



# California Fair Political Practices Commission

February 15, 1989

Leo Himmelsbach  
District Attorney  
County of Santa Clara  
County Government Center  
70 West Hedding St., West Wing  
San Jose, CA 95110

Re: Your Request for Informal Assistance  
Our File No. I-89-035

Dear Mr. Himmelsbach:

You have requested advice regarding the solicitation limit for political fundraising dinners and events pursuant to the provisions of the Political Reform Act (the "Act").<sup>1/</sup> Because your request is general in nature rather than regarding a specific action pending, we treat your request as one for informal assistance.<sup>2/</sup>

## QUESTION

Does Section 85301(a) prohibit candidates from including language in invitations or announcements for political dinners asking a person to purchase a table or block of tickets for an amount in excess of \$1,000?

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<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.

<sup>2/</sup> 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 Regs. Section 18329(c)(3).) We note that you telephoned us on January 19, 1989 with an inquiry, more specific than that raised in your letter, which applied to the actions of a certain individual. Since the individual has already acted, this reply does not address that specific action. (Regulation 18329(c)(4)(A).) A copy of Regulation 18329 is enclosed.

### CONCLUSION

Section 85301(a) prohibits candidates, their campaign treasurers and agents from soliciting any of the entities defined as a "person" for contributions in excess of \$1,000 in a fiscal year. Therefore any language in invitations or announcements for political dinners and fundraisers soliciting a person for a table or block of tickets which exceeds \$1,000 is prohibited.

### FACTS

Candidates for public office often hold political dinners or other fundraising events for which tickets are sold. Attempts are often made to sell an entire table or block of tickets, which in many cases may cost over \$1,000. Purchase of these tickets is usually solicited by written invitations or announcements.

### ANALYSIS

Section 85301(a) provides in pertinent part:

(a) No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit or accept any contribution ... which would cause the total amount contributed ... by that person to that candidate, including contributions ... to all committees controlled by the candidate, to exceed one thousand dollars (\$1,000) in any fiscal year.

Section 85102(b) defines "person" as:

(b) ... an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and labor organization.

Therefore, a candidate or his or her campaign treasurer violates the provisions of Section 85301(a) if he or she solicits a campaign contribution in excess of \$1,000 from any of the entities set forth in Section 85102(b).

Under general agency law, the statutes outlining contribution limitations also pertain to solicitations made by any agent of the candidate. California Civil Code Section 2330 states in pertinent part that:

... an agent represents his principal for all purposes within the scope of his actual or ostensible authority, and all the rights and liabilities which would accrue to the agent from transactions within such limits ... accrue to the principal.

Therefore, a principal is bound by the acts of his agent. (Majors v. Butler (1950) 99 Cal.App.2d 370, 221 P.2d 994.) A principal is liable for any acts or conduct of an agent which is fairly and reasonably an incidental event or circumstance connected with assigned work. (Tyson v. Romey (1948) 88 Cal.App.2d 752, 199 P.2d 721.) Since solicitation of campaign contributions is reasonably connected with work performed by the agent of a candidate, the statutory contribution limits apply to solicitations made by an agent on behalf of a candidate.

Based upon the facts you have presented, it is clear that a candidate's solicitations in the form of invitations or announcements that ask a "person" to purchase tickets at a particular event that exceed \$1,000 in price violate the provisions of Section 85301(a).

Although your inquiry focuses specifically on Section 85301(a) and solicitations to a "person" by a candidate, please note that candidates can also solicit political committees (defined in Section 85102(c)) and broad based political committees (defined in Section 85102(d)) for contributions which exceed \$1,000.

Section 85303, which pertains to contributions by committees to candidates, states as follows:

(a) No political committee shall make, and no candidate or campaign treasurer shall solicit or accept, any contribution ... which would cause the total amount contributed ... by that committee to that candidate for elective office or any committee controlled by that candidate to exceed two thousand five hundred dollars (\$2,500) in any fiscal year.

(b) No broad based political committee or political party shall make and no candidate or campaign treasurer shall solicit or accept, any contribution ... which would cause the total amount contributed ... by that committee or political party to that candidate or any committee controlled by that candidate to exceed five thousand dollars (\$5,000) in any fiscal year.

Therefore, solicitations by candidates to purchase a table or block of tickets are permissible if the table amount does not exceed \$2,500 for political committees and \$5,000 for broad based political committees.

Invitations or announcements for political fundraisers which are sent by a committee, must identify the name of the committee making the solicitation. Regulation 18523, recently adopted by the Commission but not yet reviewed by the Office of Administrative Law, provides in pertinent part:

Any written solicitation for contributions shall identify the particular controlled committee for which contributions are sought, and shall instruct contributors to designate their contributions for that particular controlled committee.

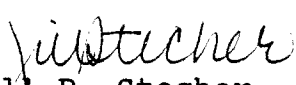
The statutes regarding contribution limitations encompass both solicitation and acceptance of contributions. To ensure that a candidate is in compliance with the solicitation requirements of the Act, we suggest that the invitation or announcement state the contribution limitations pursuant to Proposition 73. To ensure compliance with the acceptance requirement of the Act, a candidate must monitor his or her mailing lists regarding solicitations and actual receipt of contributions.

The second prong of Sections 85301 and 85303 states that no candidate "shall accept any contribution" in excess of the stated limits. To implement this, please note that the Commission recently adopted Regulation 18531 dealing specifically with return of excessive contributions. Although this regulation has not yet been reviewed by the Office of Administrative Law, it provides guidelines if a candidate receives contributions in excess of the contribution limits. The contribution in excess of the limits must be returned prior to deposit or negotiation within certain time parameters set forth in the regulation. (Regulation 18531, copy enclosed.)

I hope this letter answers your question regarding the solicitation limits for political fundraising dinners and events. If you have any questions, please call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Jill R. Stecher  
Counsel, Legal Division

DMG:JRS:ld

Enclosure

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF SANTA CLARA

COUNTY GOVERNMENT CENTER  
70 WEST HEDDING ST., WEST WING  
SAN JOSE, CA 95110  
(408) 299-7400



LEO HIMMELSBACH  
DISTRICT ATTORNEY

January 10, 1989

California Fair Political  
Practices Commission  
Post Office Box 807  
Sacramento, California 95804-0807

JAN 17 9 00 AM '89

Gentlemen:

Political fundraising dinners (or other fundraising events) typically solicit the purchase of tables of tickets, ordinarily ten tickets per table. Indeed every effort is made to get persons to purchase tables rather than individual ticket(s). In recent years, the cost per table has often been in excess of \$1,000. Prices of \$1,250-\$1,500 per table are not unusual for local races and may be substantially more where a statewide race is involved.

Section 85301(a) of the Government Code reads:

"No person shall make, and no candidate for elective office, or campaign treasurer, shall solicit (emphasis added) or accept any contribution or loan which would cause the total amount contributed or loaned by that person to that candidate, including contributions or loans to all committees controlled by the candidate, to exceed one thousand dollars (\$1,000) in any fiscal year."

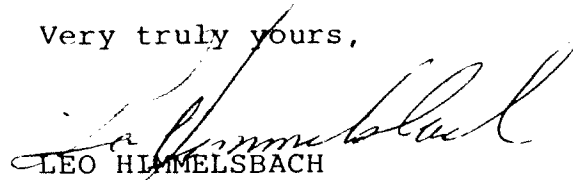
The question raised is, Does Government Code Section 85301(a) prohibit language in invitations or announcements of political dinners asking (soliciting) persons to purchase tables in an amount in excess of \$1,000? It would appear such language may

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constitute a solicitation prohibited by Government Code  
Section 85301(a).

With a new round of fundraisers about to begin, I would  
very much appreciate your answer to the question. An informal  
letter reply would be sufficient.

Very truly yours,



LEO HIMMELSBACH  
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LH/jm

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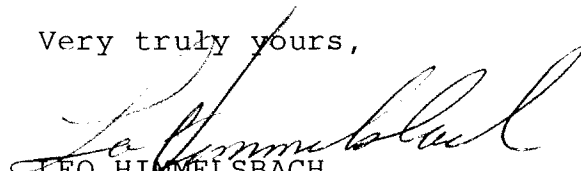
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