



# California Fair Political Practices Commission

August 11, 1988

Lowell Finley  
Remcho, Johansen & Purcell  
220 Montgomery Street, Suite 800  
San Francisco, CA 94104

Re: Your Request for Advice  
No. I-88-256

Dear Mr. Finley:

You have requested informal assistance concerning the campaign disclosure provisions of the Political Reform Act.<sup>1/</sup> This letter confirms the information I provided to you in our telephone conversation of July 28, 1988.

### FACTS

In the hypothetical situation you presented, five partners of a law firm have agreed to take additional monthly draws out of partnership funds for the purpose of making contributions to a specific campaign committee. The additional draws will not increase the total annual income of each partner, but merely advance the time at which partnership funds are distributed.

---

<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. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regulations Section 18329(c)(3).)

Lowell Finley  
August 11, 1988  
Page Two

#### QUESTION

Must the contributions be aggregated so that the partnership, or the group of five partners, qualifies as a major donor committee once a total of \$10,000 has been contributed, or is each attorney considered a separate donor? Would the result change if the partnership were a professional corporation?

#### CONCLUSION

The contributions made in the manner described are contributions by the partnership. Therefore, once a total of \$10,000 has been contributed, the partnership will qualify as a major donor committee. This result would not change if the partnership were a professional corporation.

In addition, if an individual partner makes contributions out of his or her personal funds, and there is an express or implied agreement or mutual understanding that partnership and personal funds will be contributed toward the accomplishment of a common goal, the partner must aggregate his or her contributions with those made by the partnership to determine whether the partner also qualifies as a major donor committee.

#### ANALYSIS

Section 82013 defines three types of "committees" which are required to file campaign disclosure statements under the Act. A "major donor" committee is defined as a person or combination of persons who directly or indirectly "makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees."

Based on the specific facts you provided, we conclude that the money which is being used to make contributions is money which belongs to the partnership, and the partnership is the contributor. It does not matter that the individual partners will receive the money before it is contributed to the committee. Under the situation described in your letter, the partners would be acting as intermediaries for the partnership.

Please note that because the contributions are from the partnership, each partner who makes a contribution from partnership funds must notify the committee to which the contributions are made that he or she is acting as an "intermediary" for the partnership contributions. The committee must disclose on its campaign statement the required information for both the partnership and the contributor, and each partner as

Lowell Finley  
August 11, 1988  
Page Three

an intermediary. The partnership must itemize each partner who received a contribution intended for the committee as the "payee" on the major donor campaign statement, and also provide the required information for the committee which received the contributions.

With regard to contributions made by an individual partner out of personal funds, if there is an express or implied agreement or mutual understanding that partnership and personal funds will be contributed toward the accomplishment of a common goal, the partner must aggregate his or her contributions with those of the partnership to determine whether the partner must also file campaign statements as a major donor committee. (In re Lumsdon (1976) 2 FPPC Opinions 140, copy enclosed.)

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths  
General Counsel



By: Jeanne Pritchard  
Division Chief  
Technical Assistance and  
Analysis Division



# California Fair Political Practices Commission

August 11, 1988

Lowell Finley  
Remcho, Johansen & Purcell  
220 Montgomery Street, Suite 800  
San Francisco, CA 94104

Re: Your Request for Advice  
No. I-88-256

Dear Mr. Finley:

You have requested informal assistance concerning the campaign disclosure provisions of the Political Reform Act.<sup>1/</sup> This letter confirms the information I provided to you in our telephone conversation of July 28, 1988.

### FACTS

In the hypothetical situation you presented, five partners of a law firm have agreed to take additional monthly draws out of partnership funds for the purpose of making contributions to a specific campaign committee. The additional draws will not increase the total annual income of each partner, but merely advance the time at which partnership funds are distributed.

---

<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. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regulations Section 18329(c)(3).)

Lowell Finley  
August 11, 1988  
Page Two

#### QUESTION

Must the contributions be aggregated so that the partnership, or the group of five partners, qualifies as a major donor committee once a total of \$10,000 has been contributed, or is each attorney considered a separate donor? Would the result change if the partnership were a professional corporation?

#### CONCLUSION

The contributions made in the manner described are contributions by the partnership. Therefore, once a total of \$10,000 has been contributed, the partnership will qualify as a major donor committee. This result would not change if the partnership were a professional corporation.

In addition, if an individual partner makes contributions out of his or her personal funds, and there is an express or implied agreement or mutual understanding that partnership and personal funds will be contributed toward the accomplishment of a common goal, the partner must aggregate his or her contributions with those made by the partnership to determine whether the partner also qualifies as a major donor committee.

#### ANALYSIS

Section 82013 defines three types of "committees" which are required to file campaign disclosure statements under the Act. A "major donor" committee is defined as a person or combination of persons who directly or indirectly "makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees."

Based on the specific facts you provided, we conclude that the money which is being used to make contributions is money which belongs to the partnership, and the partnership is the contributor. It does not matter that the individual partners will receive the money before it is contributed to the committee. Under the situation described in your letter, the partners would be acting as intermediaries for the partnership.

Please note that because the contributions are from the partnership, each partner who makes a contribution from partnership funds must notify the committee to which the contributions are made that he or she is acting as an "intermediary" for the partnership contributions. The committee must disclose on its campaign statement the required information for both the partnership and the contributor, and each partner as

Lowell Finley  
August 11, 1988  
Page Three

an intermediary. The partnership must itemize each partner who received a contribution intended for the committee as the "payee" on the major donor campaign statement, and also provide the required information for the committee which received the contributions.

With regard to contributions made by an individual partner out of personal funds, if there is an express or implied agreement or mutual understanding that partnership and personal funds will be contributed toward the accomplishment of a common goal, the partner must aggregate his or her contributions with those of the partnership to determine whether the partner must also file campaign statements as a major donor committee. (In re Lumsdon (1976) 2 FPPC Opinions 140, copy enclosed.)

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths  
General Counsel



By: Jeanne Pritchard  
Division Chief  
Technical Assistance and  
Analysis Division

REMCHO, JOHANSEN & PURCELL  
ATTORNEYS AT LAW

220 MONTGOMERY STREET, SUITE 800  
SAN FRANCISCO, CALIFORNIA 94104  
415/398-6230 FAX: 415/398-7256

F F F  
JUL 6 9 10 AM '88

July 1, 1988

Kathryn E. Donovan  
Counsel, Legal Division  
Fair Political Practices Commission  
428 J Street, Suite 800  
P.O. Box 807  
Sacramento, CA 95804-0807

Dear Ms. Donovan:

We represent the California Trial Lawyers Association. On behalf of the Association and its members, we are writing to request informal assistance regarding campaign reporting duties of individual member attorneys and their law firms under the Political Reform Act.

Many of the Association's member attorneys make substantial campaign contributions, including member attorneys who practice together as partners. We would like guidance regarding the reporting obligations of individual attorneys and/or their law firms under the following circumstances:

A law firm is composed of five partners. Each partner normally takes a monthly draw against his or her estimated share of annual net partnership income. The amount of these draws is calculated to leave an undistributed amount at year-end sufficient to adjust the final distribution of income among the partners after final calculations of their shares can be made.

In June, 1988, the five partners agree that, beginning in June, each will take an additional monthly draw out of this reserve in an amount sufficient to enable each to make an after tax contribution in the amount of \$2,000 to a particular "primarily formed committee" within the meaning of Government Code section 82047.5. These additional draws do not increase the total annual income of each partner, but merely advance the time at which it is distributed. In June, each partner takes the additional draw, and each makes a contribution of \$2,000 to the primarily formed committee in the form of a check drawn on his or her individual checking account.

Kathryn E. Donovan  
Counsel, Legal Division  
Fair Political Practices Commission  
July 1, 1988  
Page 2

Neither the partnership nor the individual partners has made or will make any other political contributions during the calendar year. Must these contributions be aggregated, so that the partnership, or the group of five partners, must file a campaign statement on or before July 31st as a major donor committee by virtue of having made contributions of \$10,000? Or is each attorney considered a separate donor, so that major donor campaign reporting obligations will accrue for each individual attorney in October, 1988, when that attorney's aggregate contributions during the calendar year reach \$10,000?

Would the result change if the partnership were a professional corporation?

We would appreciate an early response, so that members of the Association may be advised well in advance of the July 31, 1988 filing deadline for major donor reports covering the period January 1, 1988 through June 30, 1988.

Thank you for your assistance.

Sincerely,

  
Lowell Finley

LF:ph