



California Fair Political Practices Commission

June 23, 1989

Margaret M. Lee
Treasurer, Citizens for Mike Woo
632 Alta Vista Circle
South Pasadena, CA 91030

Re: Your Request for Advice
Our File No. A-89-338

Dear Ms. Lee:

This is in response to your letter requesting advice on behalf of Los Angeles City Councilmember Michael Woo concerning application of the contribution limits of the Political Reform Act (the "Act")^{1/} to the Los Angeles City Charter's contribution limits.

On May 25, 1989, we provided you with specific advice concerning Councilmember Woo's campaign bank accounts under the Proposition 73 amendments to the Act. Because your advice request dealt with a technical and a legal issue, we elected to separate your letter into two requests. This letter responds to your question concerning the contribution limits of the Los Angeles City Charter as applied to city council elections.^{2/}

QUESTION

Are the Los Angeles City Charter contribution limits applicable to city council elections superseded by the contribution limits set forth in the Act?

^{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/} The Los Angeles City Charter sets up different limits for candidates for mayor, city attorney and city controller. This analysis is confined to the contribution limits applicable to City Councilmember Woo.

CONCLUSION

The Los Angeles City Charter contribution limits applicable to city council elections are lower than the limits set forth in the Act. Therefore, the city charter controls in Los Angeles City Council elections and in all Los Angeles city special elections. The Los Angeles City Charter provisions as applied to contributions from committees to city council candidates, and contributions from a person to a committee supporting or opposing candidates for city council, are below the applicable limits of the Act and are therefore valid in respect to Los Angeles City Council elections. Finally, the Los Angeles City Charter provision which limits the contribution of a candidate's personal funds, and aggregate contribution limits on the total amount a person may contribute in a single election, are stricter than the limitations in the Act and control in Los Angeles City Council elections.

FACTS

Councilmember Woo is an incumbent city councilmember for the 13th district of the City of Los Angeles. He is currently contemplating the solicitation of contributions for future elections. As the treasurer of Councilmember Woo's 1989 campaign committee, you have asked whether the councilmember may accept contributions in excess of the limits set forth in the Los Angeles City Charter.

ANALYSIS

The Proposition 73 amendments to the Act provide that contributions to candidates for elective office must comply with the contribution limits set forth in Sections 85301, 85303 and 85305. Contributions from a person to a candidate are limited to \$1,000 each fiscal year.^{3/} (Section 85301.) Contributions from a political committee to a candidate are limited to \$2,500 each fiscal year, and contributions from a broad based political committee or political party to a candidate are limited to \$5,000 per fiscal year. (Section 85303.) Contributions from a person to a political committee, broad based political committee or political party are limited to \$2,500 in any fiscal year. (Section 85303.)

However, Section 85101 provides:

(a) Nothing in this chapter shall affect the validity of a campaign contribution limitation in effect on the operative date of this chapter which was enacted by a local governmental agency and imposes lower contribution limitations.

^{3/} The fiscal year is July 1 through June 30. (Section 85102(a).)

(b) Nothing in this chapter shall prohibit a local governmental agency from imposing lower campaign contribution limitations for candidates for elective office in its jurisdiction.

Thus, the contribution limits of the local law must be examined on a provision-by-provision basis to determine whether its provisions establish higher contribution limits than the Act. Where the provisions of a local law limiting campaign contributions do establish higher contribution limits than the Act, the local law will be superseded. (Riddle Advice Letter, No. A-88-409, copy enclosed.) Conversely, where local limits are consistent with the Act, they will be unaffected. (Gallo Advice Letter, No. I-88-454, copy enclosed.)

Definitions

The Los Angeles City Charter defines a "person" as an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (Subdivision 1.) The Act, however, provides a different definition of "person" for the purposes of the contribution limits. The Act defines a "person" as an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and labor organization. (Section 85102(b).) Thus, the Los Angeles City Charter's definition of "person" differs from the definition in Section 85102(b) in two respects: first, the Los Angeles City Charter definition does not expressly include labor unions within its definition; and second, the charter's definition includes persons acting in concert within its definition of a "person."

However, neither of these differences would appear to result in contributions in excess of the contribution limits of the Act. Labor unions appear to be included in the definition of "person" in the Los Angeles City Charter, since a labor union is an "organization or group of persons acting in concert." In addition, by treating persons acting in concert as a single person, the Los Angeles City Charter would provide for lower limits per individual where separate persons were acting in concert.^{4/} Thus, the different definition of "person" contained in the Los Angeles City Charter does not allow contributions in excess of the limits of the Act, and is therefore valid.

^{4/} At its June meeting, the Commission adopted Regulation 18531.5 (copy enclosed) which provides for cumulation of contributions that are directed and controlled by the same person for the purposes of the contribution limits of the Act. This regulation is pending review by the Office of Administrative Law.

Contributions from Persons to Candidates

The Los Angeles City Charter provides that a person may contribute up to \$500 to a candidate for city council in each primary and general election.^{5/} (Subdivision 5.) The primary election is held in April and the general municipal election is held in June; therefore, both fall within the same fiscal year. Under the Los Angeles system, the maximum a city council candidate may receive in a fiscal year is \$1,000. This is consistent with the applicable contribution limits of the Act. Therefore, the Los Angeles City Charter contribution limits control in Los Angeles City Council elections. (Section 85301.)

Moreover, the Los Angeles City Charter contribution limits also control in Los Angeles city special elections. Under the Los Angeles City Charter, the definition of "election" is the same as that set forth in Section 82022 of the Act. (Subdivision 1.) The Act defines "election" as: "... any primary, general, special or recall election held in this state. The primary and general or special elections are separate elections for purposes of this title." Thus, the contributor may contribute an additional \$500 to a candidate for city council for a Los Angeles special election.

This is lower than the Act's limit on special elections. Under the Act a contributor may contribute \$1,000 to a candidate in a special election or special run-off election in addition to the basic contribution limits in Sections 85301 and 85303. (Section 85305.) Since the Los Angeles City Charter's contribution limits per special election are lower than the Act's limit per special election, the charter controls in Los Angeles city special elections.

Contributions To and From Committees

The Los Angeles City Charter treats political committees as persons for the purposes of the contribution limits. This creates, in effect, a stricter contribution limit than the Act provides. Under the Los Angeles City Charter the maximum amount that a committee can provide, under the definition of "person," to a candidate for city council would be \$500 per election, or \$1,000 in a fiscal year. The Act provides larger limits for contributions to candidates from political committees and broad based

^{5/} The Act's definition of contribution includes loans. (Section 82015.) Subdivision 10 provides that loans are subject to the same limits as contributions and shall be counted against the contribution limitations applicable to the candidate. Thus, the Act and the Los Angeles City Charter are consistent with respect to their treatment of loans.

political committees. (Section 85303.) Therefore, the Los Angeles provisions as applied to contributions from committees to city council candidates is valid. (Commission Memorandum re: The Effect of Proposition 73 on Local Ordinances, copy enclosed.)

The Los Angeles City Charter limits total contributions from a person to a candidate for city council, including all contributions to committees supporting or opposing candidates for city council, to \$500 per election. (Subdivisions 5.) In addition, subdivision 9 of the charter limits contributions to committees that make independent expenditures in support of or opposition to a candidate for city council to \$500. Thus a committee supporting a candidate for city council could receive a maximum of \$1,000 from one person in a fiscal year. This is far below the \$2,500 limit of the Act in Section 85302 and is therefore also valid in respect to Los Angeles City Council elections.

Aggregate Contribution Limits and Limits on Use of Personal Funds

The Los Angeles City Charter provides limits on the contribution of a candidate's personal funds, and aggregate contribution limits on the total amount a person may contribute in a single election. (Subdivisions 8 and 12.) The Act does not provide limitation on either the use of a candidate's personal funds, or the aggregate amount a person may contribute in respect to a single election. Therefore, the Los Angeles City Charter limits are actually stricter than the limitations in the Act and control in Los Angeles City Council elections. (Commission Memorandum re: The Effect of Proposition 73 on Local Ordinances.)

In summation:

1. The Los Angeles City Charter limits applicable to city council candidates is consistent with the applicable contribution limits of the Act and therefore controls in Los Angeles City Council elections.
2. The Los Angeles City Charter's contribution limit as applied to city council candidates in special elections is lower than the Act's limit on special elections and therefore controls in Los Angeles City Council elections.
3. The Los Angeles City Charter's limit on contributions to and from political committees in Los Angeles City Council elections is below the limits provided in the Act and therefore controls in Los Angeles City Council elections.
4. The Los Angeles City Charter's provision of limits on the contribution of a candidate's personal funds and aggregate contribution limits on the total amount a person may

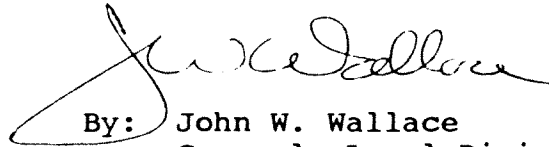
File No. A-89-338
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contribute in a single election are valid because they provide a lower limit on campaign contributions than the Act.

I trust that this answers your questions. If you have any further questions regarding this matter, please feel free to contact this office at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel

A handwritten signature in cursive script, appearing to read "John W. Wallace". The signature is written in dark ink and is positioned above the typed name and title.

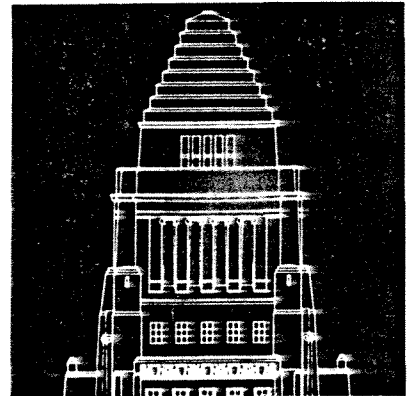
By: John W. Wallace
Counsel, Legal Division

KED:JWW:plh

Enclosures

Councilman Michael Woo

City of Los Angeles
13th District



April 25, 1989

Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Re: "Citizens for Mike Woo" - ID# 861562

Dear Ladies and Gentlemen:

Enclosed is a copy of a letter sent to the City Attorney in Los Angeles. We asked the City Attorney for advice regarding incumbent and non-incumbent activities, in addition to proper handling of contributions in excess of \$500.

We need your advice regarding the same issues because we must not be in conflict with either state or local laws. We would greatly appreciate an expeditious reply to our questions. Please mail your reply to the Committee's address, 632 Alta Vista Circle, So. Pasadena, CA 91030.

Thank you for your attention to this.

Cordially,

CITIZENS FOR MIKE WOO

Margaret M. Lee
Treasurer

enclosure

Not printed or mailed at public expense

Chair
Transportation and Traffic Committee
Vice Chair
Planning and Environment Committee
Member
Charter and Elections Committee

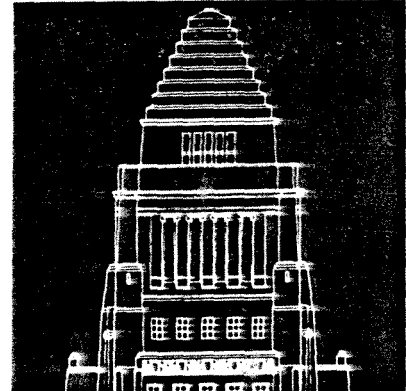
Mailing Address
City Hall Room 239
200 North Spring Street
Los Angeles, CA 90012
(213) 485-3353

District Offices
4640 Hollywood Boulevard
Los Angeles, CA 90027
(213) 485-6471
12229 Ventura Boulevard
Studio City, CA 91604
(818) 989-8099

501-1989 election

Councilman Michael Woo

City of Los Angeles
13th District



April 19, 1989

Mr. Tony Alperin
Office of the City Attorney
Room 1700, City Hall
200 N. Spring Street
Los Angeles, CA 90012

Dear Mr. Alperin:

In planning for future activities, we need advice on a number of questions concerning the structure of funds and committees.

We currently maintain two separate bank accounts that correspond with our two committees. We used the "Friends of Michael Woo" account to pay 1985 election debt. Also, we dispensed funds for general overhead items such as subscriptions and advertisements from this account. We exhausted this account where a balance less than \$50 remains. We used the "Citizens for Mike Woo" account for 1989 campaign re-election expenses. We solicited contributions for this committee applying the local restriction of accepting no more than \$500 per entity per election. Expenses paid for from this account included items directly related to the campaign and re-election of the Councilman.

For the situations below where we would like to raise and expend funds, how shall we organize our funds and committees? Can we continue to use the accounts now in operation? Also, what documents must we file? What sorts of restrictions apply?

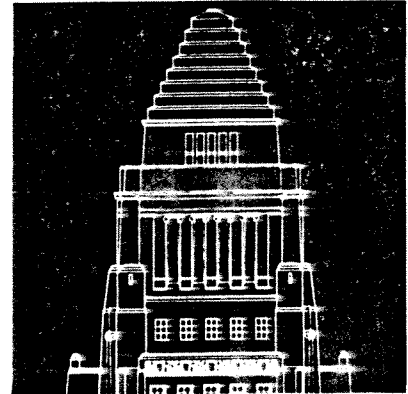
For on-going Council District #13 activities, i.e., 1993 re-election purposes.

For on-going non-Council District #13 activities. Examples of such expenditures might include state-wide fundraising activities, travel costs, subscriptions, and advertisements.

Chair	Campaign Headquarters	City Hall, Room 218	District Offices:
Governmental Operations Committee	6464 Sunset Boulevard	200 North Spring Street	4640 Hollywood Boulevard
Vice Chair	Lobby Level	Los Angeles, CA 90012	Los Angeles, CA 90027
Planning and Environment Committee	Hollywood, CA 90028	(213) 485-3353	(213) 485-6471
Member	(213) 962-8014		12229 Ventura Boulevard
Transportation and Traffic Committee			Studio City, CA 91604
			(818) 989-8099

Councilman Michael Woo

City of Los Angeles
13th District



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In addition, we have an immediate need to know how to handle donors wishing to contribute in excess of their \$500 maximum. Can we accept their donation? What restrictions apply and under what committee would we deposit these funds?

Please feel free to call me at (213) 840-4277 during business hours should you need additional information. The Councilman's Chief Deputy, Larry Kaplan, can also respond to any questions you may have (213) 485-3353.

Thank you for your attention to these questions.

Cordially,

CITIZENS FOR MIKE WOO
FRIENDS FOR MICHAEL WOO

Margaret M. Lee
Treasurer

cc: L. Kaplan
B. Greaves
FPPC

Chair
Governmental Operations Committee
Vice Chair
Planning and Environment Committee
Member
Transportation and Traffic Committee

Campaign Headquarters
6464 Sunset Boulevard
Lobby Level
Hollywood, CA 90028
(213) 962-8014

City Hall, Room 218
200 North Spring Street
Los Angeles, CA 90012
(213) 485-3353

District Offices:
4640 Hollywood Boulevard
Los Angeles, CA 90027
(213) 485-6471
12229 Ventura Boulevard
Studio City, CA 91604
(818) 989-8099



California Fair Political Practices Commission

May 25, 1989

Margaret M. Lee, Treasurer
Citizens for Mike Woo
632 Alta Vista Circle
So. Pasadena, CA 91030

Re: Your Request for Advice
Our File No. A-89-257

Dear Ms. Lee:

You have requested advice on behalf of Los Angeles Councilmember Mike Woo concerning the campaign provisions of the Political Reform Act.^{1/}

FACTS

Mr. Woo currently maintains two bank accounts and two controlled committees. The Friends of Michael Woo account has been used to pay 1985 election debts and for officeholder expenses. The Friends of Michael Woo account has a balance of less than \$50. The Citizens for Mike Woo account has been used for expenses associated with his 1989 reelection campaign. Our records indicate that Mr. Woo has filed one Candidate Intention Statement (Form 501) and one Campaign Bank Account notice (Form 502) in connection with the 1989 election.

QUESTIONS

1. How does Proposition 73 affect the two bank accounts and committees with regard to paying future officeholder expenses and expenses in connection with Mr. Woo's 1993 reelection campaign?
2. Can Mr. Woo accept contributions in excess of the City of Los Angeles' \$500 contribution limit? If yes, what restrictions apply and into which account should the funds be deposited?

^{1/}Government Code Section 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.

CONCLUSIONS

1. Assuming from the facts in your letter that the Citizens for Mike Woo account is the account for which he filed Forms 501 and 502 in connection with his 1989 election, funds left over in that account may be used to pay officeholder expenses and, if desired, new funds may be solicited for such expenses under the provisions of Proposition 73.

The Friends of Michael Woo account may be designated for use in connection with his 1993 reelection campaign or any future election. Form 501 must be filed prior to soliciting any funds for this account. Form 502 must also be filed designating the account for a particular election. If the Friends of Michael Woo account is designated for use in connection with a future election to his current seat on the Los Angeles City Council, in addition to paying expenses in connection with that election, Mr. Woo may use the funds to pay officeholder expenses.

The contribution limits contained in Proposition 73 will apply in the aggregate to all of Mr. Woo's campaign accounts.

2. The Commission is currently considering the issue of how Proposition 73 will affect contribution limitations contained in local ordinances. Therefore, we will not provide an answer to your second question at this time. See the following analysis for a discussion of how contributions must be solicited and deposited, and how contributions which exceed the state contribution limitations must be handled.

ANALYSIS

Proposition 73, passed by the voters in the June 1988 state primary election, amended the Political Reform Act by imposing contribution limitations and other new restrictions on candidates, officeholders and committees.

With regard to candidates and officeholders, Proposition 73 requires the filing of a statement of intention to be a candidate prior to solicitation of any contributions, requires establishment of a bank account and notification of the bank address and account number, and imposes various restrictions on the deposit and expenditure of funds from the bank account. (Sections 85200-85202.)

The Commission has adopted several regulations (copies enclosed) to clarify how candidates and officeholders may comply with these new requirements. These include:

Regulation 18520--Candidates and officeholders may file statements of intention for more than one office, but contribution limits apply to the aggregate amount contributed to all offices for which the candidate has filed.

Regulation 18521--Candidates must establish separate controlled committees for each specific office identified in candidate intention statements once \$1,000 in contributions is received.

Regulation 18523--A candidate with more than one controlled committee who receives a contribution not designated for a particular committee may allocate the contribution to any one of the controlled committees. The regulation describes the procedures for allocation and deadlines for allocation.

Regulation 18523.1--Written solicitations for contributions must specify the controlled committee for which contributions are sought. At its May 2 meeting, the Commission amended this regulation to add that written solicitations also must identify the specific office and the particular election for which contributions are sought.

Regulation 18524--Allows candidates to transfer funds from a designated campaign account to certificates of deposit, savings accounts and other similar interest-bearing accounts; allows candidates to obtain credit cards and charge accounts for campaign bank accounts; allows candidates to establish \$100 petty cash fund for each campaign bank account.

Regulation 18525--Clarifies which campaign-related expenses must be paid out of an account designated for a future election, and allows payment of officeholder expenses out of any account designated for a current office or for reelection to that same office.

Regulation 18526--Allows candidate-controlled committees to reimburse volunteers and campaign employees for certain expenses. Also allows reimbursement of campaign consultants under certain circumstances.

Regulation 18531--Establishes procedures for returning contributions which exceed the state contribution limits.

Please note that some of the above regulations may be affected by the recent ruling in the case of Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission, U.S. District Court, Eastern District of California, Case No. C1VS-89-433 LKK-JFM. Among other things, the court ruled that the Commission is preliminarily enjoined from enforcing Proposition 73's prohibition against the transfer of contributions from one candidate's controlled committee to his or her other controlled campaign committees. These regulations will be revised accordingly if the injunction becomes permanent.

Also enclosed is the Commission's "Interim Information Manual on Proposition 68 and Proposition 73."

Margaret M. Lee
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You should expect a response to your second question in the near future.

Please call me at (916) 322-5662 if you have additional questions.

Sincerely,

Kathryn E. Donovan
General Counsel

Carla Wardlow

By: Carla Wardlow
Political Reform Consultant

Enclosures