



# California Fair Political Practices Commission

March 2, 1989

Patrick Lippert, Treasurer  
The Hayden Committee  
1337 Santa Monica Mall, Suite 311  
Santa Monica, CA 90401

Re: Your Request for Advice  
Our File No. I-89-087

Dear Mr. Lippert:

This is in response to your request for advice relative to the newly enacted provisions of the Political Reform Act (the "Act")<sup>1/</sup> limiting campaign contributions. Since your advice request does not refer to a specific governmental decision, we are treating your question as a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).<sup>2/</sup>

## QUESTION

Pursuant to the newly enacted provisions of the Act, is it permissible for Assemblyman Hayden to continue to pay his campaign staff through an accounting firm and treat such salaries as in-kind contributions to the campaign?

## CONCLUSION

If Assemblyman Hayden uses his personal funds to promote his candidacy, those funds must be deposited in his campaign bank account prior to expenditure. Therefore, he cannot

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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).)

continue to pay his campaign staff through an accounting firm and treat those salaries as in-kind contributions.

#### FACTS

Assemblyman Hayden's campaign staff is paid through his accountants on a payroll basis. The staff salaries are considered an "in-kind" contribution to the Hayden Committee and are listed as such on the campaign filings. You want to know if the recently enacted provisions of the Act require a change in this procedure.

#### ANALYSIS

The payment of salary to a person rendering services to a candidate is an in-kind contribution to the candidate if full and adequate consideration is not received in return. (In re Nielsen (5 FPPC Ops. 18, 20, copy enclosed.) Such a payment is also an expenditure by the person making the salary payment. (Section 82025) Pursuant to Regulation 18423, the employee must spend more than 10 percent of his or her compensated time in a calendar month performing campaign services at the behest of the candidate before the employer makes an expenditure and/or contribution of that employee's services. (In re Nielsen, supra p. 20.)

The newly enacted provisions of the Act do not include a specific change in the reporting of employee services as in-kind contributions. However, the new provisions effectively preclude the reporting of such services as in-kind contributions in the limited situation where those services are a contribution from the candidate to his own campaign.

Section 85301 limits the amount that a person can contribute to a candidate, whether monetary or in-kind. This limitation does not apply to the contribution of the candidate's "personal funds to his or her own campaign account." (Section 85301(b).) However, Section 85201(d) provides: "Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the [campaign] account prior to expenditure." Thus, the exception to campaign contribution limits as to the candidate's own funds is qualified by the requirement that such funds first be deposited in the campaign account.

The language of Section 85201(d) is very broad. Certainly Assemblyman Hayden's personal funds are being utilized to support his candidacy. He has been able to report this contribution as an in-kind contribution under Regulation 18423. However, under Section 85201(d), he now must place his personal funds in the campaign account prior to making an expenditure. Hence, he would not be able to continue his present practice of paying salaries through his

Patrick Lippert, Treasurer  
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accountant and reporting the services as in-kind contributions.

If you have any further questions regarding this matter please contact me at (916) 322-5901.

Very truly yours,

Diane M. Griffiths  
General Counsel



By: Margaret W. Ellison  
Counsel, Legal Division

DMG:MWA:aa

Enclosures

# THE HAYDEN COMMITTEE

1337 Santa Monica Mall, Suite 311  
Santa Monica, CA 90401  
213/451-5733

FPPC  
FEB 3 8 39 AM '89

HAVI SCHEINDLIN, Director

January 27, 1989

California Fair Political Practices Commission  
428 J Street, Suite 800  
P.O. Box 807  
Sacramento, CA 95804-0807

Re: Proposition 73

To whom it may concern,

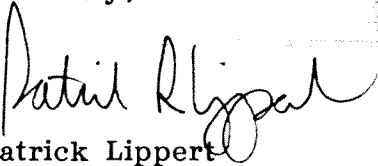
This is a letter to request in writing a ruling concerning the manner in which Assemblyman Hayden pays the salaries of his campaign staff.

Currently, the staff is paid through his accountants on a payroll basis. The staff salaries are considered an 'in-kind' contribution to The Hayden Committee and listed as such on the campaign filings.

Proposition 73 has no restrictions on the limits of monetary or in-kind contributions that a candidate may make to his own campaign committee. Under the rulings of Proposition 73, can Assemblyman Hayden continue paying his staff through the accounting firm?

I look forward to a ruling on this matter. If you have any further questions I can be reached at (213) 451-5733.

Sincerely,



Patrick Lippert  
Treasurer

## THE HAYDEN COMMITTEE

1337 Santa Monica Mall, Suite 311  
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213/451-5733

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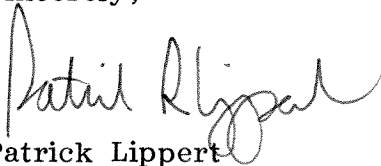
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Sincerely,



Patrick Lippert  
Treasurer



# California Fair Political Practices Commission

February 7, 1989

Patrick Lippert  
Treasurer  
The Hayden Committee  
1337 Santa Monica Mall  
Suite 311  
Santa Monica, CA 90401

Re: Letter No. 89-087

Dear Mr. Lippert:

Your letter requesting advice under the Political Reform Act was received on February 3, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Margaret Ellison an attorney in the Legal Division, directly at (916) 322-5901.

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 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,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths  
General Counsel

DMG:ld