



# California Fair Political Practices Commission

March 9, 1990

Allison Turner  
Voter Information League  
1514 15th Street, Suite B  
Sacramento, CA 95814

Re: Your Requests for  
Informal Assistance  
Our File No. I-90-031

Dear Ms. Turner:

You have requested advice concerning the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> Your letters ask general and hypothetical questions. Accordingly, we consider them to be requests for informal assistance pursuant to Regulation 18329(c) (copy enclosed).<sup>2</sup>

## QUESTIONS

1. Is it permissible for a candidate to solicit contributions on behalf of a non-controlled general purpose recipient committee.

2. Is it permissible for a non-controlled general purpose recipient committee to make independent expenditures on behalf of a candidate who has assisted the committee in its fundraising.

## CONCLUSIONS

1. Proposition 73 does not prohibit a candidate from soliciting funds on behalf of a non-controlled general purpose committee. However, such activity may be relevant to whether the committee is, in fact, controlled by the candidate.

<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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c)(3).)

2. There is nothing in the Act which specifically prohibits an individual, organization or committee from making independent expenditures to support or oppose a candidate who has solicited funds for the committee in the past. However, if there is any understanding that funds solicited by the candidate will ultimately be used to support his or her candidacy, such expenditures would constitute contributions to the candidate.

#### ANALYSIS

Proposition 73 added new provisions to the Act which limit contributions to candidates, their controlled committees, and to committees which make contributions to candidates. (Sections 85301, 85302, 85303 and 85305.) Proposition 73 also prohibits transfers of campaign contributions between candidates and their controlled committees.

Proposition 73 does not prohibit a candidate from soliciting funds on behalf of a committee which is not a controlled committee. However, such activity may be relevant to whether the committee is controlled by the candidate. By itself, soliciting funds on behalf of a committee would not indicate control of the committee. (Madden Advice Letter, No. A-85-197, copy enclosed.)

To ensure that the committee is not a "controlled committee," no elected officer or candidate, no agent of an elected officer or candidate, and no committee controlled by an elected officer or candidate may participate in the actions or decisions of the committee.

Section 82016 provides:

"Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or a state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

The Commission has interpreted the definition of "controlled committee" very broadly to include any significant participation in the actions of a committee by a candidate, his or her agent, or representatives of any other committee he or she controls. Attached for your guidance are the following advice letters issued by the Commission on the subject of what constitutes "control" of a committee:

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Pastrick Advice Letter, No. A-87-063  
Ferguson Advice Letter, No. A-86-044  
Memo To Advice File, No. T-85-139  
Memo To Advice File, No. T-84-257  
Gross Advice Letter, No. A-84-143

With regard to the making of "independent expenditures" in support of a candidate by an individual, organization or committee, Section 82031 provides:

"Independent expenditure" means an expenditure for a communication made by a person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

A payment which is "made at the behest" of a candidate or committee is not an "independent expenditure." (Section 82031.) It is a "contribution" to the candidate or committee. (Section 82015.) A payment is "made at the behest" of a candidate or committee if it is made:

... under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate, controlled committee,...

(Regulation 18215, copy enclosed.)

If you have any questions about this letter, please call me at (916) 322-5662.

Sincerely,

Kathryn E. Donovan  
General Counsel



By: Wayne Imberi  
Political Reform Consultant

Enclosures