



California Fair Political Practices Commission

November 24, 1987

Norrine Coyle
City Clerk and Auditor
City of Modesto
801 11th Street
Modesto, CA 95353

Re: Your Request for Advice
Our File No. A-87-271

Dear Mrs. Coyle:

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

QUESTIONS

(1) Will a candidate incur late filing penalties for failing to include Attachment Schedule E-1 reporting payments made on behalf of the candidate by an independent contractor? The Form 490 in question was filed in your office before the filing deadline.

(2) If a candidate signs the verification on a Form 490 on the line provided for the treasurer's signature, rather than on the line provided for the candidate's signature, is the disclosure statement considered late or not filed until the candidate's signature appears on the correct signature line?

CONCLUSIONS

(1) Late penalties should not be assessed due to errors or omissions on a campaign disclosure statement. Late penalties are assessed only when a campaign statement is filed after the filing deadline. Campaign statements required by the Act are signed under penalty of perjury that the information provided on all of the attached schedules is true and complete. When a candidate or committee treasurer realizes that there is an error or omission

^{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.

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on a previously filed campaign statement, he or she is required to amend the statement to provide all of the required information. However, such omissions are not grounds for assessing late fines. The candidate should amend the Form 490 to include the subvendor information as soon as possible. There is no deadline for filing amendments and no penalty.

(2) The verification on the Form 490 for the candidate and the candidate's treasurer state that both have used reasonable diligence in preparing the statement and that to the best of their knowledge the information contained on the statement is true and complete. The candidate's verification also provides that to the best of the candidate's knowledge, his or her treasurer has used all reasonable diligence in preparing the statement. The candidate should amend the Form 490 to provide a signature on the appropriate signature line but the statement should not be considered late.

ANALYSIS

Government Code Section 81004.5 provides that "any report or statement filed pursuant to this title may be amended by the filer at any time. Amending an incorrect or incomplete report or statement may be considered as evidence of good faith."

Government Code Section 81004(a) states that "all reports and statements filed under this title shall be signed under penalty of perjury and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation and that to the best of his knowledge it is true and complete." Section 81004(b) further states, "A report or statement filed by a committee which qualifies under subdivision (a) of Section 82013 shall be signed and verified by the treasurer." Government Code Section 84213 states, "A candidate...shall verify his or her campaign statement and the campaign statement of each committee subject to his or her control..."

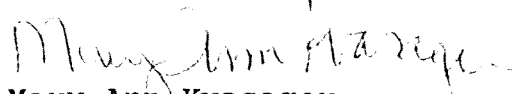
In your letter, you indicate that the Form 490 in question was signed by the candidate and the candidate's treasurer; however, the candidate signed on the line provided for a second treasurer's signature. Because the Form 490 filed with your office contains both the signature of the candidate and the candidate's treasurer, the verification requirements have been satisfied. A late filing penalty would be appropriate only if the Form 490 were unsigned. (In re Layton (1975) 1 FPPC, Ops. 113, copy enclosed.)

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Please contact me if you have additional questions concerning
this matter.

Sincerely,

Diane M. Griffiths
General Counsel



By: Mary Ann Kvasager
Political Reform Consultant

DMG:MAK:kmt



CITY of MODESTO

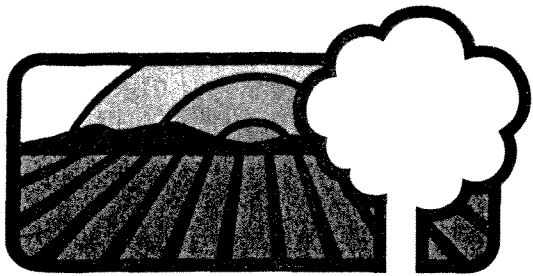
INTER-OFFICE ACTION SLIP

TO Mary Anne ^{OCT 23 8 12 AM '87} DATE 10-28-87

FROM Marlene

- | | | |
|--|--|---|
| <input type="checkbox"/> PLEASE HANDLE | <input type="checkbox"/> IMMEDIATE ATTENTION | <input type="checkbox"/> FOR YOUR INFORMATION |
| <input type="checkbox"/> FOR YOUR APPROVAL | <input type="checkbox"/> PER OUR DISCUSSION | <input type="checkbox"/> AS REQUESTED |
| <input type="checkbox"/> FOR YOUR COMMENTS | <input type="checkbox"/> PLEASE RETURN | <input type="checkbox"/> PLEASE FILE |

I made the letter more formal than I might have if I had not been sending a copy to my "friend." Thanks for all your help.



OCT 23 8 12 AM '87

CITY of MODESTO

Office of City Clerk:
(209) 577-5396

801 11th Street, P. O. Box 642, Modesto, CA 95353
[TDD (209) 526-9211 Hearing and Speech Impaired only]

October 28, 1987

Ms. Mary Ann Kvasager, Consultant
Technical Assistance and Analysis Division
Fair Political Practices Commission
P. O. Box 807
Sacramento, CA 95804-0807

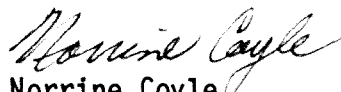
Dear Ms. Kvasager:

This is to confirm our telephone conversation this morning during which I asked the following questions:

1. When a candidate for City Council has filed a campaign statement, Form 490, on time, but has failed to include Attachment Schedule E-1, would the filing be considered late and the candidate required to pay the \$10 per day penalty for the number of days it takes to file the additional schedule?
2. If the candidate has signed the campaign statement, Form 490, in the wrong place -- on the line for a second treasurer rather than on the candidate's signature line -- is the form considered late or not filed until the candidate does sign in the correct place?

I would appreciate having the answers to these questions in writing so that the information can easily be shared with candidates.

Sincerely,


Norrine Coyle
City Clerk & Auditor

cc: George Petrulakis
P. O. Box 1864
Modesto, CA 95353