



California Fair Political Practices Commission

July 14, 1989

Shelley A. Jarvis
Treasurer
Assembly Republican PAC
807 Roundtree Court
Sacramento, CA 95831

Re: Your Request For Advice
Our File No. A-89-372

Dear Ms. Jarvis:

You have requested advice regarding the campaign provisions of the Political Reform Act.1/

FACTS

The Assembly Republican Political Action Committee was created and existed as a committee controlled by members of the California Assembly. The committee has not received contributions or made expenditures since December 31, 1988. The committee has debts incurred prior to January 1, 1989.

QUESTIONS

What procedures must be followed by the committee in order to solicit campaign funds to pay off its existing debts? May funds such as returned deposits and refunds be deposited in the committee account? May committee funds be used to pay job-related reimbursements such as staff reimbursements, overhead expenses and office maintenance?

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.

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CONCLUSIONS

In order to solicit and receive campaign contributions, the committee may not be "controlled" by a candidate or an elected officer. The committee's statement of organization (Form 410) must be amended to indicate that it is not a controlled committee. Once that is done, the committee may solicit contributions for the purpose of paying its existing debts.

Funds received by the committee which are not campaign contributions, such as returned deposits, may be deposited in the committee account, even before the committee amends its statement of organization to indicate it is no longer controlled.

Committee funds may be used to pay campaign committee expenses, such as reimbursement of staff for campaign expenditures, payment of overhead expenses and maintenance of the campaign office.

You also asked about guidelines for soliciting funds by a non-controlled committee. Enclosed please find a copy of Regulation 18532, which provides for a notice regarding the contribution limitations which may be included in contribution solicitations.

ANALYSIS

Proposition 73 and Commission regulations provide that a candidate may have only one committee for each specific office for which the candidate has filed a statement of intention (Form 501). (Sections 85200, 85201; Regulation 18520, copy enclosed.) In addition, Section 85304 provides:

No candidate for elective office or committee controlled by that candidate or candidates for elective office shall transfer any contribution to any other candidate for elective office. Transfers of funds between candidates or their controlled committees are prohibited.

(See also Regulation 18534, copy enclosed.)

Because of these provisions, legislative caucus committees, as they have been organized and have functioned in the past, may no longer exist. (See Purcell Advice Letter, No. A-89-049, copy enclosed.)

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Therefore, in order for the Assembly Republican PAC to solicit and receive contributions to pay off its existing debts, the committee cannot be "controlled" by a candidate.

Section 82016 provides:

"Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has significant influence on the actions or decisions of the committee.

The Commission has interpreted the definition of "controlled committee" very broadly to include any significant participation in the actions of a committee by a candidate, his or her agent, or representatives of any other committee he or she controls. Enclosed for your guidance are the following advice letters issued by the Commission on the subject of what constitutes "control" of a committee:

Pastrick Advice Letter, No. A-87-063
Ferguson Advice Letter, No. A-86-044
Madden Advice Letter, No. A-85-197
Memo To Advice File, No. T-85-139
Memo To Advice File, No. M-84-257
Gross Advice Letter, No. A-84-143

I hope this letter adequately answers your questions. If you have any addition questions, please call me at 322-5662.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Jeanne Pritchard
Division Chief
Technical Assistance and
Analysis Division

enclosures

June 13, 1989

Ms. Jeanne Pritchard
Division Chief
Technical Assistance And Analysis
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95804-0807

Dear Ms. Pritchard,

Per our June 12, 1989 telephone conversation, I am writing to confirm the procedure/necessary steps that must be taken to retire debt for a legislatively controlled committee under the Proposition 73 guidelines.

The Assembly Republican Political Action Committee has had no activity since December 31, 1988 and will no longer be operational upon paying off its outstanding debts. We have not solicited money or written checks during this period, but have an outstanding debt balance from the 1988 election cycle left to pay.

It is my understanding that it is within the limitations of Proposition 73 to deposit monies that we are currently holding (i.e. - returned deposits, refunds, etc.) as long as these funds were not solicited. These transactions would be reported to the FPPC.

Further, I understand that we are able to pay job related reimbursements with the above mentioned funds. This would include staff reimbursements, overhead expenses, office maintenance, etc.

Finally, please outline any specific language and guidelines that must be adhered to when soliciting funds for the purpose of debt retirement for a committee previously controlled by a legislative caucus.

Please confirm my interpretation of our role under Proposition 73 in writing so we may avoid any misunderstandings or applications of the law.

Thank you for your time.

Sincerely,


Shelley A. Jarvis
Treasurer

June 13, 1989

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Division Chief
Technical Assistance And Analysis
Fair Political Practices Commission
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Treasurer

