



California Fair Political Practices Commission

February 10, 1988

David H. Silverman
Adams, Broadwell & Russell
1875 South Grant St., Ste. 600
San Mateo, CA 94402-2662

Re: Your Request for Advice
Our File No. I-88-031

Dear Mr. Silverman:

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

QUESTIONS

1. When an intermediary or agent makes a contribution, is it sufficient to note on the face of the check the name and address of the entity on whose behalf the contribution is made?
2. When a contribution is made by or on behalf of a corporation, must the "occupation" or type of business of the corporation be disclosed?

CONCLUSIONS

1. The Act does not specify what steps must be taken by an agent or intermediary to notify the recipient of a contribution of the name and address of the true source of the funds. Noting the name and address on the face of the contribution check alone probably would not be sufficient unless accompanied by the words "Made on behalf of" or similar language.

^{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. (formerly the California Administrative Code). All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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 immunity provided by an opinion or formal written advice. (Sections 84113; Regulation 18329(c)(3).)

2. The requirement to disclose a contributor's occupation applies to contributions made by individuals and not to contributions made by business entities.

ANALYSIS

1. Section 84302 states:

No person shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the contribution both his own full name and street address, occupation, and the name of his employer, if any, or his principal place of business if he is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other person. The recipient of the contribution shall include in his campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

As noted above, the Act does not specify how the intermediary must disclose the true source of the funds to the recipient of a contribution. However, merely noting the name and address of the contributor on the face of the contribution check may not provide the recipient with adequate information. For example, the recipient may erroneously assume that a personal check which has the name and address of a business entity written on it is a contribution from an individual on which he or she has provided occupation and employer information.

A contribution check which contains the words "Made on behalf of" or similar language which clearly indicates that the writer of the check is acting as an intermediary, along with all of the required information about the true source of the funds (i.e., name, address and, if applicable, occupation and employer), would satisfy the requirements of Section 84302.

2. Section 84302 requires the recipient of a contribution which has been made through an intermediary to disclose the name, address, occupation and employer of both the intermediary and the contributor. However, because business entities and recipient committees which make contributions to candidates and committees do not have an "occupation" as that term is generally used, nor an employer, the Commission has advised candidates and committees that occupation and employer information is not required for contributions received from persons other than individuals.

David H. Silverman

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In addition, the campaign disclosure forms for use in 1988 by officeholders, candidates and recipient committees (Forms 420 and 490, copies enclosed) require occupation and employer information only for contributions received from individuals. (See instructions for Schedules A-D of Forms 420 and 490.)

If I can be of further assistance, please do not hesitate to contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

Carla Wardlow

By: Carla Wardlow
Political Reform Consultant

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January 11, 1988

Diane M. Griffiths
Legal Division
Fair Political Practices Commission
428 "J" Street
Sacramento, CA 95814

Re: Disclosures by Intermediary

Dear Ms. Griffiths:

I am writing to request a formal advice letter from the Fair Political Practices Commission. Would you please advise whether an intermediary or agent who makes a contribution on behalf of another would fulfill his disclosure obligations under Government Code section 84302 if he makes a notation on the face of the contribution check of the name and address of the entity on whose behalf the contribution is made?

If the contribution is made on behalf of a corporation, is identification of the name and address sufficient, or is it necessary to identify the "occupation" or type of business of the corporation?

Thank you for your assistance.

Yours truly,

David H. Silverman

DHS:yb



California Fair Political Practices Commission

January 15, 1988

David H. Silverman
Adams, Broadwell & Russell
1865 South Grant Street, Suite 600
San Mateo, CA 94402-2662

Re: 88-031

Dear Mr. Silverman:

Your letter requesting advice under the Political Reform Act was received on January 12, 1988 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

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh