



California Fair Political Practices Commission

88-119

June 15, 1988

Mr. James R. Schwander
Treasurer, People for Legal Justice
P.O. Box 3386
Walnut Creek, CA 94598

Dear Mr. Schwander:

My letters to you dated March 11, 1988 (File No. A-88-069) and April 22, 1988 (File No. I-88-119), answered all of the questions you are posing in your letter of May 2, 1988. This letter does not alter the advice provided in the two advice letters mentioned above, but instead, sets out the same answers to those same questions in such a way that hopefully will clarify any confusion you may have concerning the filing obligations of the committee "People for Legal Justice."

The advice I have previously provided to you is based on the statutes contained in the Political Reform Act, "Government Code Sections 81000-91015" and the Commission's regulations which appear at 2 California Code of Regulations Section 18000 et seq. The answers provided in this letter are based on the conclusions and analyses provided in my letters of March 11 and April 22.

QUESTIONS

- (1) When is your campaign statement due?
- (2) When is your independent expenditure report due?
- (3) When is your pre-election statement due?
- (4) Are any reports not referenced in your letter of February 6, 1988 due?

CONCLUSIONS

(1) In order to determine when your committee's campaign disclosure statement is due, you must first determine the type of committee it will become. People for Legal Justice has filed a Statement of Organization, Form 410, with the Secretary of State's Office. The Statement of Organization, in Part VII, indicates that "any surplus funds will be used to pay off any debts or loans associated with the measure..." During our

telephone conversation of March 2, 1988, you indicated that the organization, People for Legal Justice, had become a recipient committee because the organization had raised more than \$1,000 to help qualify a measure for the ballot. The Act categorizes this type of recipient committee as a "committee primarily formed to support the qualification of a ballot measure." Qualification committees file campaign statements as follows:

If the measure qualifies: The statement must be filed not later than 35 days after the date of notification that the measure has qualified, or 15 days prior to the deadline for submission of the ballot argument in favor of the measure, whichever date is earlier.

If the measure fails to qualify: The statement must be filed not later than 35 days after the deadline for filing petitions, or 35 days after the date of notification that the measure has failed to qualify, whichever date is earlier.

If the committee remains active after the qualification effort (meaning it does not terminate), future filing obligations will depend on the type of committee it then becomes.

(2) The committee will not be required to file independent expenditure reports unless it makes independent expenditures of \$500 or more on behalf of other measure committees or candidates. Supplemental Independent Expenditure Reports, Form 465, are filed at the same times and with each filing officer with whom the candidate supported or opposed by the independent expenditure, or a committee primarily formed to support or oppose the measure, is required to file campaign statements.

An "independent expenditure" is defined as an expenditure (1) which is NOT made to or at the behest of the candidate or committee and (2) which is made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election. (Section 82031.) A payment is "made at the behest of" a candidate or committee if it is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of the candidate or committee. (FPPC Regulation 18215(b).)

(3) As stated in my letter of April 22, 1988, there is no way of knowing at this time when the committee's pre-election statements will be due. Pre-election statements are filed "in connection with an election." As I have stated above in answer number one, future filing obligations of the committee will depend on the type of committee it becomes after the qualification effort.

All recipient committees are required to file semi-annual statements for each half of the year, whether or not they have received any contributions or made any expenditures during the six-month period covered by the statement. My letter of April 22, 1988, sets out the period covered by semi-annual statements.

In addition, if the measure qualifies for the ballot AND the committee continues to raise and spend money to secure the passage of the initiative, the committee will then be required to file statements as a committee primarily formed to support a state ballot measure.

My letter of April 22nd also points out that in addition to the semi-annual statements mentioned above, during the six-month period when the measure is being voted upon, the committee will be required to file pre-election statements. Again, the date of the election will determine when the pre-election statements are filed.

(4) You should contact the Secretary of State's office to determine if the measure qualified for the ballot. The due date for filing your first campaign disclosure statement will depend on the outcome of the qualification effort.

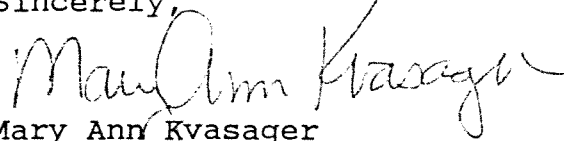
Previously you have been provided the following materials to assist you with your reporting requirements:

- (1) 1988 Form 420, Recipient Committee Campaign Statement-Long Form.
- (2) 1988 Form 450, Recipient Committee Campaign Statement-Short Form.
- (3) 1988 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act."
- (4) Form 410, Statement of Organization, which should be used to amend the current Form 410.
- (5) Form 465, Supplemental Independent Expenditure Report.

(6) "Political Reform Act of 1974 as Amended to January 1, 1988."

(7) FPPC Regulations 18215, 18225, 18329.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Kvasager". The signature is written in dark ink and is positioned above the printed name and title.

Mary Ann Kvasager
Political Reform Consultant



PEOPLE FOR LEGAL JUSTICE



P.O. BOX 3386 • WALNUT CREEK, CALIFORNIA 94598 • (415) 933-PLAN

May 2, 1988

MAY 10 8 51 AM '88

Mrs. Mary Kvasager
Political Reform Consultant
California Fair Political Practices Commission
P.O. Box 807
Sacramento, Ca. 95804

Re: Your Letter of April 22, 1988

Dear Mrs. Kvasager:

Your letter of April 22, 1988 in reply to my letter of March 16, 1988 was received by me on April 25, 1988.

Through a copy of this letter to lawyer Diane M. Griffiths, who I'm certain is directing you, I am informing her (and I'm sure the other lawyers, etc. that are in contact with her respecting People For Legal Justice) that I don't appreciate her (and their) continuing to falsely characterise my questions, instruct me to commit perjury to comply with the way they want the law to be (rather than the way its now written) and then threaten me if I refuse to perjure myself.

Respecting falsely characterising my questions, note the following:

1. You state in your letter of March 11, 1988 that my questions are the following: (A) What are the filing requirements of a recipient committee primarily formed to support the qualification of a state ballot initiative?; and (B) What campaign disclosure forms should be used to report the committee's receipts and expenditures.... Note: Those are NOT my questions at all. Also your words "PRIMARYLY FORMED" the people there conjured up. I've NEVER used those words at all Also, I believe that I was misled by your office, ect.; i.e., you stated in your letter of March 11; 88 that if the measure qualifies for the ballot, the filing deadline for the first campaign disclosure statement is 35 days after the date of notification...If the measure fails to qualify...the first...statement must be filed not later than 35 days after the deadline for filing petition, or 35 days after the date of notification that the measure has failed to qualify, whichever date is earlier.... Now you advise me in your letter of April 22, 1988, that the campaign disclosure statements are due on July 31 and January 31. Note: These dates of July 31 and January 31 have no connection with the measure qualifying or not qualifying. I'm certain there's a reason why the lawyer there failed to specifically state the July 31 and January 31 dates in your March 11, '88 letter.

Re: Your Letter of April 22, 1988
Page 2 - May 2, 1988

In your letter of April 22, '88 you state my letter (of March 16, 1988) states only general questions. Therefore, you and the others consider it to be a request for informal assistance...and you and the lawyers then state informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advise. Note: You people sound similar to immune court lawyer judges when they are or about to be involved in distortations of the truth and violations of the laws as written.

Now for the benefit of those few elements of the media that have not been taken over by lawyers, lawyer politicians, lawyer judges, a lawyer senate, a lawyer congress, a lawyer legislature or a lawyer staff and those that support them, I present my March 16, '88 questions which you label general, that is, not specific questions.

1. When is my Campaign Statement due?
2. When is my Independent Expenditure Report due?
3. When is my Pre-Election Statement due?
4. Are any reports, not referenced in my letter of February 6, 1988,....due?

If these questions are not specific, perhaps the lawyers there can provide part of the answer why with the legal profession's thousands of massive structures throughout the land (full of what you call law books) why is it a miracle to get any six of you to agree on a simplistic issue of law. Perhaps its not the rest of us who don't understand the English language as the lawyers have convinced the general public to believe.

Again, People For Legal Justice is NOT primarily formed and was NOT primarily formed to support or oppose a specific measure and its PRINCIPAL activity is NOT raising or spending money to support a specific measure. It was NOT formed for a specific election. As stated in my letter of March 16, 1988 and in this letter, I shall not commit perjury (lie, etc.) and say that it was. I shall not amend, as you instruct, the original Statement of Organization I completed and certify under penalty of perjury that People For Legal Justice was formed by me or others to support a specific initiative. Note: I direct all readers to my letter of March 16, 1988 (copy enclosed for those readers). The lawyers in Sacramento threatening me unless I commit perjury is not appreciated.

In the meantime, I'm completing FORM 420 (Recipient Committee Campaign Statement) regardless of the fact you advised me in your April 22, 1988 that its not due until July 31, 1988. However, perhaps when you stated semi-annual statements are due July 31, 1988 and January 31, you were not referring to the Recipient Committee Campaign Statement. If

Re: Your Letter of April 22, 1988
Page 3 - May 2, 1988

this is the situation, please provide me ^{WITH} what you label the semi-annual statements and I will be pleased to complete those as well...if this can be done without committing perjury and involving myself in lies.

Sincerely,



James R. Schwander
People For Legal Justice

JRS:pt
CC: Diane M. Griffiths, California Fair
Political Practices Commission Lawyer
The Media
File



California Fair Political Practices Commission

April 22, 1988

Mr. James R. Schwander
Treasurer, People for Legal Justice
P.O. Box 3386
Walnut Creek, CA 94598

RE: Your Request for Advice
Our File No. I-88-119

Dear Mr. Schwander:

You have requested advice under the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/} My letter to you dated March 11, 1988, File No. A-88-069, addressed the issues of the filing requirements of a recipient committee primarily formed to support the qualification of a state ballot initiative and what campaign disclosure forms should be used to report the committee's receipts and expenditures. This letter constitutes informal assistance pursuant to Regulation 18329(c).^{2/}

QUESTIONS

- (1) When is the committee's pre-election statement due?
- (2) When is the committee's independent expenditure report due?

CONCLUSIONS

(1) There is no way of knowing at this time when the committee's pre-election statement will be due. After People for Legal Justice files its disclosure statement in connection with the qualification effort, future filing obligations of the

^{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.

^{2/}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).)

committee will depend on the type of committee it then becomes. If the measure qualifies for the ballot and the committee continues to raise and spend money to secure the passage of the initiative, the committee will become a primarily formed committee to support a state ballot measure. As discussed below, the date of the election will determine when pre-election campaign statements are filed.

(2) If the committee makes "independent expenditures" totaling \$500 or more to support or oppose a single candidate or a single measure (other than the measure for which the committee is currently formed), the committee will be required to file a Supplemental Independent Expenditure Report (Form 465) in addition to its regular campaign disclosure reports.

ANALYSIS

A committee which is primarily formed to support a state ballot measure is required to file semi-annual statements for each half of the year, whether or not it has received any contributions or made any expenditures during the six-month period covered by the statement. Semi-annual statements are due on July 31 and January 31, with closing dates of June 30 and December 31, respectively. (Section 84200 and page 24 of the 1988 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act.")

In addition to the semi-annual statements mentioned above, during the six-month period when the measure is being voted upon, the committee will be required to file pre-election statements. Again, the date of the election will determine when the pre-election statements are filed. (Sections 84200.5, 84200.7, 84200.8 and pages 24, 25 of the 1988 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act.") Once the election date is set, feel free to contact us if you cannot determine the due date based on the materials we have provided.

An "independent expenditure" means an expenditure (1) which is not made to or at the behest of the candidate or committee and (2) which is made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate, or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election. (Section 82031.) A payment is "made at the behest of" a candidate or committee if it is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of the candidate or committee. (Regulations 18215 and 18225.)

If the committee makes independent expenditures totaling \$500 or more to support or oppose a single candidate or a single measure (other than the measure for which the committee is currently formed), it must file the Form 465. This form is filed in addition to the committee's regular campaign disclosure statements. It is filed at the same times and with each filing officer with whom the candidate supported or opposed or the ballot measure committee is required to file campaign statements. (Section 84203.5.)

You have objected to my characterizing your committee as one primarily formed to support a ballot measure. My letter of March 11, 1988, made the distinction between the organization, People for Legal Justice, and the organization's activities in supporting the qualification of a state ballot measure. It is the receipt of money and the expenditures made in connection with the qualification effort by the organization, People for Legal Justice, that has created the recipient committee. (Section 82013(a).) Because the recipient committee is formed solely to support a single initiative, the recipient committee is categorized as a "primarily formed committee" as defined in Government Code Section 82047.5.

The "committee" may be viewed as the "political arm" of People for Legal Justice. It is the committee, not the entire organization, which meets the definition of a "primarily formed committee" under the Act. To distinguish the committee from the organization, you may wish to amend the name of the committee to "The People for Legal Justice Campaign Committee," or something similar.

My letter of March 11, 1988, indicated that People for Legal Justice incorrectly completed the Statement of Organization, Form 410. My letter outlined needed amendments. Failure to amend the Statement of Organization may subject the committee to enforcement action. (Section 91000.)

You have been previously provided the following materials to assist you with your reporting requirements:

- (1) 1988 Form 420, Recipient Committee Campaign Statement-Long Form.
- (2) 1988 Form 450, Recipient Committee Campaign Statement-Short Form.
- (3) 1988 "Information Manual on Campaign Disclosure Provisions of the Political Reform Act."

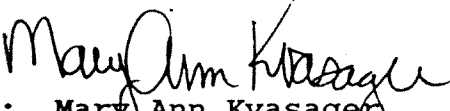
James R. Schwander
Page 4

I am enclosing a Form 410, Statement of Organization, which should be used to amend the current Form 410. Also enclosed for your use and information is a Form 465, Supplemental Independent Expenditure Report, a copy of the "Political Reform Act of 1974 as Amended to January 1, 1988," and a copy of FPPC Regulations 18215 and 18225.

Should you need additional disclosure forms, you should contact your local filing officer or the Secretary of State's Office.

Sincerely,

Diane M. Griffiths
General Counsel


By: Mary Ann Kvasager
Political Reform Consultant

Enclosures
DMG:MAK:kmt



PEOPLE FOR LEGAL JUSTICE



P.O. BOX 3386 • WALNUT CREEK, CALIFORNIA 94598 • (415) 933-PLAN

March 16, 1988

Mrs. Mary Ann Kvasager
Political Reform Consultant
California Fair Political Practices Commission
P.O. Box 807
Sacramento, Ca. 95804

Re: Your Advice of March 11, 1988

Dear Mrs. Kvasager:

Thank you for your letter of March 11, 1988 received on March 12, 1988 in reply to my request of February 6, 1988 for information and clarification respecting the Information Manual On Campaign Disclosure Provisions of The Political Reform Act as it relates to the People For Legal Justice Legal Profession Accountability Initiative Measure. Since I was unable to locate in the California Fair Political Practices Commission letter a direct answer to the direct questions of my letter of February 6, 1988, I shall rephrase the questions here as follows:

- (1) When is my Campaign Statement due? I believe you may have included that in your page 1 CONCLUSIONS, but I'm not certain.
- (2) When is my Independent Expenditure Report due? Please provide a copy of the form.
- (3) When is my Pre-Election Statement due? Please provide a copy of the form.
- (4) Are any reports, not referenced in my letter of February 6, 1988, or in this letter due? If so, what report(s) are they and when are they due? Please provide a copy of such report(s) forms.

My Statement of Organization answers you refer to in your letter of March 11, 1988 are true and correct. That is, People For Legal Justice WAS NOT FORMED, nor does it exist, primarily to support or oppose a single candidate or a single measure... As defined in Government Code Section 82047.5 People For Legal Justice does not qualify as a Primarily Formed Committee. Since I formed People For Legal Justice long before I even knew what a "measure" or "initiative" is, I could not have formed it for that purpose ...yet alone primarily forming it for that purpose. It was formed for the purposes so stated under Part VI on my Statement of Organization dated February 5, 1988. For the California Fair Political Practices Commission and the lawyers at the Attorney Generals Office to tell me why I formed People For Legal Justice and to tell me that it was formed primarily to support a

Re: Your Advise of March 11, 1988
Page 2 - March 16, 1988

single measure is totally ludicrous. If they both could read minds (read my mind) they could not honestly say I formed People For Legal Justice, or that it exists, primarily to support a single ballot measure for they would be reading in my mind that it was not formed for that purpose!

Further, for the California Fair Political Practices Commission and the lawyers at the Attorney General's Office to knowingly instruct me to change my statement in a dishonest manner, that is, state under penalty of perjury that I formed the People For Legal Justice primarily to support the qualification of a state measure implies that I would violate the law. If they don't like the law as written, then they could attempt to change it in a legal and constitutional manner. Instructing me to lie and commit perjury is not, in my opinion, a legal and constitutional way to write new law. Note: One reason for the initiative is that ...too many lawyer/judges are making law (writing their own laws)...off the seat of their black robes.

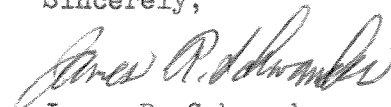
As previously stated during our telephone conversation, I don't meet any of the following requirements listed on your Form 420 under the section captioned EXAMPLES OF COMMITTEES WHICH MAY USE THIS FORM:

- 1) A committee controlled by two or more candidates or officeholders (I'm not).
- 2) A non-controlled committee primarily formed to support...one or more...ballot measures (I'm a controlled committee and not primarily formed to support a ballot measure).
- 3) A general purpose committee...formed to support...officeholders candidates or ballot measures (as previously stated People For Legal Justice wasn't formed for this purpose).
- 4) A committee formed for the purpose of qualifying a measure for the ballot (Not formed for this purpose).

Aside and apart from the fact that I can't knowingly commit perjury by lying on the Statement of Organization, I have no objections to completing the Recipient Committee Campaign Statement or any form that is required. Please confirm the due date.

Thank you for your attention to this subject.

Sincerely,



James R. Schwander

JRS:pt.
CC: Diane M. Griffiths
c/o California Fair Political Practices Commission
Center For Investigative Reporting
Chicago Tribune/San Francisco Chronicle
Others



California Fair Political Practices Commission

May 11, 1988

James R. Schwander
People for Legal Justice
P.O. Box 3386
Walnut Creek, CA 94598

Re: 88-174

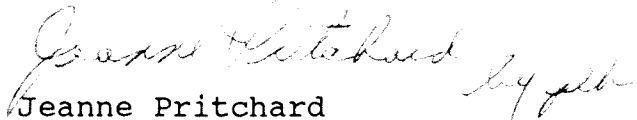
Dear Mr. Schwander:

Your letter requesting advice under the Political Reform Act was received on May 10, 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. Code of Regs. 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



California Fair Political Practices Commission

March 23, 1988

James R. Schwander
People for Legal Justice
P.O. Box 3386
Walnut Creek, CA 94598

Re: 88-119

Dear Mr. Schwander:

Your letter requesting advice under the Political Reform Act was received on March 21, 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. Code of Regs. 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 *by plh*
Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh



PEOPLE FOR LEGAL JUSTICE



P.O. BOX 3386 • WALNUT CREEK, CALIFORNIA 94598 • (415) 933-PLAN

March 16, 1988

Mrs. Mary Ann Kvasager
Political Reform Consultant
California Fair Political Practices Commission
P.O. Box 807
Sacramento, Ca. 95804

Re: Your Advice of March 11, 1988

Dear Mrs. Kvasager:

Thank you for your letter of March 11, 1988 received on March 12, 1988 in reply to my request of February 6, 1988 for information and clarification respecting the Information Manual On Campaign Disclosure Provisions of The Political Reform Act as it relates to the People For Legal Justice Legal Profession Accountability Initiative Measure. Since I was unable to locate in the California Fair Political Practices Commission letter a direct answer to the direct questions of my letter of February 6, 1988, I shall rephrase the questions here as follows:

(1) When is my Campaign Statement due? I believe you may have included that in your page 1 CONCLUSIONS, but I'm not certain.

(2) When is my Independent Expenditure Report due? Please provide a copy of the form.

(3) When is my Pre-Election Statement due? Please provide a copy of the form.

(4) Are any reports, not referenced in my letter of February 6, 1988, or in this letter due? If so, what report(s) are they and when are they due? Please provide a copy of such report(s) forms.

My Statement of Organization answers you refer to in your letter of March 11, 1988 are true and correct. That is, People For Legal Justice WAS NOT FORMED, nor does it exist, primarily to support or oppose a single candidate or a single measure... As defined in Government Code Section 82047.5 People For Legal Justice does not qualify as a Primarily Formed Committee. Since I formed People For Legal Justice long before I even knew what a "measure" or "initiative" is, I could not have formed it for that purpose ...yet alone primarily forming it for that purpose. It was formed for the purposes so stated under Part VI on my Statement of Organization dated February 5, 1988. For the California Fair Political Practices Commission and the lawyers at the Attorney Generals Office to tell me why I formed People For Legal Justice and to tell me that it was formed primarily to support a

Re: Your Advise of March 11, 1988
Page 2 - March 16, 1988

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Further, for the California Fair Political Practices Commission and the lawyers at the Attorney General's Office to knowingly instruct me to change my statement in a dishonest manner, that is, state under penalty of perjury that I formed the People For Legal Justice primarily to support the qualification of a state measure implies that I would violate the law. If they don't like the law as written, then they could attempt to change it in a legal and constitutional manner. Instructing me to lie and commit perjury is not, in my opinion, a legal and constitutional way to write new law. Note: One reason for the initiative is that ...too many lawyer/judges are making law (writing their own laws)...off the seat of their black robes.

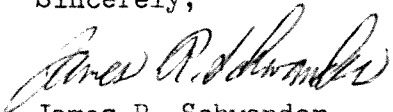
As previously stated during our telephone conversation, I don't meet any of the following requirements listed on your Form 420 under the section captioned EXAMPLES OF COMMITTEES WHICH MAY USE THIS FORM:

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- 2) A non-controlled committee primarily formed to support...one or more...ballot measures (I'm a controlled committee and not primarily formed to support a ballot measure).
- 3) A general purpose committee...formed to support...officeholders candidates or ballot measures (as previously stated People For Legal Justice wasn't formed for this purpose).
- 4) A committee formed for the purpose of qualifying a measure for the ballot (Not formed for this purpose).

Aside and apart from the fact that I can't knowingly commit perjury by lying on the Statement of Organization, I have no objections to completing the Recipient Committee Campaign Statement or any form that is required. Please confirm the due date.

Thank you for your attention to this subject.

Sincerely,



James R. Schwander

JRS:pt.
CC: Diane M. Griffiths
c/o California Fair Political Practices Commission
Center For Investigative Reporting
Chicago Tribune/San Francisco Chronicle
Others