



California Fair Political Practices Commission

October 2, 1989

Honorable Tom Powers
Contra Costa County Supervisor
100 - 37th Street, Room 270
Richmond, CA 94805

Re: Your Request for Advice
Our File No. A-88-363

Dear Mr. Powers:

In September 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.

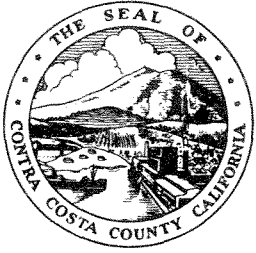
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If you have any questions concerning this letter, please contact the Commission's Technical Assistance and Analysis Division at (916) 322-5662.

Sincerely,

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

Kathryn E. Donovan
General Counsel



**BOARD OF SUPERVISORS
CONTRA COSTA COUNTY**

F.P.C.
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TOM POWERS
SUPERVISOR, FIRST DISTRICT

September 12, 1988

Mr. John H. Larson, Chairman
Fair Political Practices Commission
428 J Street, #800
Sacramento, CA 95814

Dear Mr. Larson:

As a County Supervisor and local official in California, it is my understanding that my political campaign fund is subject to the guidelines established under Proposition 73 which passed on the June ballot. There are, however, many uncertainties that exist which I hoped you could help clear up.

Question 1: Do I have to spend all of the money in my supervisorial campaign account by the end of the calendar year?

Question 2: Are there any regulations about capital goods that the campaign possesses? For instance, do I have to sell my campaign computer? Will I have to dispose of all campaign assets? Are there any regulations about how these assets can be relinquished other than those already established?

Question 3: Contra Costa County currently has its own county election ordinance (enclosed) which regulates campaigns for county office. Do the new regulations established by Proposition 73 supersede the county rules? Do they nullify the local ordinance?

Question 4: I am considering the possibilities of running for another office, other than county supervisor, in the future and have formed a separate committee to explore this possibility. Is this committee subject to the same regulations that my supervisorial campaign account is under even though it is not an incumbent campaign account?

I understand that you just concluded hearings on Proposition 73 just last week. If some of the answers to these questions are still under discussion, how soon could expect a response. In the meantime, could you please send me any preliminary information on these subjects.

I need your assistance to ensure that I am in full compliance by the end of the year. Thank you for your time and consideration.

Sincerely,

TOM POWERS
Supervisor
First District