

California Fair Political Practices Commission

July 7, 1989

Graham A. Ritchie
Simmons, Ritchie, Segal and Stark
615 So. Flower Street
Suite 1700
Los Angeles, CA 90017-2859

Re: Your Request for Advice
Our File No. A-89-353

Dear Mr. Ritchie:

You have requested advice on behalf of the Malibu Committee For Incorporation (the "Committee") concerning the campaign provisions of the Political Reform Act of 1974.¹

QUESTION

Is the Malibu Committee For Incorporation required to file a statement of organization under Section 84101?

CONCLUSION

The Malibu Committee For Incorporation is not required to file a statement of organization until such time as it has received \$1,000 within a calendar for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure.

FACTS

According to our telephone conversation of June 12, 1989, the only contributions The Malibu Committee For Incorporation has received have been to encourage the Los Angeles County Board of Supervisors to place the question of incorporation of Malibu on the ballot for a vote of the public. No contributions have been received to influence or attempt to influence the voters in the qualification or passage of any ballot measure.

ANALYSIS

Section 84101 requires every person or organization which qualifies as a committee under Section 82013(a) to file a

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.

Graham A. Ritchie
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statement of organization (Form 410, copy enclosed) with the Secretary of State within 10 days. Section 82013(a) states that a committee exists when any person or combination of persons "receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year."

Section 82015 defines a "contribution" as "a payment, a forgiveness of a loan, a payment of a loan by a third party, 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." Regulation 18215 provides, in part, that:

A payment is made for political purposes if it is:

(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure...

An incorporation proposal which is presented to the local agency formation commission and board of supervisors is not a measure until the board of supervisors places the proposal on the ballot. (In re Fontana (1976) 2 FPPC Ops. 25, copy enclosed.) Consequently, forming a committee is not required prior to the placement of the proposal on the ballot by the board of supervisors unless contributions of \$1,000 or more are received in a calendar year for the purpose of supporting or opposing the ballot measure. If a group has received funds in order to support or oppose the actions of the local agency formation commission or the board of supervisors and chooses to use any surplus funds toward supporting or opposing the ballot measure, any surplus would be counted toward the \$1,000 threshold. Once the \$1,000 threshold has been met, you will have to file the enclosed Form 410 with the Secretary of State's office within 10 days. (Section 84101.)

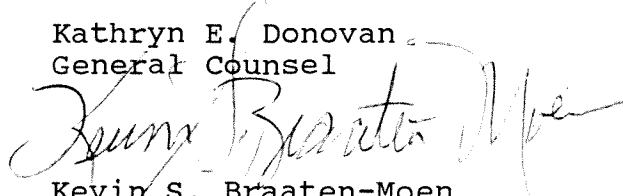
I would also like to emphasize that the committee's first reporting obligations may include more than contributions received and expenditures made after the proposal is placed on the ballot. The initial disclosure statement must include contributions received and expenditures made in anticipation of the measure being placed on the ballot. (Wanamaker Advice Letter, No. A-88-146, copy enclosed.)

Graham A. Ritchie
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If you have additional questions, please call me at (916)
322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Kevin S. Braaten-Moen
Political Reform Consultant

Enclosures

LAW OFFICES

SIMMONS, RITCHIE, SEGAL AND STARK

SUITE 1700

615 SOUTH FLOWER STREET

LOS ANGELES, CALIFORNIA 90017-2859

TELEPHONE (213) 624-7391

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FREDERICK L. SIMMONS
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CITY OF INDUSTRY OFFICE
15660 STAFFORD STREET
P. O. BOX 3886
CITY OF INDUSTRY, CALIFORNIA 91744
TELEPHONE (818) 333-1480
FAX (818) 633-4921

June 5, 1989

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

Gentlemen:

I represent the Malibu Committee For Incorporation. The Committee has proceeded to the point where the Local Agency Formation Commission of Los Angeles County has approved the incorporation and has referred it to the Board of Supervisors of Los Angeles County for the purpose of setting an election. The Board of Supervisors has not yet acted to set the election for incorporation.

The Committee wishes to comply with all of the requirements of the Political Reform Act of 1974 as amended, and in particular desires to file appropriate statements as a committee when required by law.

The Malibu Committee For Incorporation has received contributions in excess of \$1,000 in support of the incorporation effort. I have been furnished with an opinion from the FPPC (File No. A-88-146) which appears to indicate that no statement of organization has to be filed and no reports need to be filed until the Board of Supervisors takes the necessary action to submit the proposition to the voters. (See copy of opinion attached, referring to the Jurupa Cityhood Committee).

I would appreciate it if you would send me the necessary forms for filing a statement of organization under Section 84101 of the Government Code. Please advise me if it is necessary to make any filing of a statement of organization or any report of receipts and expenditures prior to the anticipated action by the Los Angeles County Board of Supervisors to set an election date and approve this proposition for the ballot.


California Fair Political Practices Commission
June 5, 1989

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Unless you advise me to the contrary I will proceed under the assumption that no filing need be made of a statement of organization and no report of expenditures need be filed until that contemplated action by the Board of Supervisors.

Thank you for your cooperation.

Yours very truly,


Graham A. Ritchie

GAR/kw
enclosure

cc: Mr. Walter Keller, Co-Chairman
Ms. Carolyn Van Horn, Co-Chairman



California
Fair Political
Practices Commission

April 29, 1988

Cliff Wanamaker
Jurupa Cityhood Committee
3510 Novak Street
Riverside, CA 92509

RE: Your Request for Advice
Our File No. A-88-146

Dear Mr. Wanamaker:

You have requested advice regarding the campaign provisions of the Political Reform Act of 1974 (the "Act").^{1/}

QUESTIONS

1. Must the Jurupa Cityhood Committee register with the Secretary of State as a recipient committee?
2. What requirements does the committee have for reporting its receipts and expenditures in connection with attempting to place an incorporation proposal on the ballot?

CONCLUSIONS

- 1. The Jurupa Cityhood Committee must register with the Secretary of State as a recipient committee when it has received contributions of \$1,000 or more which will be used to support the passage of the measure.
2. The committee need not report its receipts or expenditures until the question of incorporation has been approved for the ballot by the Board of Supervisors. It is at this time that the proposal will become a "measure." However, receipts and expenditures received and spent for the purpose of urging the voters to vote for the measure must be reported on the committee's first campaign report.

^{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.

FACTS

The Jurupa Cityhood Committee has been formed in order to place the question of incorporation of Jurupa on the ballot. The committee has hired a consultant to prepare a feasibility study, is planning a petition drive, and has begun raising funds. The proposal has not been considered by the Riverside Board of Supervisors.

The committee anticipates that the proposal will be on the November 1989 ballot.

ANALYSIS

The Act requires any person or combination of persons which receives \$1,000 or more to support or oppose candidates or measures to file a statement of organization with the Secretary of State and to report their receipts and expenditures. (Sections 82013(a), 84101, 82047.5.) However, the incorporation proposal does not become a "measure" until the board of supervisors takes the action necessary to submit the proposition to the voters. (In re Fontana (1976) 2 FPPC Ops. 162.)

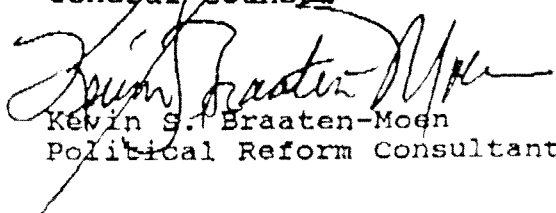
Although the committee does not have reporting obligations until after the proposal is ordered placed on the ballot, this does not mean that its first campaign statement will include only contributions received and expenditures made after that action is taken by the board of supervisors. The committee's initial campaign statement must include contributions received and expenditures made in anticipation of the measure being placed on the ballot, even if such contributions and expenditures were made before the board of supervisors actually placed the proposal on the ballot. (In re Fontana, supra.) For example, if the committee makes expenditures to urge the voters to vote for the proposal once it is placed on the ballot, the expenditures and the money received to make the expenditures must be reported on the committee's first campaign statement.

If you have additional questions, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

By:


Kevin G. Braaten-Moen
Political Reform Consultant

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Graham A. Ritchie

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cc: Mr. Walter Keller, Co-Chairman
Ms. Carolyn Van Horn, Co-Chairman



California Fair Political Practices Commission

April 29, 1988

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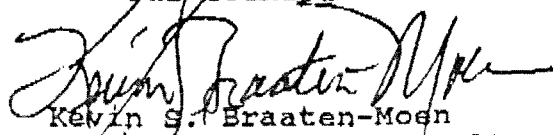
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If you have additional questions, please call me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

By:


Kevin S. Braaten-Moyn
Political Reform Consultant



California Fair Political Practices Commission

June 8, 1989

Graham A. Ritchie
Simmons, Ritchie, Segal & Stark
615 South Flower Street, Suite 615
Los Angeles, CA 90017-2859

Re: Letter No. 89-353

Dear Mr. Ritchie:

Your letter requesting advice under the Political Reform Act was received on June 7, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

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 the 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,

Jeanne Pritchard

Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

by jpb

JP:plh