



# California Fair Political Practices Commission

February 11, 1988

Alan Edelstein  
Attorney at Law  
1225 8th Street, Suite 570  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-87-316

Dear Mr. Edelstein:

You have requested advice on behalf of the California Restaurant Association under the campaign disclosure provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTIONS

1. Is a vendor making a reportable contribution to a recipient committee when the vendor arranges to pay to the committee a portion of the return on sales to the members of an association which is affiliated with the committee?

2. If the vendor's payments to the recipient committee is determined to be a reportable contribution, is the vendor to be reported by the recipient committee as the source of the contribution?

## CONCLUSIONS

1. A vendor is making a contribution to a recipient committee when it pays the committee a portion of the return on sales to the members of an association which is affiliated with the committee.

2. The vendor is the source of the contributions to the recipient committee. Both the recipient committee and the vendor may incur reporting requirements under the proposed fundraising plan.

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<sup>1/</sup>Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

### FACTS

A recipient committee which is affiliated with the California Restaurant Association ("CRA") is considering a fundraising proposal. The committee and a vendor would jointly promote sales of the vendor's products to members of CRA. The vendor would contribute to the committee an amount for each sale to CRA's members.

### ANALYSIS

Your client is a recipient committee. (Section 82013(a).) Recipient committees are required to file periodic and special campaign disclosure statements. (Sections 84200, 84200.5, 84200.6.) Campaign statements must report the total of all contributions received by the committee during the reporting period, and contributors of \$100 or more during the calendar year must be identified. (Section 84211.)

The recipient committee you represent is considering a proposal to raise funds which the committee would expend for political purposes. (Section 82025; Regulation 18225, copy enclosed.) The fundraising proposal involves a joint effort by the committee and a vendor to solicit sales of a product offered by the vendor to members of CRA. For each sale made to a CRA member, the vendor would contribute a part of the sale price to the recipient committee.

Two issues emerge from this proposed fundraising activity. Is the vendor's payment to the committee a reportable campaign contribution? If so, who is the source of the contributions: the vendor or the persons purchasing the goods or services from the vendor?

A contribution is defined to include a monetary payment made for political purposes if it is received by or made at the behest of an organization which is formed or which exists primarily for political purposes. (Section 82015; Regulation 18215, copy enclosed.) "Made at the behest" means a payment made in cooperation, consultation, coordination or concert with an organization formed or existing primarily for political purposes. (Regulation 18215(b).) Clearly a recipient committee is an organization formed for political purposes. (Section 82013(a).)

Each member of CRA who makes a purchase from the vendor is receiving full and adequate consideration for the payment. Therefore, no contribution by the member is being made in connection with the purchase. (Section 82015.)

Because the vendor is making payments to the committee from funds which are the property of the vendor, the vendor is the source of the contribution and should be identified as the contributor on campaign statements filed by the recipient committee. Additionally, the vendor may qualify as a major donor committee during any calendar year in which its aggregate contributions to California state and local candidates and committees, including payments to the recipient committee discussed above, amount to \$10,000 or more.

If you have any questions regarding the advice in this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths  
General Counsel



By: Bruce W. Robeck  
Political Reform Consultant

DMG:BWR:kmt

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December 11, 1987

Fair Political Practices Commission  
Technical Assistance and Analysis Division  
428 J Street, Suite 800  
Sacramento, California 95814


Dear Sir/Madam:

I represent a client that is considering a method for raising PAC funds and would like to be advised of the reporting requirements for the parties involved in the proposed method.

Under the proposal, the PAC involved would encourage the efforts of a vendor of a product to sell the product to members of the association with which the PAC is affiliated. The vendor would contribute an amount to the PAC for each sale completed.

I would appreciate being informed of the reporting requirements for each of the parties involved in the above-described fundraising method.

Sincerely,

  
ALAN L. EDELSTEIN

ALE:dlw



# California Fair Political Practices Commission

December 14, 1987

Alan L. Edelstein  
1225 - 8th Street, Suite 570  
Sacramento, CA 95814

Re: 87-316

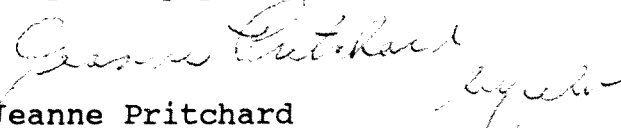
Dear Mr. Edelstein:

Your letter requesting advice under the Political Reform Act was received on December 14, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

  
Jeanne Pritchard  
Chief  
Technical Assistance and Analysis  
Division

JP:plh