



California Fair Political Practices Commission

May 30, 1989

Honorable Bill Lockyer
Member of the Senate
10th Senate District
State Capitol
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-89-229

Dear Senator Lockyer:

This is in response to your request for advice concerning whether the Political Reform Act^{1/} (the "Act") permits your campaign committee to use campaign contributions to pay for certain costs incurred by your staff members in attending another candidate's fundraiser.

QUESTION

Can one candidate's campaign committee use campaign contributions to pay only for the cost of food consumed by his or her staff members who attend another candidate's fundraiser?

CONCLUSION

A candidate cannot use his or her own campaign contributions to pay for the cost of the food consumed by his or her staff members who attend another candidate's fundraiser.^{2/}

^{1/} 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.

^{2/} Because this issue presents a significant policy question, it will be presented to the Commission for consideration at a meeting in the near future. We will inform you if the Commission directs us to change our advice. In the meantime, we have provided a conservative and cautious interpretation of the Act.

ANALYSIS

Section 85304, which was added to the Act as a result of the passage of Proposition 73 on June 7, 1988, prohibits a candidate or his or her controlled committee from transferring a contribution to any other candidate.

The question presented here is whether one candidate's use of campaign contributions to pay for the cost of food provided at another candidate's fundraiser is a "contribution" under the Act. If it is a contribution, then it is prohibited by Section 85304.

Section 82015 defines "contribution," in pertinent part, as follows:

"Contribution means a payment ... or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes

The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fundraising events....

(Emphasis added.)

Based upon this definition, it is apparent that the Act creates a general rule exempting payments in exchange for full and adequate consideration from classification as contributions. However, Section 82015 goes on to specifically state that payments for tickets to dinners, luncheons and similar fundraising events are contributions.

In doing this, Section 82015 does not exclude that the value of the food and beverages received at the dinner or luncheon from the amount contributed.

Under the rules of statutory interpretation, a general provision of a statute is controlled by a special provision, with the latter being treated as an exception to the general provision. Thus, a specific provision relating to a particular subject will govern though the general provision may be broad enough to include that subject. (Rose v. State (1942) 19 Cal. 2d 713; Estate of Jacobs (1950) 100 Cal. App. 2d 452.

On this basis, the specific provisions of Section 82015, which relate to the payment for tickets at dinners, luncheons and similar fundraising events, must control. Therefore, one candidate's use of campaign contributions to pay for the cost of food consumed by his or her staff members at the fundraiser of another candidate would be considered a contribution under the Act. Since Section 85304 specifically prohibits the transfer of

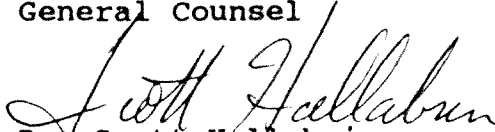
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contributions from one candidate to another, such a payment is prohibited.

Should you have any questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Scott Hallabrin
Counsel, Legal Division

KED:SH:ld

Bill Lockyer Senator

10th S.D.

State Capitol, Sacramento 95814

FPPC

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April 11, 1989

Diane Griffiths
General Counsel
FPPC
428 J Street, Suite 800
Sacramento, CA 95804

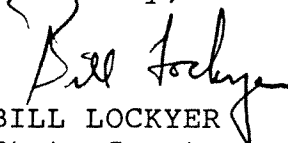
Dear Ms. Griffiths,

I'm writing to request an opinion from the FPPC regarding elected officials' fundraisers.

Can my campaign committee pay for staff members to attend an elected official's fundraiser, if my campaign check will cover only the cost of their food ?

Your attention to this request is greatly appreciated. If you have any, please give me a call.

Sincerely,


BILL LOCKYER
State Senator

BL:eo



California Fair Political Practices Commission

April 18, 1989

Honorable Bill Lockyer
State Senator, 10th Senate District
State Capitol, Room 2032
Sacramento, CA 95814

Re: Letter No. 89-229

Dear Senator Lockyer:

Your letter requesting advice under the Political Reform Act was received on April 17, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Scott Hallabrin 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,

Diane M. Griffiths
Diane M. Griffiths
General Counsel

DMG:plh



88-229

F P P

CITY OF ALAMEDA • CALIFORNIA

CITY HALL • SANTA CLARA AT OAK STREET 94503 • (415) 522-4100

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OFFICE OF THE CITY MANAGER

June 16, 1988

Ms. Margaret Altamirano
Counsel
Fair Political Practices Commission
428 J Street - Suite 800
Sacramento, CA 95814

JUN 20 12 59 PM '88

Re: Proposition 73

Dear Ms. Altamirano:

This letter is forwarded to confirm your telephone conversation with Cheryl Mitchell of my staff on June 15, 1988 regarding provisions of Proposition 73.

Pursuant to your interpretation of the newsletter and mass mailing provision of the recently approved Ballot measure (Proposition 73), the City of Alameda may proceed with its plans to purchase newspaper advertising space to promote the services and accomplishments of our municipal organization. The July 4th Progress Edition will contain photographs of local elected officials and will be paid for with public funds.

In your judgment, as the Progress Edition represents paid newspaper advertising space and is not solely produced, developed and distributed by the City, it is viewed differently than City newsletters and mass mailings and is not subject to the stipulations of Proposition 73.

If we have misconstrued your interpretation please advise. You may call me or Ms. Mitchell at (415) 522-4100, ext. 200 between 8:30 - 5:00 P.M. In addition, please forward a copy of the Fair Political Practices Commission's official interpretation of Proposition 73 upon completion. Thank you for your assistance.

Very truly yours,

Robert L. Wonder
Interim City Manager

RLW:raa



California Fair Political Practices Commission

June 21, 1988

Robert L. Wonder
Interim City Manager
City Hall
Santa Clara at Oak Street
Alameda, CA 94501

Re: 88-229

Dear Mr. Wonder:

Your letter requesting advice under the Political Reform Act was received on June 20, 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.

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:plh