



California Fair Political Practices Commission

November 21, 1989

Frank Hill for Assembly
P. O. Box 9246
Whittier, CA 90608-9246

Re: Your Request for Confirmation
of Telephone Advice
Our File No. A-89-667

Dear Assemblyman Hill:

This is in response to your request for confirmation of telephone advice given to your staff member, Jody Sievers, on November 15, 1989.

Specifically, I gave Ms. Sievers and hereby confirm the following advice:

(1) You are permitted to open a special election account for the 31st Senate District special election prior to the date the Senate seat for that district is vacated.

Please note, however, that all contributions made to you during the period prior to the special election cycle (see Section 85305(b)(1)¹) for that Senate seat, including contributions deposited into the Senate special election account, are subject to the fiscal year contribution limits of Proposition 73. (See Sections 85301 and 85303.) Also note that if you desire to spend these contributions on the special election after the special election cycle begins, their use is restricted as set forth below.

(2) You are permitted to transfer contributions that were in your Frank Hill for Assembly 1990 campaign account into your Senate special election account.

If you desire to spend these contributions during the special election cycle, their transfer into the Senate special election account is permitted only to the extent that, when added to contributions made by the same contributors during the special election cycle, they do not exceed the fiscal year contribution limits set forth in Sections 85301 and 85303. For example, if ABC

¹ All statutory references are to the Government Code unless indicated otherwise.

Corporation contributed \$1,000 to your Assembly 1990 campaign, you may transfer this entire sum into your special election account for use in the special election. However, ABC Corporation cannot make additional contributions for the special election during the same fiscal year.²


(3) If you do not transfer contributions from your Assembly 1990 account into your special election account, or spend contributions to your special election account that were received prior to the special election cycle, the contribution limits of Section 85305 apply. This section permits contributions to your special election account during the special election cycle with maximums ranging \$1,000 from a person to \$5,000 from a broad based political committee. (See Section 85305(c).) These contributions may be accepted in addition to any contributions made to your Assembly 1990 account or special election account prior to the beginning of the special election cycle, as long as no funds are transferred from your Assembly 1990 account to your special election committee.

Finally, as I stated to Ms. Sievers, these restrictions are based upon our interpretation of the Order Modifying Preliminary Injunction (copy enclosed) filed in the case of Service Employees International Union, et al. v. FPCC, U.S. District Court, Eastern District of California, Case No. CIVS 89-0433 LKK-JFM on November 7, 1989. This order was temporary and may be modified as a result of further hearing on this matter on November 15, 1989. A written order in response to the November 15, 1989 hearing is expected to issue from the court within a week or so. Until that time, the court continued its November 7, 1989 order in effect. Therefore, you may rely upon that order until a new order issues.

Should you have further questions on this subject, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Scott Hallabrin
Counsel, Legal Division

KED:SH:ld

² Section 85301 limits "persons" which include corporations, to a maximum of \$1,000 in contributions to a candidate in a fiscal

STATE CAPITOL
Sacramento, CA 95814
(916) 445-7550

DISTRICT OFFICE
15111 E. Whittier Blvd., No. 386
Whittier, CA 90603
(213) 945-7681

Assembly California Legislature

FRANK HILL
ASSEMBLYMAN, FIFTY-SECOND DISTRICT

Serving the cities & communities of Whittier, Hacienda Heights,
La Mirada, La Habra Heights, Rowland Heights, Walnut, Diamond Bar, West Covina

COMMITTEES:
Governmental Organization
Vice Chairman
Ways and Means
Health
Utilities and Commerce

November 15, 1989

Mr. Scott Hallabrin
FPPC
428 J Street, Suite 800
Sacramento, CA 95814

Dear Scott:

Pursuant to the telephone conversation you had with my staff member, Jody Sievers, I would like to confirm in writing the following:

(1) It is legal and permissible for me to open a special election campaign account for the 31st Senate District election prior to the date the Senate seat is vacated;

(2) It is legal and permissible for me to transfer funds from my Frank Hill for Assembly 1990 campaign account into the special Senate election account as long as any additional funds that I raise for the special Senate election account do not exceed the contribution limits set by Proposition 73 (i.e. in the case of individual contributor limits if \$500 from Joe Smith was transferred from the Assembly account into the special election account then I could only accept an additional \$500 from Joe Smith). Furthermore, it is my understanding that if I transfer funds from the Assembly account into the special Senate election account that were collected prior to July 1, 1989 (the start of the current fiscal year), those funds would not be subject to the contribution limits;

(3) It is also my understanding that if I do not transfer funds from the Assembly account into the special Senate election account, it would be legal and permissible to accept a \$1,000 contribution for the special Senate election account from the same contributor that had given \$1,000

Mr. Scott Hallabrin
Page 2
November 15, 1989

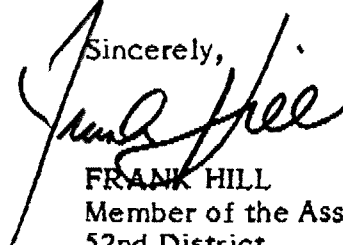
to my Assembly account during this fiscal year. In addition, if I am a candidate for both my current Assembly seat and the special Senate election seat simultaneously, it is legal and permissible to accept funds up to the contribution limits for both seats during the same fiscal year.

If the above statements are representative of legal actions and interpreted by the FPPC as such, confirm this in writing by signing this letter in the space provided below. Please FAX a signed copy to me at (213) 696-7710 and mail the original to:

Frank Hill for Assembly
P. O. Box 9246
Whittier, CA 90608-9246

If you have any questions and/or comments, please call Jody Sievers at (213) 943-3215. Thank you for your assistance.

Sincerely,



FRANK HILL
Member of the Assembly
52nd District

FH:js

Scott Hallabrin, FPPC

Date

Memorandum

To : File

Date : March 5, 1990

From : FAIR POLITICAL PRACTICES COMMISSION
Scott Hallabrin

Subject : Hill Advice Letter, No. A-89-667

Two notes regarding this advice letter:

(1) Shortly after this letter issued, the Judge in the Service Employees International Union, et al. v. FPPC case ("SEIU"), at the urging of Defendant-in-Intervention Ross Johnson and with the concurrence of Plaintiffs' attorney Joseph Remcho, indicated that a candidate for a special election could not form a special election committee and solicit/receive contributions for the committee until after the seat subject to the special election became vacant.¹ The court never made a formal ruling on this point, but removed language to that effect that was contained in a proposed modification of the preliminary injunction issued in the SEIU case. (In other words, when the SEIU Court formally issued its order of modification, it made no reference to when a special election committee could be formed.) I telephoned Jody Sievers at Assemblymember Hill's office on the day the Judge stated he would remove the language from the proposed order and told her that Mr. Hill now could not form a special election committee until after the seat became vacant.

(2) After the Senate seat subject to the special election became vacant and after this advice letter issued, a lawsuit was filed by Ronald Isles, a candidate for the same vacant Senate seat that Assemblymember Hill and others sought. The lawsuit charged Mr. Hill and another incumbent candidate, Assemblymember Gil Ferguson, with violating Proposition 73 by transferring money from their existing Assembly campaign committees to their special election committees. A copy of the complaint is attached. I was informed by Frank Hill's office that, based upon this advice letter, the court denied the relief sought in the complaint. The time of formation of Hill's and Ferguson's special election committees as discussed in (1) above was not an issue in the lawsuit.

¹ Until this point, the Commission's position had been that, as long as candidates were permitted to freely transfer contributions between their own committees under the SEIU preliminary injunction, there was no harm in them forming and receiving contributions for a special election committee at any time, as long as the contributions were subject to the Proposition 73 limits in force at the time the contributions were received.

**SUMMONS
(CITACION JUDICIAL)**

NOTICE TO DEFENDANT (Aviso a Acusado) GILBERT W.

FERGUSON, an individual; FRANK HILL, an individual; FERGUSON FOR SENATE - 1990 COMMITTEE, an unincorporated association; FRIENDS OF ASSEMBLYMAN GIL FERGUSON COMMITTEE, an unincorporated association; GIL FERGUSON FOR ASSEMBLY - 1990 COMMITTEE, an unincorporated association; CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE, an unincorporated association; FRANK HILL FOR ASSEMBLY COMMITTEE, an unincorporated association; and DOES 1 through 50, inclusive
YOU ARE BEING SUED BY PLAINTIFF:
(A Ud. le está demandando)

RONALD E. ISLES, an individual

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: *(El nombre y dirección de la corte es)*
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
700 Civic Center Drive West
P.O. Box 838
Santa Ana, California 92702-0838

CASE NUMBER: *(Número del Caso)*

61-30-68

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)
Edward J. Haggerty, Esq.
ISLES & ASSOCIATES
595 West Lambert Road, Suite 209
Brea, California 92621
(714) 529-7821

DATE: **JAN 10 1990** **GARY L. GRANVILLE** Clerk, by **DORIS BURKE**, Deputy
(Fecha) *(Actuano)* *(Delegado)*

[SPFAL]

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of *(specify)*:

3. on behalf of *(specify)*:

- under:
- | | |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation) | <input type="checkbox"/> CCP 416.60 (minor) |
| <input type="checkbox"/> CCP 416.20 (defunct corporation) | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (individual) |
| <input type="checkbox"/> other: | |

4. by personal delivery on *(date)*:

1 2. Plaintiff's residence is within the jurisdiction of
2 the 31st senatorial district and Plaintiff brings this action
3 pursuant to section 91003 of the Government Code.

4 3. Defendant, GILBERT W. FERGUSON, is a resident of the
5 County of Orange, and is a candidate for the California State
6 Senate for the 31st senatorial district.

7 4. Defendant, FRANK HILL, is a resident of the County
8 of Los Angeles, and is a candidate for the California State
9 Senate for the 31st senatorial district.

10 5. Plaintiff is informed and believes and thereon
11 alleges that Defendant, FERGUSON FOR SENATE - 1990 COMMITTEE,
12 is and at all times herein mentioned was an unincorporated
13 association with its principal offices in the County of Orange.

14 6. Plaintiff is informed and believes and thereon
15 alleges that Defendant, FRIENDS OF ASSEMBLYMAN GIL FERGUSON
16 COMMITTEE is and at all times herein mentioned was an
17 unincorporated association, with its principal offices in the
18 County of Orange.

19 7. Plaintiff is informed and believes and thereon
20 alleges that Defendant, GIL FERGUSON FOR ASSEMBLY - 1990
21 COMMITTEE is and at all times herein mentioned was an
22 unincorporated association, with its principal offices in the
23 County of Orange.

24 8. Plaintiff is informed and believes and thereon
25 alleges that Defendant, CITIZENS FOR FRANK HILL - SENATE 1990
26 COMMITTEE is and at all times herein mentioned was an
27 unincorporated association, with its principal offices in the
28 County of Los Angeles.

1 9. Plaintiff is informed and believes and thereon
2 alleges that Defendant, FRANK HILL FOR ASSEMBLY COMMITTEE, is
3 and at all times herein mentioned was an unincorporated
4 association, with its principal offices in the County of Los
5 Angeles.

6 10. Plaintiff is ignorant of the true names and
7 capacities of Defendants sued herein as DOES 1 through 50,
8 inclusive, and therefore sues these Defendants by such
9 fictitious names. Plaintiff will amend this complaint to
10 allege their true names and capacities when ascertained.
11 Plaintiff is informed and believes and thereon alleges that
12 each of the fictitiously-named Defendants is responsible in
13 some manner for the occurrences herein alleged and that
14 Plaintiff's damages as herein alleged were proximately caused
15 by their conduct.

16 11. Plaintiff is informed and believes and thereon
17 alleges that Defendants, FERGUSON FOR SENATE - 1990 COMMITTEE;
18 FRIENDS OF ASSEMBLYMAN GIL FERGUSON COMMITTEE and GIL FERGUSON
19 FOR ASSEMBLY -1990 COMMITTEE are controlled committees within
20 the meaning of Government Code section 82016 and that at all
21 times herein mentioned, these Defendants were acting as the
22 agents, representatives, and/or employees of Defendant, GILBERT
23 W. FERGUSON, and that in doing the acts herein alleged were
24 acting in the course and scope of such agency and/or
25 employment.

26 12. Plaintiff is informed and believes and thereon
27 alleges that Defendants, CITIZENS FOR FRANK HILL - SENATE 1990
28 COMMITTEE and FRANK HILL FOR ASSEMBLY COMMITTEE are controlled

1 committees within the meaning of Government Code section 82016
2 and that at all times herein mentioned, these Defendants were
3 acting as the agents, representatives, and/or employees of
4 Defendant, FRANK HILL, and that in doing the acts herein
5 alleged were acting in the course and scope of such agency
6 and/or employment.

7 13. Defendants, and each of them, intentionally or
8 negligently violated the campaign contribution restrictions of
9 the Political Reform Act of 1974 by transferring funds from
10 Assembly campaign committees to separate Senate campaign
11 committees.

12 14. On or about November 18, 1989, Defendants, GILBERT
13 FERGUSON, GIL FERGUSON FOR ASSEMBLY - 1990 COMMITTEE and
14 FERGUSON FOR SENATE - 1990 COMMITTEE caused \$1,000.00 in funds
15 to be transferred from GIL FERGUSON FOR ASSEMBLY - 1990
16 COMMITTEE to FERGUSON FOR SENATE - 1990 COMMITTEE. Defendants'
17 transfer of these funds is in violation of Government Code
18 sections 85202(b) and 85304.

19 15. On or about December 18, 1989 and December 22, 1989,
20 Defendants, FRANK HILL, FRANK HILL FOR ASSEMBLY COMMITTEE, and
21 CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE, caused
22 \$4,181.00 and \$27,500.00, respectively, to be transferred from
23 FRANK HILL FOR ASSEMBLY COMMITTEE to CITIZENS FOR FRANK HILL-
24 SENATE 1990 COMMITTEE. Defendants' transfers of these funds
25 are in violation of Government Code sections 85202(b) and
26 85304.

27 16. Plaintiff has no adequate remedy at law for the
28 injuries currently being suffered from Defendants' continued

1 violation of sections 85202(b) and 85304 because Plaintiff will
2 be forced to institute a multiplicity of lawsuits to obtain
3 adequate compensation for continued violations of a similar
4 nature.

5 17. Under section 91003(a) of the Government Code, this
6 court may award Plaintiff his costs, including reasonable
7 attorney fees, incurred in this action.

8 WHEREFORE, Plaintiff prays judgment as follows:

9 1. For a temporary restraining order enjoining the
10 following acts:

11 a. Defendants, GILBERT W. FERGUSON; FRIENDS OF
12 ASSEMBLYMAN GIL FERGUSON COMMITTEE; GIL FERGUSON FOR ASSEMBLY-
13 1990 COMMITTEE and FERGUSON FOR SENATE - 1990 COMMITTEE from
14 continuing to transfer funds from FRIENDS OF ASSEMBLYMAN GIL
15 FERGUSON COMMITTEE and the GIL FERGUSON FOR ASSEMBLY - 1990
16 COMMITTEE to FERGUSON FOR SENATE - 1990 COMMITTEE in violation
17 of Government Code sections 85202(b) and 85304.

18 b. Defendants, FRANK HILL; CITIZENS FOR FRANK HILL
19 - SENATE 1990 COMMITTEE; and FRANK HILL FOR ASSEMBLY COMMITTEE
20 from continuing to transfer funds from FRANK HILL FOR ASSEMBLY
21 COMMITTEE to CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE in
22 violation of Government Code sections 85202(b) and 85304.

23 2. For a preliminary injunction enjoining Defendants as
24 follows:

25 a. Defendants, GILBERT W. FERGUSON; FRIENDS OF
26 ASSEMBLYMAN GIL FERGUSON COMMITTEE; GIL FERGUSON FOR ASSEMBLY-
27 1990 COMMITTEE and FERGUSON FOR SENATE - 1990 COMMITTEE from
28 continuing to transfer funds from FRIENDS OF ASSEMBLYMAN GIL

1 FERGUSON COMMITTEE and the GIL FERGUSON FOR ASSEMBLY - 1990
2 COMMITTEE to FERGUSON FOR SENATE - 1990 COMMITTEE in violation
3 of Government Code sections 85202(b) and 85304.

4 b. Defendants, FRANK HILL; CITIZENS FOR FRANK HILL
5 - SENATE 1990 COMMITTEE; and FRANK HILL FOR ASSEMBLY COMMITTEE
6 from continuing to transfer funds from FRANK HILL FOR ASSEMBLY
7 COMMITTEE to CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE in
8 violation of Government Code sections 85202(b) and 85304.

9 (1) Compelling Defendants, GILBERT W. FERGUSON
10 and FERGUSON FOR SENATE - 1990 COMMITTEE to reimburse FRIENDS
11 OF ASSEMBLYMAN GIL FERGUSON COMMITTEE and GIL FERGUSON FOR
12 ASSEMBLY - 1990 COMMITTEE for any and all funds which have been
13 transferred to FERGUSON FOR SENATE - 1990 COMMITTEE.

14 (2) Compelling Defendants, FRANK HILL and
15 CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE to reimburse
16 FRANK HILL FOR ASSEMBLY COMMITTEE for any and all funds which
17 have been transferred to CITIZENS FOR FRANK HILL - SENATE 1990
18 COMMITTEE.

19 3. For a permanent injunction enjoining Defendants as
20 follows:

21 a. Defendants, GILBERT W. FERGUSON; FRIENDS OF
22 ASSEMBLYMAN GIL FERGUSON COMMITTEE; GIL FERGUSON FOR ASSEMBLY-
23 1990 COMMITTEE and FERGUSON FOR SENATE - 1990 COMMITTEE from
24 continuing to transfer funds from FRIENDS OF ASSEMBLYMAN GIL
25 FERGUSON COMMITTEE and the GIL FERGUSON FOR ASSEMBLY - 1990
26 COMMITTEE to FERGUSON FOR SENATE - 1990 COMMITTEE in violation
27 of Government Code sections 85202(b) and 85304.

28 b. Defendants, FRANK HILL; CITIZENS FOR FRANK HILL

1 - SENATE 1990 COMMITTEE and FRANK HILL FOR ASSEMBLY COMMITTEE
2 from continuing to transfer funds from FRANK HILL FOR ASSEMBLY
3 COMMITTEE to CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE in
4 violation of Government Code sections 85202(b) and 85304.

5 (1) Compelling Defendants, GILBERT W. FERGUSON
6 and FERGUSON FOR SENATE - 1990 COMMITTEE to reimburse FRIENDS
7 OF ASSEMBLYMAN GIL FERGUSON COMMITTEE and GIL FERGUSON FOR
8 ASSEMBLY - 1990 COMMITTEE for any and all funds which have been
9 transferred to FERGUSON FOR SENATE - 1990 COMMITTEE.

10 (2) Compelling Defendants, FRANK HILL and
11 CITIZENS FOR FRANK HILL - SENATE 1990 COMMITTEE to reimburse
12 FRANK HILL FOR ASSEMBLY COMMITTEE for any and all funds which
13 have been transferred to CITIZENS FOR FRANK HILL - SENATE 1990
14 COMMITTEE.

- 15 4. For reasonable attorney fees;
16 5. For costs of suit incurred herein; and
17 6. For such other and further relief as the court may
18 deem proper.

19 Dated: January 10, 1990

ISLES & ASSOCIATES

20
21 By: 
22 EDWARD J. HAGGERTY
23 Attorney for Plaintiff
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