



# California Fair Political Practices Commission

June 6, 1990

Mr. Cary Davidson  
Reed & Davidson  
888 West Sixth Street, 12th Floor  
Los Angeles, CA 90017

RE: Your Request for Informal Assistance  
Our File No. I-90-107

Dear Mr. Davidson:

You have requested informal assistance concerning the campaign provisions of the Political Reform Act (the "Act").<sup>1/</sup> We cannot provide specific answers to some of your more general questions because the answers to those questions often will differ depending on the facts presented. Therefore, we treat your request as one for informal assistance under Regulation 18329(c) (copy enclosed).<sup>2/</sup> I hope the following information will be helpful.

#### QUESTIONS

1. Under what circumstances are subvendors required to be disclosed when a committee pays vendors such as printers, phone banks, signature gathering firms or direct mail firms for goods or services?

2. If an agent or independent contractor does not provide a committee with the necessary subvendor information, what steps should be taken to obtain the information?

#### CONCLUSIONS

1. Candidates and committees are required to report expenditures made on their behalf by agents or independent contractors if those expenditures are for other than the agent's

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1/ Government Code Section 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).)

or independent contractor's normal operating and overhead expenses. The specific types of payments set out in your letter are addressed in the Analysis which follows.

2. Treasurers have an obligation to use reasonable diligence in obtaining and reporting information required to be disclosed on campaign statements. If the agent or independent contractor does not respond to a request for subvendor information, a treasurer would not be relieved of his or her duty to obtain the required information. We recommend that treasurers contact the agents or independent contractors again notifying them that the law requires that they provide the treasurer with all of the required subvendor information. When the information has not been provided, the treasurer should note on the campaign disclosure statement that the agent or independent contractor has been notified but has not responded to the request for subvendor information and that when the information is received, the campaign disclosure statement will be amended to provide this information. In addition, if a treasurer is aware of subvendors with which the agent or independent contractor has contracted, the treasurer should provide in the campaign statement as much information as he or she has, such as the name and address of the subvendors, along with a notation that the statements will be amended as soon as possible to provide complete information regarding the subvendor payments.

#### ANALYSIS

1. Section 84303 requires candidates and committees to report expenditures, other than normal overhead and normal operating expenses, made on their behalf by agents or independent contractors in the same detail as if such expenditures were made directly by the candidate or committee. Section 84303 requires disclosure of expenditures made by an agent or independent contractor for services which are not routinely provided by the agent or independent contractor. For example, a campaign management firm's payments to a radio or television station for broadcast advertising would be reportable by the candidate or committee on whose behalf the advertising was purchased.

With regard to your specific questions, Section 84303 would require disclosure of payments made by a printer to an outside lithographer because those services normally are not obtainable from the printer. It does not require disclosure of expenditures made by a printer for ink and paper or additional staff needed to produce the printing because payments for those items are part of the printer's normal operating expenses. Section 84303 does not require disclosure of expenditures made by a phone bank to persons who make phone calls on behalf of specific candidates or committees, or to a telephone company providing the rental phones to a phone bank. These payments are normal operating expenses of a phone bank.

Expenditures made by an agent or independent contractor for mailing and postage are specifically required to be disclosed by Regulation 18431 (copy enclosed), which states:

Expenditures to any person, other than an employee of the agent or independent contractor, who furnishes the candidate or committee with products or services which show how the campaign is conducted, including but not limited to expenditures for:...

(F) Postage for campaign mailings....

Regulation 18431(2)(F).

In addition, Section 84211 requires disclosure of the names and addresses of individuals receiving \$100 or more for the purpose of signature gathering to qualify a measure for the ballot.

If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (j) for each person who has directly, indirectly or through an intermediary received payments cumulatively totaling one hundred (\$100) or more for circulation of petitions to qualify a measure for the ballot.

Section 84211(r).

With regard to other payments for signature gathering and direct mail services, your questions are too general in nature to be addressed in this letter. If a specific factual situation arises where you have a question as to reportability under Section 84303, please request our advice again. In addition, enclosed are the following previously issued advice letters which may assist you: John H. Hodgson, II, A-79-073; Vigo G. Nielsen, Jr., A-80-09-047; Mrs. L. G. Statham, A-84-0004; Dannie Trautwein, I-87-315.

2. Regulation 18427 (copy enclosed) provides that the treasurer of a committee must verify that to the best of his or her knowledge the committee's campaign statements are true and complete and must use all reasonable diligence in the preparation

of such statements. Specifically, the regulation states that a treasurer must:

- (1) Establish a system of record keeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately, and sufficient to comply with regulations established by the Commission related to record keeping;
- (2) Either maintain the records personally or monitor such record keeping by others;
- (3) **Take steps to ensure that all requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds are complied with;**
- (4) Either prepare campaign statements personally or review with care the campaign statements and underlying records prepared by others;
- (5) Correct any inaccuracies or omissions in campaign statements of which the treasurer knows, and cause to be checked, and, if necessary, corrected, any information in campaign statements which a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of his or her duties under this regulation and the Act...

Emphasis added.

Treasurers have an obligation to use reasonable diligence in obtaining information and reporting under Section 84303. Agents or independent contractors also have an obligation to provide the treasurers with the necessary information under Section 84303. Beyond that, neither the Act nor Commission regulations specify the means a treasurer must employ to ensure that he or she has obtained the necessary information from the agents or independent contractors. The example letter to agents and independent contractors enclosed with your letter is one method of obtaining the required subvendor information. However, sending such a letter does not relieve the treasurer of any further responsibility to obtain such information. In order to fully comply with Regulation 18427, treasurers must take additional steps to obtain the information from vendors who do not respond.

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In addition, the treasurer should advise agents or independent contractors that they are required by Section 84303 to provide the information.

I hope the above information has been helpful. Please contact me at 916/322-5662 if I may be of further assistance to you concerning this letter.

Sincerley,

Scott Hallabrin  
Acting General Counsel



By: Mary Ann Kvasager  
Political Reform Consultant

Enclosures