



California Fair Political Practices Commission

May 19, 1989

Lynn Montgomery
Principal Assistant to
Speaker pro Tempore Mike Roos
State Capitol
P.O. Box 942849
Sacramento, CA. 94249-0001

Re: Your Request for Advice
Our File No. A-89-230

Dear Ms. Montgomery:

You have requested confirmation of telephone advice provided to you by Bruce Robeck regarding the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/} Your questions and the advice provided to you by telephone are enumerated below.

(1) The Speaker pro Tempore has a controlled committee ("DC Committee") which was formed prior to January 1, 1989, for the purpose of receiving contributions and making expenditures for certain social events in connection with an annual trip to Washington, D.C. by a delegation of California state senators and assemblymembers. How has Proposition 73 impacted the use of campaign funds and the reporting requirements of the DC Committee?

Any funds which were received by the DC committee prior to January 1, 1989, are restricted and may not be used to support or oppose a candidacy. (Sections 85306; Regulations 18536 and 18536.2, copies enclosed.)

A new committee controlled by the Speaker pro Tempore may not be formed for the purposes of receiving contributions and making expenditures which provide benefits to other California elective officials. (Sections 85202 and 85304.) In lieu of the previous arrangements which have been rendered impermissible by the new requirements, there are at least two alternatives. First, each

^{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.

Lynn Montgomery
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individual legislator could receive contributions in an account which had been established for expenses associated with holding the current office and from which all expenses to the social events would be paid directly by each California state senator or assemblymember. Second, each California state senator or assemblymember could pay directly his or her own share of the costs of the social events by using any restricted funds which each may possess. (Regulation 18536.2.)

(2) A California corporation ("corporation") will be hosting some of the social events in Washington, D.C. in connection with the California legislative delegation trip. Each official who has a disclosure requirement pursuant to Section 87200-87210 or 87300-87302 and receives a gift or gifts aggregating \$50 or more in value in a calendar year must disclose the gift on his or her statement of economic interests. The gift must be valued at fair market value. (Regulation 18726.1, copy enclosed.) A gift from multiple donors must be reported if the total value equals or exceeds \$50; however, when individual donors' share of the gift is less than \$50 each donor does not have to be identified individually. (Regulation 18726.6, copy enclosed.)

(3) The social events which are described in (2) would be considered to be gifts by the corporation to each official and would not be considered to be campaign contributions. (Regulation 18228, copy enclosed.) Since the payment is considered to be a gift, there is no issue of control of a campaign committee as a result of the staff of the Speaker pro Tempore providing information and other minor services to the corporation.

The telephone advice was provided prior to the May 15, 1989 ruling in Service Employees International Union v. Fair Political Practices Commission, U.S. District Court, Eastern Dist. of California, No. CIVS-89-0433 LKK-JFM. In that case, the court granted a preliminary injunction limiting enforcement of certain provisions of Proposition 73. We believe this ruling does not change our advice in the first question addressed in this letter, although the ruling does remove restrictions on the candidate's ability to transfer the funds among his own controlled committees. The ruling also changes the meaning of "restricted funds" for

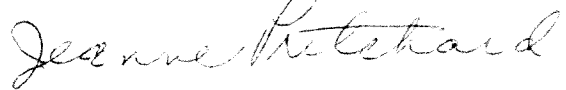
Lynn Montgomery
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purposes of your second question. As a result of the court's ruling, "restricted funds" consist of contributions received prior to January 1, 1989, which would have been in compliance with the limitations of Sections 85301-85303, had those limits been in effect.

If you have further questions, you may call me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

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PO. BOX 942849
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Assembly
California Legislature



MIKE ROOS
SPEAKER PRO TEMPORE
ASSEMBLYMAN, FORTY-SIXTH DISTRICT

April 13, 1989

COMMITTEES
AGING AND LONG TERM CARE
INTERNATIONAL TRADE AND
INTERGOVERNMENTAL
RELATIONS
NATURAL RESOURCES
WAYS AND MEANS
CHAIRMAN,
WAYS AND MEANS
SUBCOMMITTEE NO. 5

Bruce Robeck
Political Consultant II
Fair Political Practices Commission
428 J Street, 7th Floor
Sacramento, California 95814

Dear Mr. Robeck:

Every year since Jesse Unruh's speakership, a delegation of California State Senate and Assembly members have traveled to Washington, D. C. to meet with members of the Administration and Congress on mutual issues of concern.

While the California delegation has been in Washington D. C., businessmen and women, lobbyists and others have sponsored social functions to honor California state and federal representatives.

After consulting with the Fair Political Practices Commission, a campaign committee controlled by the Speaker pro Tempore was formed to accept contributions from those who wished to co-sponsor these functions.

The committee received contributions and made expenditures for these social events, and all receipts and expenditures were reported by the committee in accordance with the provisions of the Political Reform Act of 1974.

At the time the committee was formed, the Commission advised the committee treasurer that an individual who had disclosure requirements pursuant to Government Code Sections 87200-87210 would have no requirement to report as "gifts" on their annual Statements of Economic Interests any benefits received from activities paid for by the committee.

In addition, the Commission advised that those prohibited

from making "gifts" pursuant to Government Code Sections 86200-86205 could make or arrange for contributions to this committee.

In several recent conversations I have had with you, we discussed the fact that after the passage of Proposition 73, on January 1, 1989, all committees controlled by officeholders became subject to stringent contribution limitations and other restrictions. You informed me that according to the Commission's interpretations of Proposition 73, the Speaker pro Tem's committee described above became a "restricted" committee that could no longer receive contributions.

It was uncertain at the time of our conversations whether or not a new controlled committee could be formed for the purposes described above because of pending court actions and continuing Commission interpretations. However, it was clear that if a new controlled committee could be formed after January 1, 1989, all contributions to that committee would be subject to the limitations imposed by Proposition 73.

In addition, such contributions would be required to be cumulated with those received by other committees controlled by that officeholder for the purposes of determining when the contribution limits had been reached.

Please confirm your advice as stated above.

I have recently been informed that a California non-profit mutual benefit corporation will be hosting some social events in conjunction with this year's trip to Washington D. C. No officeholders are on its board of directors, nor are they participating in making any arrangements on behalf of the corporation. Certain individual and corporate sponsors will provide the necessary funding for the corporation.

The president of the non-profit corporation has informed me that, pursuant to Commission advice, "public officials" will be required to report any benefits received at their hosted events as "gifts" from those individuals and corporations who made contributions to their non-profit corporation. In addition, the president has stated that individuals registered to lobby in California will not make or arrange any contributions to the non-profit corporation.

You have stated that Commission regulations require public

officials in attendance to list each participating sponsor as a donor for the full "fair market value" of any benefits received.

Please confirm that this is the correct reporting method for public officials receiving such "gifts."

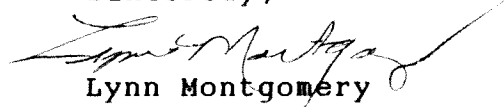
After reviewing copies of past public disclosure statements filed by the Speaker pro Tempore's controlled committee described above, employees of the non-profit corporation have asked for clarifying information regarding certain committee expenditures. They also have requested a list of those members who will be traveling to Washington D. C. for the purpose of issuing invitations to social events they will be hosting.

In addition, they have asked legislative and congressional staff who are familiar with the California representatives to assist them with check-in and seating arrangements one of the social events.

Please confirm that if the Speaker pro Tempore's staff provides information and assistance to the corporation as described above, such activity would not make the corporation a "controlled" committee.

I would appreciate your reply as soon as possible. If you require any additional information or clarification, please do not hesitate to call me.

Sincerely,



Lynn Montgomery
Principal Assistant
to the Speaker pro Tempore



California Fair Political Practices Commission

April 19, 1989

Lynn Montgomery
Assistant to Assemblmember Mike Roos
State Capitol
P.O. Box 94249-0001

Re: Letter No. 89-230

Dear Ms. Montgomery:

We received your letter requesting confirmation of advice under the Political Reform Act on April 17, 1989. Your letter has been assigned to our Technical Assistance and Analysis Division for response. If you have any questions, you may contact that division directly at (916) 322-5662.

If the letter is appropriate for confirmation without further analysis, we will attempt to expedite our response. A confirming response will be released after it has gone through our approval process. If the letter is not appropriate for this treatment, the staff person assigned to prepare the response will contact you shortly to advise you. In such cases, the normal analysis, review and approval process will be followed.

You should be aware that your letter and our response are public records which may be disclosed to any interested person upon receipt of a proper request for disclosure.

Sincerely,

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

Kathryn E. Donovan
Acting General Counsel

KED:plh:confadv1

84-230

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STATE CAPITOL
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WAYS AND MEANS

CHAIRMAN,
WAYS AND MEANS
SUBCOMMITTEE NO. 5



MIKE ROOS
SPEAKER PRO TEMPORE
ASSEMBLYMAN, FORTY-SIXTH DISTRICT

May 22, 1989

Kathryn E. Donovan
Fair Political Practices Commission
Acting General Counsel
428 J Street, Suite 800
Sacramento, California 95814

May 23 2:17 PM '89
FPPC

Dear Ms. Donovan:

I received your correspondence dated April 17 regarding my request for confirming advice sent to Bruce Robeck on April 13, 1989.

Since Mr. Robeck has left the Commission, I assume that another staff member has been assigned to respond to my advice request. I have not heard from that individual. Therefore, pursuant to your letter dated April 19, I assume that confirming advice is appropriate.

Please advise me as to when I can expect confirming advice.

Sincerely,

Lynn Montgomery
Principal Assistant to the
Speaker pro Tempore

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April 13, 1989

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