



California Fair Political Practices Commission

December 28, 1989

Mr. Lee J. Panza
15 Ross Way
Brisbane, CA 94005

RE: Your Request for Advice
Our File No. A-89-523

Dear Mr. Panza:

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

FACTS

You were a successful candidate for Brisbane City Council in a special election held August 8, 1989, to fill two vacancies created by a recall election held on May 9, 1989. As a result of these terms expiring in 1989, you were also a candidate in the regular election held on November 7, 1989.

QUESTIONS

1. For reporting purposes, are you required to aggregate contributions from an individual who has contributed to you in the special election held August 8, 1989 and the regular election held on November 7, 1989?
2. May you use surplus funds remaining from your successful election to city council in August, 1989 to support your candidacy in the November 7th election?
3. Are both of your controlled committees required to file semi-annual disclosure statements?

CONCLUSIONS

1. For reporting purposes, you are required to aggregate all contributions received from a single source and you must itemize any contributor who has contributed a total of \$100 or more to your special election committee and the committee established for the November 7th regular election.

^{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,

2. You may transfer the surplus funds remaining in your special election campaign account into your regular election campaign account as long as the transfer does not cause any person's contributions to exceed the contribution limits established by Proposition 73.

3. Both of your controlled committees are required to file semi-annual disclosure statements until they have been terminated.

ANALYSIS

1. The Act requires candidates to itemize on their campaign disclosure statements contributions they receive of \$100 or more from a single source during a calendar year. (Section 84211.) Calendar year means January 1 through December 31. (Section 82018.) In addition, because the limitations imposed by Proposition 73 are applied on a fiscal year basis, candidates are also required to aggregate and report cumulative amounts received based on the fiscal year. (Regulation 18432, copy enclosed.) Fiscal year means July 1 through June 30. (Sections 85301, 85302, 85303.) Although Section 85305 allows the contribution limits to be calculated separately in the case of a special election held to fill a vacant elective office, there is nothing in the Act or Commission regulations which allows contributions made to multiple committees controlled by a single candidate to be cumulated separately for reporting purposes. You may wish to include a note of explanation on your campaign report, however.

2. On November 1, 1989, the U.S. District Court for the Eastern District of California ordered that transfers between a candidate's regular campaign committee and a committee formed by that candidate in connection with a special election held to fill a vacant elective office are permissible as long as the transfer does not cause the total amount contributed by any person to exceed the contribution limits established by Sections 85301, 85302 and 85303. (Service Employees International Union, AFL-CIO, CLC; et al v FPFC, Case No. CIVS 89-0433 Lkk-JFM.) The order does not provide any guidance concerning the method to be used to ensure that the contribution limits imposed by Proposition 73 are not exceeded. An accounting method, such as "first in, first out," will be acceptable as long as it ensures that the maximum contribution from a single source to the special election campaign account and the regular election campaign account does not exceed the applicable contribution limitations.

Mr. Lee J. Panza
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3. The Act provides that committees must continue to file campaign disclosure statements until they are terminated. (Sections 82013 and 84214.) You may terminate a committee if all of the following criteria are met:

(1) The committee has ceased to receive contributions and make expenditures; and

(2) Does not anticipate receiving contributions, repayments of outstanding loans made to others, or any other receipts in the future and does not anticipate making expenditures in the future; and

(3) Has eliminated or has declared that the committee has no intention or ability to discharge all debts, loans received and other obligations; and

(4) Has no surplus funds; and

(5) Has filed all required campaign statements disclosing all reportable transactions.

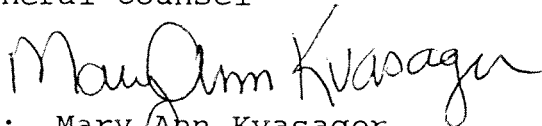
(Section 84214 and FPPC
Regulation 18404.)

Enclosed is a Form 415, Statement of Termination, which is used to terminate a recipient committee.

I hope the above information is helpful. Please do not hesitate to contact me at 916/322-5662 if I may be of further assistance.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Mary Ann Kvasager
Political Reform Consultant

FPPC

SEP 6 2 55 PM '89

15 Ross Way
Brisbane, CA 94005
September 4, 1989

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
Legal Division
428 J Street, Suite 800
Sacramento, CA 95814

RE: Request for clarification

As a candidate for City Council in Brisbane, California, I have several questions about how to handle contributions.

We held a Special Election, on August 8th, to fill two vacancies created by a Recall Election held on May 9th. Both of those terms expire and will have to be voted on again in a Regular Election on November 7th. A third seat will also be voted on at that time.

I ran in the recent Special Election, and I am running in this Regular Election, and I was advised by our City Clerk to set up a separate committee and separate records.

I wish to know if - for record keeping and reporting purposes - both campaigns are truly independent or will be considered as one.

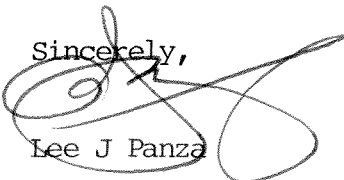
Specifically:

- 1) Do I lump contributions from an individual in each campaign together and report aggregate contributions exceeding \$100.00 (should my "contributors cards" be maintained for both campaigns combined)?
- 2) Are resources remaining unused from the first campaign be used in the second without violating the prohibition of transfer of funds from one candidate to another?
- 3) Do both committees file semi-annual statements?

Your timely response would be appreciated.

Thank you.

Sincerely,


Lee J Panza



California Fair Political Practices Commission

September 12, 1989

Lee J. Panza
15 Ross Way
Brisbane, CA 94005

Re: Letter No. 89-523

Dear Mr. Panza:

Your letter requesting advice under the Political Reform Act was received on September 6, 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 *ly plh*

Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh