



California Fair Political Practices Commission

October 2, 1989

Joel Singer
California Association of Realtors
525 South Virgil Avenue
Los Angeles, CA 90020

Re: Your Request for Advice
Our File No. A-88-299

Dear Mr. Singer:

In July 1988, you first wrote to us concerning the effect of Government Code Section 85306, as added by Proposition 73,^{1/} on the use of campaign funds received prior to January 1, 1989. This topic has been the subject of litigation for the last several months. We have included your name on our mailing list for Propositions 68 and 73, and thereby attempted to keep you informed of the Commission's interpretation of the law during this time period. The purpose of this letter is to inform you of the most recent development on this issue.

On September 14, 1989, a federal court ruled that Section 85306 is unconstitutional and enjoined the Fair Political Practices Commission from enforcing that law. (Service Employees International Union v. Fair Political Practices Commission, Case No. CIVS 89-0433 LKK-JFM, U.S. District Court, Eastern District of California.) A copy of the court order is enclosed.

Accordingly, campaign funds received prior to January 1, 1989 may now be used to support or oppose a candidacy for elective office. We caution that candidates and elected officers who possess those funds may not use them to make contributions to any other candidate for elective office. (Section 85304.) We also caution that these funds may not be used for personal expenditures, as defined in Elections Code Sections 12400-12407.

Attached is a Commission advice letter which explains the procedures for transferring these funds to a current campaign account.

^{1/} Proposition 73 was adopted by the voters in June 1988. It amended the Political Reform Act (Government Code Sections 81000-91015.) All references are to the Government Code unless otherwise indicated.

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If you have any questions concerning this letter, please contact the Commission's Technical Assistance and Analysis Division at (916) 322-5662.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel



California Fair Political Practices Commission

August 22, 1988

Joel Singer, Treasurer
California Association of Realtors
525 South Virgil Avenue
Los Angeles, CA 90020

Re: Your Request for Advice
Our File No. A-88-299

Dear Mr. Singer:

You have asked several questions concerning the provisions of Proposition 73 which restrict the use of campaign funds commencing January 1, 1989. The specific statute in question is Government Code Section 85306, which provides:

Any person who possesses campaign funds on the effective date of this chapter may expend those funds for any lawful purpose other than to support or oppose candidacy.

On September 8, 1988, the Fair Political Practices Commission will hold a hearing to adopt emergency regulations to implement Section 85306. The hearing will commence at 9:00 a.m., at the Commission offices, 428 J Street, Suite 800, Sacramento. We anticipate that the emergency regulations adopted at this hearing will determine the answers to most of the questions presented in your letter.

The Commission has directed its staff to prepare draft regulations covering the possible alternative interpretations, and to recommend which alternatives the Commission should adopt as emergency regulations at the September 8 meeting. These draft alternative regulations and staff recommendations will be sent to you and other interested persons approximately one week before the Commission meeting. You are invited to attend the Commission meeting and you will be afforded an opportunity to present comments to the Commission.

We are creating a list of persons who plan to testify at the September 8 Commission meeting. Please contact Jeanette Turvill at (916) 322-5901 not later than September 7 if you

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wish to have your name included. We will make every effort to permit all interested persons an opportunity to testify; however, first priority will be granted to those persons on the list.

Sincerely,

Diane M. Griffiths
General Counsel

Kathryn E. Donovan
By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:plh:73FORM4



*read 7/26/88
jeb*

CALIFORNIA ASSOCIATION OF REALTORS®

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JOEL SINGER
Vice-President
Planning, Research & Economics

July 20, 1988

Ms. Diane Griffiths
General Counsel
California Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, CA 95814

Re: Propositions 68 and 73

Dear Diane:

Thank you for the opportunity to offer comments and pose questions during the process of reviewing the passage of Propositions 68 and 73.

The interpretations of the new law to be adopted by the FPPC could have significant ramifications on an organization the size of ours, and with our unique structure. I would like to request clarification of a number of specific provisions included in Propositions 68 and 73 which could potentially have an impact on our statewide general purpose recipient committee, the California Real Estate Political Action Committee (CREPAC). As some knowledge of the PAC structure may be necessary to adequately formulate a response, I have provided a brief description of CREPAC.

CREPAC is the parent organization to over 180 local subcommittees known as Board of REALTORS® political action committees (BORPACs). Each year CREPAC/BORPAC receives contributions from approximately 45,000 members. For all practical purposes, CREPAC and local BORPACs share the same tax exempt status (I.R.C., Section 527), the same pool of money, the same basic purposes as described in the CREPAC/BORPAC Bylaws, and the same campaign identification number for reporting purposes. CREPAC takes full responsibility for the reporting of receipts and disbursements for itself and for the local BORPAC subcommittees. CREPAC contributes to candidates only at the state level, including State Senate, State Assembly and State Constitutional Offices, and the BORPACs fund primarily local candidate elections.

QUESTIONS/CONCERNS:

1. Does Section 85306 included in Proposition 73 apply to CREPAC/BORPAC? This provision states that any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office?

2. Of particular concern to us is the administrative impact the new reforms may have on the manner in which our political contributions are collected through the annual dues billing process.

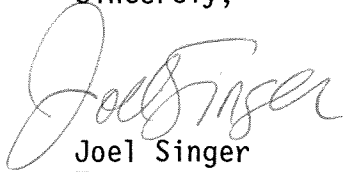
Our member dues billing includes a voluntary \$30 donation which is used to fund CREPAC, as well as the Association's other two political action committees. The 1989 dues billing forms are already being drafted in preparation for a November mailing to the membership. A certain amount of the dues and political donations will be received before the end of this year.

If the new law is to be interpreted such that these funds would not be able to be used for candidate-related activities after December 31, 1988, we have the following questions:

- Would it be permissible and would it meet the requirements of the current disclosure laws to hold those political donations received before January 1, 1989 in a trust account for later release to CREPAC? If such an approach is permissible, what contributor notification, if any, would be required on the dues billing statement itself?
 - Could one bank depository containing both pre-1989 and 1989 receipts be used to make candidate contributions from 1989 receipts and other non-candidate related expenditures out of pre-1989 receipts, or would it be necessary to establish a new PAC to collect and distribute funds to candidates in 1989. If the establishment of a new PAC is required, when would the "six month clock" begin in order to qualify as a broad-based PAC?
 - Could pre-1989 funds be deposited or transferred to a separate bank account?
 - Could all pre-1989 funds be contributed to the sponsoring organization for its use, and would there be any further reporting requirements in order to show the ultimate use of the funds?
3. Given the structure of CREPAC, a parent organization with over 180 subcommittees, each acting independently, but with a central administration, would each BORPAC and CREPAC have separate, unshared limits? Could each BORPAC register separately and thus not share common limits on contributions to candidates?

Thank you very much for your consideration of our comments and concerns. If you need additional information, please call Rick Shumacher or Greg Swanson at (213) 739-8311.

Sincerely,

A handwritten signature in cursive script that reads "Joel Singer". The signature is written in black ink and is positioned above the printed name and title.

Joel Singer
Treasurer

cc: Annette Graw
Kerry Morrison
Rick Shumacher
Greg Swanson



California Fair Political Practices Commission

July 28, 1988

Joel Singer
California Association of
Realtors
525 South Virgil Avenue
Los Angeles, CA 90020

Re: Your Request for Advice
Our File No. 88-299

Dear Mr. Singer:

Your letter requesting advice concerning the recently enacted campaign finance reform initiatives (Government Code Section 85100, et seq.) was received on July 26, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

Because of the delayed operative date of most of the provisions of these initiatives, and the numerous inquiries we are receiving relative to implementation, we are attempting to respond to questions regarding interpretation in an organized and efficient fashion. Due to the volume of requests and complexity of the issues involved, we will answer your question in a timely manner, but not within the usual twenty-one working days. (Government Code Section 83114(b).)

If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. 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,


Gregory W. Baugher
Executive Director

GWB:plh:2173LTR