



California Fair Political Practices Commission

January 19, 1988

Lance H. Olson
Olson, Connelly & Hagel
431 J Street, Fourth Floor
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-87-318

Dear Mr. Olson:

You have requested advice under the campaign disclosure provisions of the Political Reform Act.^{1/}

QUESTIONS

- (1) Is a non-profit corporation making "in-kind contributions" when its employees, who are paid canvassers, distribute campaign literature on behalf of candidates and committees?
- (2) If the organization is making in-kind contributions, does the 10% threshold set out in Regulation 18423 apply?
- (3) If the 10% threshold applies, how would the organization allocate the time spent by its employees to determine whether the 10% threshold is met?

CONCLUSIONS

(1) and (2) An organization which distributes campaign literature on behalf of candidates and committees is making in-kind contributions to the candidates and committees if any employee of the organization spends more than 10% of his or her compensated time in any one month distributing the campaign literature.

^{1/}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.

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(3) Any allocation method used must be reasonable and be made in good faith. While there are no precise rules for determining exactly how allocation should be accomplished, we have provided guidance on this issue in the analysis section of this letter.

FACTS

"Campaign California" is a non-profit California corporation which does not ordinarily make contributions or expenditures and is not a "committee." Campaign California employs canvassers whose principal job is to go door-to-door in certain cities soliciting memberships on behalf of Campaign California. As part of the canvassing process, the employees pass out literature concerning various issues which are of importance to the organization. For example, currently Campaign California's employees are canvassing in the cities of San Francisco and Santa Monica concerning nuclear power.

Campaign California anticipates asking its employees to distribute campaign literature as part of their duties. The literature would be supplied by various candidates and committees. The employees would be instructed to simply distribute the literature door-to-door, indicating that Campaign California supports the particular candidate or issue contained in the literature. The employees would be further instructed not to engage the occupant of the residence in any further discussion concerning the candidate or issue.

ANALYSIS

Regulation 18423 provides:

- (a) The payment of salary, reimbursement for personal services or other compensation by an employer to an employee who spends more than 10% of his compensated time in any one month rendering services for political purposes is a contribution, as defined in Government Code Section 82015 and 2 Cal. Adm. Code Section 18215, or an expenditure, as defined in Government Code Section 82025 and 2 Cal. Adm. Code Section 18225 if:

- (1) The employee renders the services at the request or direction of the employer;

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- (b) Personal services are rendered for political purposes if they are carried on for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, or the qualification or passage of of any measure, and include but are not limited to:
- (1) Personal services received by or made at the behest of a candidate or committee by an employee; and
 - (2) Hours spent developing or distributing communications that expressly advocate the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure.

(Regulation 18423.)

"Made at the behest" means a payment made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate, controlled committee, official committee of a political party, or organization formed or existing primarily for political purposes.

(Regulation 18215(b).)

Since it is clear from the facts provided that the employees will be distributing the campaign literature at the direction of their employer, Campaign California, and that the service will be provided "at the behest" of the candidates and committees, Campaign California will be making "in-kind contributions" to the candidates and committees. For these same reasons, the 10% threshold in Regulation 18423 applies. If an employee spends 10% or more of his or her time in a calendar month distributing campaign literature, the compensation paid the employee constitutes a "contribution." It must be disclosed by any candidate or committee on whose behalf Campaign California has made the payment.

In addition, Campaign California may qualify as a "committee" if it receives or makes contributions of the amounts set out in Section 82013(a) or (c), whichever is applicable.

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With regard to an appropriate method of allocating employees' time spent for political purposes, Regulation 18423 provides that

- (c) The amount of the contribution or expenditure reportable pursuant to this regulation is the pro-rata portion of the gross salary, reimbursement for personal expenses or compensation attributable to the time spent on political activity.

(Regulation 18423(c).)

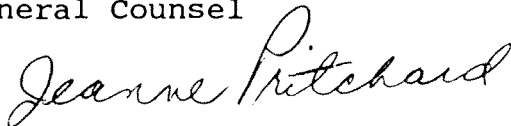
Although there are no precise rules for accomplishing such allocation, we believe that a reasonable method of allocating employee time would be to include (1) all of the time spent actually distributing materials (Regulation 18423(b)(2); see also In re Cannon (1976) 2 FPPC Ops. 133, 136.) and (2) the time spent speaking about the candidate or committee on whose behalf the literature is being distributed. The time spent distributing materials would include travel time, walking time and similar activities.

For example, if the employee speaks for ten minutes soliciting a membership in Campaign California and explaining Campaign California's position on nuclear energy, and the employee spends two minutes speaking about or answering questions about the candidate or committee on whose behalf the literature is being distributed, the organization would attribute as a payment for political purposes all of the time spent travelling, walking door-to-door, etc., and the two minutes per residence spent speaking about the candidate or committee.

If you have any questions about this letter, please contact me at 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel



By Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

LAW OFFICES OF

F P P OLSON, CONNELLY & HAGEL

431 J STREET, FOURTH FLOOR
SACRAMENTO, CALIFORNIA 95814
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OF COUNSEL

LLOYD G. CONNELLY, Member
California State Legislature

LANCE H. OLSON

DEC 15 3 52 PM '87

December 14, 1987

Ms. Jean Prichard, Chief
Technical Assistance and Analysis Division
Fair Political Practices Commission
428 J Street, Seventh Floor
Sacramento, California 95814

RE: Advice Letter

Dear Ms. Prichard:

This office represents Campaign California, a non-profit California Corporation. On behalf of our client we would like to request advice concerning provisions of the Political Reform Act.

Campaign California employs canvassers whose principal job is to go door-to-door in certain cities within California soliciting memberships on behalf of Campaign California. As part of the canvassing process the employees also pass-out literature concerning various issues which are of importance to the organization. For example, currently Campaign California's employees are canvassing in the cities of San Francisco and Santa Monica concerning nuclear power.

Campaign California anticipates in the future asking their employees to distribute campaign literature as part of their duties. The literature would be supplied by various candidates and campaign committees. The employees would be instructed to simply distribute the literature door-to-door indicating that Campaign California supports the particular candidate or issue contained in the literature. The employees would be further instructed not to engage the occupant of the residence in any further discussion concerning the candidate or issue.

The question posed is whether the activities of the paid canvassers constitutes an in-kind contribution by Campaign California to any campaign committee or candidate for which they are distributing literature.

Assuming that you conclude the above-described activity does constitute an in-kind contribution I would like to know whether, pursuant to FPPC Regulation 18423, the contribution would need to be reported if the employees spend less than 10% of their compensated time in any one month rendering services as described above.

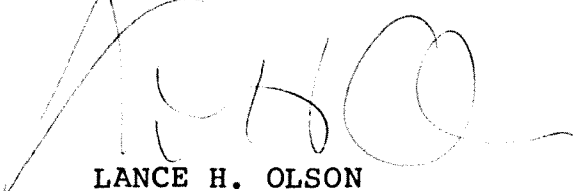
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Finally, if you conclude the activity is a contribution, but not necessarily reportable pursuant to Regulation 18423, how would Campaign California allocate the time spent by its employees performing their normal canvassing duties from the time spent rendering services for political purposes for purposes of determining the 10% threshold found in Regulation 18423.

If you require any additional information in order to respond to this request, please contact me directly. Thank you for your attention in this matter.

Very truly yours,

OLSON, CONNELLY & HAGEL



LANCE H. OLSON

LHO:kh
cc: Cathy Calfo, Executive Director
Campaign California



California Fair Political Practices Commission

December 17, 1987

Lance H. Olson
Olson, Connelly & Hagel
431 J Street, Fourth Floor
Sacramento, CA 95814

Re: 87-318

Dear Mr. Olson:

Your letter requesting advice under the Political Reform Act was received on December 15, 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,

A handwritten signature in cursive script that reads "Jeanne Pritchard" followed by a flourish.

Jeanne Pritchard

Chief

Technical Assistance and Analysis
Division

JP:plh

LAW OFFICES OF

F P P OLSON, CONNELLY & HAGEL

LANCE H. OLSON

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OF COUNSEL
LLOYD G. CONNELLY, Member
California State Legislature

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December 14, 1987

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Technical Assistance and Analysis Division
Fair Political Practices Commission
428 J Street, Seventh Floor
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LANCE H. OLSON

LHO:kh

cc: Cathy Calfo, Executive Director
Campaign California