

California Fair Political Practices Commission

August 1, 1989

Peter A. Bagatelos
Bagatelos & Fadem
The International Building
601 California Street, Suite 1801
San Francisco, CA 94108

Re: Your Request for Advice
Our File No. A-89-395

Dear Mr. Bagatelos:

This is in response to your request for confirmation of telephone advice regarding the status of Regulation 18536.2 of the Political Reform Act (the "Act").^{1/}

This letter confirms that your letter dated June 30, 1989 accurately summarizes the telephone advice I provided to you on June 14, 1989, concerning the emergency amendments to Regulation 18536.2. As I stated in our telephone conversation, on May 2, 1989, the Commission adopted emergency amendments to Regulation 18536.2 which substantially changed the scope of the regulation. However, the emergency amendment of Regulation 18536.2 was rejected by the Office of Administrative Law on May 22, 1989. At that time, the Commission decided to appeal the decision and advise pursuant to the emergency regulation as adopted by the Commission on May 2, 1989.

On July 7, 1989, the Governor rejected the Commission's appeal of OAL's decision. Consequently, we are no longer advising pursuant to the emergency amendments to Regulation 18536.2. A copy of the regulation as now enforced is enclosed. The Commission is considering its options in response to the Governor's decision.

In addition, please note that on May 15, 1989, in Service Employees International Union, AFL-CIO, et al. v. Fair Political

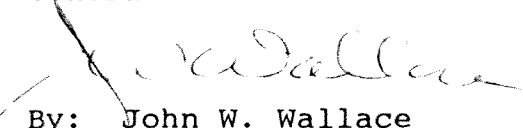
^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Practices Commission, United States District Court, Eastern District of California, Case No. CIVS-89-0433, LKK-JFM, the District Court granted plaintiff's motion for a preliminary injunction to enjoin enforcement of Section 85306 in regard to contributions collected prior to January 1, 1989 which are in compliance with the contribution limits of the Act.^{2/} On August 11, 1989 the court will hear a summary judgment motion challenging the constitutionality of Section 85306.

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


By: John W. Wallace
Counsel, Legal Division

KED:JWW:plh

Enclosure

^{2/} Section 85306 states: "Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office." Section 85306 serves as the statutory basis for Regulation 18536.2.

LAW OFFICES OF
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June 30, 1989

Mr. John Wallace
Legal Division
Fair Political Practices
Commission
428 "J" Street
Suite 800
P.O. Box 807
Sacramento, CA 95804-0807

Dear Mr. Wallace:

This will confirm our telephone conversation on June 14, 1989. I had called and asked regarding the status of regulation 18536.2 and the ability of committees to use restricted funds for any lawful purpose.

You advised me that the Office of Administrative Law (OAL) had rejected the Commission's action on an emergency basis in rescinding portions of that regulation. Therefore, regulation 18536.2 is still in effect.

However, you further advised me that the commission staff is still following the emergency approach taken by the Commission, even though the OAL would not formerly recognize the emergency regulation. Therefore, any lawful use of restricted funds is permissible at this time, except in connection with the support or opposition of candidates for elective office.

Thank you for your advice.

Sincerely,


Peter A. Bagatelos

PAB:fpj



California Fair Political Practices Commission

July 6, 1989

Peter A. Bagatelos
Bagatelos & Fadem
The International Building
601 California Street, Suite 1801
San Francisco, CA 94108

Re: Letter No. 89-395

Dear Mr. Bagatelos:

We received your letter requesting confirmation of advice under the Political Reform Act on July 3, 1989. Your letter has been assigned to John Wallace for response. If you have any questions, you may contact him directly at (916) 322-5901.

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
General Counsel

KED:plh:confadv1