



California Fair Political Practices Commission

December 27, 1989

James L. Lazarus
Lazarus, Borman, Broder Associates
909 Montgomery Street, Suite 400
San Francisco, CA 94133

Re: Your Request for Informal Assistance
Our File No. I-89-630

Dear Mr. Lazarus:

We have received your letter dated October 26, 1989 (copy enclosed) seeking written confirmation of the telephone advice provided to you on October 25, 1989. This is to confirm that your letter accurately reflects current law and the advice I provided to you. Our advice is limited to the provisions of the Political Reform Act (the "Act").¹ You may want to consult other authorities regarding limitations on the use of community property funds. Since your request does not identify a specific official, we are treating it as a request for informal assistance.²

QUESTION

What limitations are there on a candidate's ability to loan or donate personal funds to his or her own campaign?

CONCLUSION

Contributions and loans from a candidate's personal funds to his or her own campaign are not limited by the campaign contribution limits of the Act. However, all of the candidate's personal funds that are donated or loaned to her or his campaign must be deposited in, and expended from, the campaign bank account

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 Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3), copy enclosed.)

specified on the candidate's campaign bank account statement (Form 502).

ANALYSIS

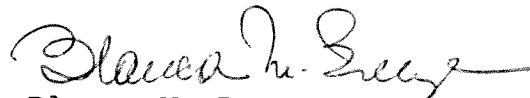
Under the Act, candidates are not limited in the amount of personal funds they may contribute or loan to their own campaign contribution account. (Section 85301(b).) However, candidates may not use personal funds to pay campaign expenses unless the money has first been deposited in the campaign bank account established pursuant to Section 85201(d).³

You have asked whether a candidate may use community property funds to contribute to his or her campaign. The Act does not prohibit such contributions. Moreover, community funds are under the joint and undivided control of each spouse. Either spouse has the management and control of the community funds and, in general terms, either spouse has the absolute power of disposition. (Civil Code Section 5125.) Accordingly, all community funds contributed by a candidate are considered the personal funds of the candidate.

We trust this letter adequately answers your inquiry. Should you have any further questions regarding this matter, do not hesitate to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Blanca M. Breeze
Counsel, Legal Division

KED:BMB:plh

Enclosure

³ Regulation 18526.1 (copy enclosed) permits some reimbursement to candidates for officeholder expenses incurred with personal funds. Regulation 18526.1 was adopted by the Commission in May 1989 and currently is under review by the Office of Administrative Law.

LAZARUS, GORMAN, BRODER ASSOCIATES ^{FPPC}

909 MONTGOMERY STREET
SUITE 400
SAN FRANCISCO, CALIFORNIA 94133
(415) 434-2959

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October 26, 1989

Ms. Kathryn C. Donovan
General Counsel
Fair Political Practices Commission
P.O. Box 8067
Sacramento, CA 95804

Dear Ms. Donovan;

I am writing to confirm oral advice I received on October 25 from Ms. Blanca Breeze regarding Government Code Section 85301(b).

I have been advised that a candidate may contribute to his or her campaign up to 100% of his or her personal funds, including community property. For example, a candidate may write a check on a community property savings account for the entire account balance because these are "personal funds." Regarding a home loan, I was advised that a candidate may use 100% of the proceeds of a second loan taken out on their residence and contribute that amount to the campaign, even though the amount exceeds 50% of the home's value. Again, because these are "personal funds" under joint and severable control of a spouse 100% of the loan proceeds may be contributed.

Should there be an error in my interpretation of the oral advice I received, I would appreciate a prompt correction.

Thank you for your help.

Sincerely,



James L. Lazarus



California Fair Political Practices Commission

November 2, 1989

James L. Lazarus
Lazarus, Gorman, Broder Associates
909 Montgomery Street, Suite 400
San Francisco, CA 94133

Re: Letter No. 89-630

Dear Mr. Lazarus:

We received your letter requesting confirmation of advice under the Political Reform Act on October 30, 1989. Your letter has been assigned to Blanca Breeze, an attorney in our Legal Division, for response. If you have any questions, you may contact her 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,

Kathryn E. Donovan
Kathryn E. Donovan
General Counsel

KED:plh:confadv1