. R. Shiver
2428 Stuart Street
Berkeley, CA 94705

Re: Your Request for Advice
Our File No. I-87-163

Dear Mr. Shiver:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

What are the reporting requirements of a person who makes a non-monetary contribution to a campaign committee? Must the donor provide the recipient committee treasurer with any documentation concerning the non-monetary contribution for recordkeeping purposes?

CONCLUSION

The recordkeeping requirements of the Act generally apply only to recipient committees as defined in Section 82013(a). Therefore, persons making non-monetary contributions to campaign committees are not required to keep records of those contributions unless the person making the non-monetary contribution is a recipient committee. However, the maker of a contribution is required to provide the recipient with information on the fair market value of the donated goods or services. This may be in the form of a letter, receipt etc.

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

Your letter states only a general question. Therefore, we consider it to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed). Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 84113; Regulation 18329(c)(3).)

ANALYSIS

The 1987 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act" (copy enclosed) sets out the Act's recordkeeping requirements. Concerning non-monetary contributions received, the Manual states in relevant part:

...The documentation a committee may receive and be required to retain may include written notices from a contributor of a non-monetary (in-kind) contribution with a value of \$25 or more or some other form of record which describes how the fair market value of a non-monetary contribution was determined....

Manual, page 38.

Government Code Section 84300 provides in relevant part:

(d) The value of all in-kind contributions of one hundred dollars (\$100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

The recipient must report the fair market value of the goods or services received. The fair market value of goods or services which are non-monetary contributions is whatever it would cost the recipient to purchase them on the open market. If the recipient finds it difficult to estimate the fair market value of a non-monetary contribution, the committee should request the information from the contributor in writing. In this instance, the contributor is obligated to respond in writing to the recipient reporting the fair market value of the non-monetary contribution.

Manual, pages 38 and 39.

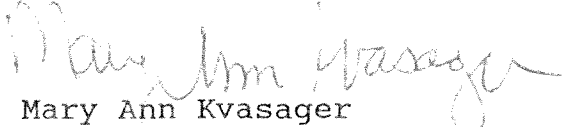
If the recipient does not request the donor to provide the fair market value in writing, the recipient must initiate a memorandum or other form of record which describes the methods used to determine the value of the goods or services received. (Manual, page 38.)

If you have additional questions concerning this matter, please contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

By:


Mary Ann Kvasager
Political Reform Consultant

June 7, 1987

Ms. Alice Hughes
State of California
FAIR POLITICAL PRACTICES COMMISSION
P.O. Box 807
Sacramento, CA. 95804

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Dear Ms Hughes:

Pursuant to our recent telephone conversation on May 27, 1987, I hereby request the State of California, Fair Political Practices Commission (the "FPPC") to address by written reply the following questions related to the record keeping requirements associated with non-monetary contributions:

"Does state law require a Donor of a non-monetary contribution to keep receipts, records of purchase or procurement, or other documents associated with obtaining an item that is subsequently donated to a Committee as a non-monetary contribution?"

"Does state law require a Treasurer of a Committee to keep receipts, records of purchase or procurement, or other documents submitted by the Donor to the Committee in relation to a non-monetary contribution?"

A non-monetary contribution consists of two independent events: (1) the purchase or procurement by the Donor or an item to be donated, and (2) the receipt of the item as a non-monetary contribution to the Committee from the Donor.

The understanding we reached in our conversation, after you researched the matter, was that State law clearly specifies a four year record keeping requirement for any "paperwork" submitted with respect to event (2) but NOT event event (1).

In other words, if I buy donuts and subsequently donate them as a non-monetary contribution, I as Donor, am not required by state law to keep records of my purchase. The Committee Treasurer, however, does need to establish the fair market value, and in making an estimate of such value may ask the Donor for information that would establish value. If the Donor transmits a written estimate of value to the Treasurer, that document becomes part of the Committee records and is subject to the four year record keeping requirement.

I hope that I have outlined the issues clearly and that our verbal understanding is fairly represented in the above statement.

I wish to thank you for your expeditious reply. Please do not hesitate to call me if you have any questions (800) 533-0044.

Sincerely yours,



David L. R. Shiver
2428 Stuart Street,
Berkeley, California 94705