



# California Fair Political Practices Commission

January 23, 1990

Robert E. Leidigh  
Olson, Connelly, Hagel, Fong and Leidigh  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-89-713

Dear Mr. Leidigh:

This is in response to your request for advice on behalf of Lance Olson regarding the disclosure requirements of the new personal use provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTIONS

1. Does the amendment to Section 84211 require the disclosure of payments for travel or travel reimbursements to members of the candidate's household, where the members do not constitute part of the candidate's immediate family?
2. Do the amendments to Section 84211 implemented by transfer of the personal use law to the Act apply to semi-annual disclosure statements due in 1990, but which disclose activity occurring in 1989?

## CONCLUSIONS

1. Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary accommodations, the expenditure shall be reported on the candidate's campaign statements and shall include all the information required in Section 84211(j)(7).

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<sup>1/</sup> 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. The semi-annual campaign statements due at the end of January 1990 which cover activity occurring during the last six months of 1989 need not contain the information required in the amended version of Section 84211.

#### DISCUSSION

##### Discrepancy Between Sections 84211(j)(7) and 85802(a)(3)

The Political Reform Act was enacted by the people of the State of California by initiative in 1974. The purpose for the campaign disclosure provisions of the Act was to ensure that receipts and expenditures in election campaigns would be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited. (Section 81002(a).) In furtherance of this goal, Section 81003 of the Act states: "This title should be liberally construed to accomplish its purpose."

Effective January 1, 1990, the Act was amended by Senate Bill 1431 to include new sections that regulate the appropriate use of campaign funds. As part of this expansion of the Commission's jurisdiction, Section 85802 was added. Section 85802 provides:

(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or employees or staff of the campaign committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(2) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

(3) Whenever campaign funds are used to pay or reimburse a candidate, elected officer, his or her representative, or a member of the candidate's household for travel expenses and necessary

accommodations, the expenditure shall be reported as required by paragraph (7) of subdivision (j) of Section 84211.

Section 85802(a)  
(Emphasis added.)

Section 84211(j) of the Act was amended by Senate Bill 1431 to include a requirement that each campaign statement must contain:

(7) In the case of an expenditure made to pay or reimburse the travel expenses or necessary accommodations of a candidate, his or her representative, or a member of the candidate's immediate family, the date, destination, and total expenditure for each trip.

(Emphasis added.)

Section 85800(b)(3) defines "household" to include the candidate, the candidate's spouse, the candidate's dependent children and candidate's parents who reside with the candidate. "Immediate family" is defined by the Act to include the spouse and dependent children of the candidate. "Immediate family" does not include the parents of the candidate. (Section 82029.)

A literal reading of Section 85802(a) and Section 84211(j)(7) produces an apparent conflict between the provisions. Where campaign funds are used to pay for travel, Section 85802(a) requires the disclosure of the expenditures for the candidate, elected officer, his or her representative, or a member of the candidate's household as required by paragraph (7) of subdivision (j) of Section 84211. However, 84211(j)(7) appears to require disclosure only where payments are for the travel of the candidate, his or her representative, or a member of the candidate's immediate family. Thus, under such an interpretation, where a candidate pays for a campaign trip for the candidate's spouse and another trip for the candidate's parent, the Act would require the disclosure of the date, destination, and total expenditure for the spouse's trip, and not for the trip made by the candidate's parent. There appears to be no reason for such a distinction.

Moreover, such an interpretation would make subdivision (3) of Section 85802(a) meaningless. Section 85802(a)(3) would require the disclosure of reimbursements from campaign funds to the candidate's parents consistent with Section 84211(j)(7); Section 84211(j)(7) would not require the disclosure. Thus, we believe that the amendment to Section 84211(j)(7) must be read in conjunction with Section 85802(a) to fulfill the purposes of the Act. This would not only give Section 85802(a) meaning but also be consistent with Section 81003's requirement that the Act be liberally construed to accomplish its purpose. Consistent with

this interpretation, where campaign funds are used to pay for travel for or reimbursement to any of the persons specified in 85802(a), the expenditure must be reported and the information disclosed must conform to the requirements of Section 84211(j)(7).

Activity Period Covered by the Amendment

As stated above, Senate Bill No. 1431 became effective on January 1, 1990. The primary purpose behind the Senate Bill was to transfer the jurisdiction for the regulation of the use of campaign funds from the Attorney General's Office to the Fair Political Practices Commission. In addition, the Senate Bill sought to clarify and refine the standards applicable to the appropriate use of campaign funds. As part of this refinement, Senate Bill 1431 amended the disclosure provisions in Section 84211 of the Act. (See Section 84211(j)(7).)

You have asked whether the amendments to Section 84211 apply to semi-annual disclosure statements due in 1990, but which disclose activity occurring in 1989. In an advice letter to James Greene (No. A-78-01-023, copy enclosed), the Commission considered whether an amendment to Section 82013 which took effect on January 1, 1978 and which exempted Mr. Greene from the definition of "committee" would also exempt him from filing the semi-annual campaign statement due in 1978. The semi-annual campaign statement due in 1978 covered activity occurring over the last half of 1977. The Commission stated:

The filing obligation in Section 84206, requiring semi-annual statements, is incurred by reason of financial activity during the specified periods. During the last six months of 1977 you were a Committee under the terms of 82013 then in effect. During the same period you had financial activity. Therefore, 84206 requires you to report for the six month period, all of which is in 1977. The fact that the report is not due to be submitted until 1978 does not affect your obligation to report the 1977 activity under the law in effect in 1977.

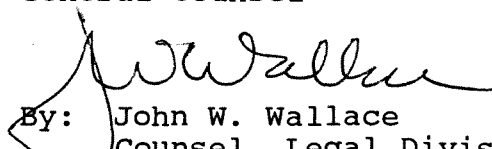
Since nothing in Senate Bill 1431 indicates that its provisions have retroactive effect, the rule in the Greene Advice letter as applied to the current set of facts, indicates that the disclosure of activity occurring prior to the enactment of the new law should be disclosed consistent with the law existing at the time the activity occurred. Thus, the semi-annual campaign statements due at the end of January 1990 which covers activity occurring during the last six months of 1989 need not contain the information required in the amended version of Section 84211.

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If any further questions regarding this matter, please feel free to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan  
General Counsel

  
By: John W. Wallace  
Counsel, Legal Division

KED:JWW:aa

Enclosures

Law Offices of  
OLSON, CONNELLY, HAGEL, FONG & LEIDIGH

December 26, 1989

Kathryn E. Donovan  
General Counsel  
FAIR POLITICAL PRACTICES COMMISSION  
428 "J" Street, Suite 800  
Sacramento, California 95814

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FPPC

HAND DELIVERED

**RE: REQUEST FOR FORMAL WRITTEN ADVICE; NEW PERSONAL  
USE LAW**

Dear Ms. Donovan:

I write on behalf of Lance Olson, who is treasurer for numerous candidate controlled committees. Semi-annual campaign reports for those committees will be due on January 31, 1990, for the period ending December 31, 1989. On January 1, 1990, the new "personal use" law (Chapter 1452, Stats. 1989) will take effect.

One of its provisions is a requirement that certain additional detail regarding travel expenditures be reported on campaign reports. (Government Code Sections 84211(j)(7) and 85802(a)(3).) This requirement takes effect on January 1, 1990, as part of Chapter 1452. However, it is our understanding that it will apply only to travel expenses incurred after that effective date, not to travel expenses incurred during 1989.

Consequently, we presume that the semi-annual reports filed by January 31, 1990, for the last six months of 1989, need not contain the additional information required by these two sections.

Because the semi-annual reports will be due soon and it would be a time-consuming burden to go back and reconstruct the information required by these two sections, we ask that the Commission provide us with prompt formal written advice as to whether the new requirements apply to the semi-annual reports due by January 31, 1990.

In the normal time frame, we also request formal written advice regarding the discrepancy between Section 84211(j)(7) and Section 85802(a)(3). The

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LANCE H. OLSON  
BRUCE J. HAGEL  
LEROY Y. FONG  
ROBERT E. LEIDIGH  
GEORGE M. WATERS

OF COUNSEL  
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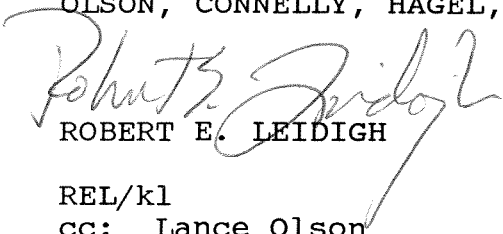
Kathryn E. Donovan  
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former requires information on travel of a member of the  
"immediate family" of a candidate or elected officer.

The latter requires the information on travel by a member of the  
"household" of the candidate or elected officer. Which section  
controls?

Very truly yours,

OLSON, CONNELLY, HAGEL, FONG & LEIDIGH



ROBERT E. LEIDIGH

REL/kl

cc: Lance Olson



# California Fair Political Practices Commission

January 8, 1990

Robert E. Leidigh  
Olson, Connelly, Hagel,  
Fong and Leidigh  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Letter No. 89-713

Dear Mr. Leidigh:

Your letter requesting advice under the Political Reform Act was received on December 26, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Joseph Garcia an attorney in the Legal Division, directly at (916) 322-5901.

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 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,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan  
General Counsel

KED:plh