



California Fair Political Practices Commission

March 7, 1990

Peter Ferenbach
SANE/FREEZE
347 Dolores St., #335
San Francisco, CA 94110

Re: Your Request for Advice
Our File No. A-90-105

Dear Mr. Ferenbach:

You have requested advice under the campaign disclosure provisions of the Political Reform Act.^{1/}

QUESTION

How does SANE/FREEZE determine the value of in-kind contributions made when its employees collect signatures and recruit volunteers on behalf of a committee formed to qualify a ballot measure?

CONCLUSION

SANE/FREEZE is making an in-kind contribution when any employee spends more than 10% of his or her compensated time in any one month gathering signatures and recruiting volunteers on behalf of a committee formed to qualify a ballot measure. Any allocation method may be used to determine the value of SANE/FREEZE's efforts as long as the method is reasonable and made in good faith. Guidance for determining an allocation method is referenced in the analysis section of this letter.

^{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.

FACTS

SANE/FREEZE is a national political organization incorporated as a nonprofit, tax-exempt 501(c)(4) organization. SANE/FREEZE employs canvassers whose principal job is to go door-to-door soliciting funds and memberships on behalf of SANE/FREEZE. As part of the canvassing process, the employees pass out literature and discuss with the public the various issues of importance to SANE/FREEZE.

SANE/FREEZE will ask its employees while they are canvassing to also enlist campaign volunteers and gather signatures for a committee primarily formed to qualify a ballot measure known as "Cut military spending and rebuild America." This effort by SANE/FREEZE employees would be voluntary and not part of the employee's normal job description. Further, employees will be instructed not to solicit campaign contributions on behalf of the committee.

ANALYSIS

Regulation 18423 provides:

- (a) The payment of salary, reimbursement for personal services or other compensation by an employer to an employee who spends more than 10% of his compensated time in any one month rendering services for political purposes is a contribution, as defined in Government Code Section 82015 and 2 Cal. Adm. Code Section 18215, or an expenditure, as defined in Government Code Section 82025 and 2 Cal. Adm. Code Section 18225 if:
 - (1) The employee renders the services at the request or direction of the employer;

....

- (b) Personal services are rendered for political purposes if they are carried on for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of one or more candidates, or the qualification or passage of any

measure, and include but are not limited to:

- (1) Personal services received by or made at the behest of a candidate or committee by an employee; and
- (2) Hours spent developing or distributing communications that expressly advocate the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure.

(Regulation 18423.)

"Made at the behest" means a payment 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, official committee of a political party, or organization formed or existing primarily for political purposes.

(Regulation 18215(b).)

It is clear from the facts provided that SANE/FREEZE employees will be gathering petition signatures and recruiting volunteers for the committee at the direction of their employer and that the service is "at the behest" of the committee. Therefore, SANE/FREEZE will be making "in-kind contributions" to the committee.

For these same reasons, the 10% threshold in Regulation 18423 applies. If an employee spends 10% or more of his or her time in a calendar month gathering signatures and recruiting volunteers, the compensation paid the employees constitutes a "contribution." An appropriate method of allocating employees' time spent is provided in Regulation 18423:

- (c) The amount of the contribution or expenditure reportable pursuant to this regulation is the pro-rata portion of the gross salary, reimbursement for personal expenses or compensation attributable to the time spent on political activity.

(Regulation 18423(c).)

Although there are no definitive rules for accomplishing such allocation, a reasonable method of allocating employee time would be to include (1) the time spent actually recruiting volunteers and soliciting signatures, (2) the time spent speaking about the ballot initiative, and (3) travel time, walking time and similar activities. (Olson Advice Letter, No. A-87-318, copy enclosed).

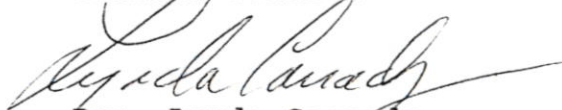
The committee must disclose SANE/FREEZE's in-kind contribution on its campaign statement which must be filed not later than 21 days after any petitions are filed or 21 days after the deadline for filing petitions, whichever is earlier. (Section 84200.5.)

In addition, SANE/FREEZE may qualify as a "committee" if it receives or makes contributions of the amounts set out in Section 82013(a) or (c), whichever is applicable.

Please do not hesitate to contact me at (916) 322-5662 if you have additional questions.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Lynda Cassady
Political Reform Consultant