



California Fair Political Practices Commission

July 13, 1990

John A. Bramhall
City Clerk
3031 Torrance Blvd.
Torrance, CA 90509-2970

Re: Your Request for Informal
Assistance
Our File No. I-90-263

Dear Mr. Bramhall:

You have requested advice concerning the campaign provisions of the Political Reform Act.^{1/} The Commission is not able to provide advice on past conduct. Therefore, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c)(3) (copy enclosed).^{2/} The following information will provide guidance in determining the city's duties as a filing officer for campaign disclosure statements.

QUESTIONS

1. Under what circumstances does a city clerk have a duty to notify recipient committees of their obligation to file campaign statements?
2. What is a filing officer's duty with respect to imposing fines on a committee that filed a series of campaign statements late?

^{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.

^{2/} 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. Section 18329(c)(3).)

CONCLUSIONS

1. When a filing officer is aware that a committee has an obligation to file and has failed to do so, the filing officer has a duty to notify the committee of its filing obligation. If the filing officer has some evidence indicating that a committee is required to file campaign statements in the jurisdiction, he or she must notify the committee of its filing obligations if the committee fails to file required campaign statements. Such evidence would include receipt of a committee's Statement of Organization (Form 410) or an original campaign statement. If such documents are received and a committee's status remains unclear, the filing officer should take steps to determine the committee's filing obligations.

2. A filing officer may impose a fine of \$10 per day for each day a committee's campaign statement is late. However, under certain circumstances, filing officers are permitted to waive or reduce fines.

ANALYSIS

The Act requires every committee pursuant to Section 82013(a) ("recipient committees") to file with the Secretary of State a Statement of Organization within 10 days after it has qualified as a committee. The committee is also required to file a copy of the Statement of Organization with the local filing officer with whom the committee is required to file the originals of its campaign reports.^{3/} Additionally, the Secretary of State is required to send a copy of a committee's Statement of Organization to the clerk of each county which he or she deems appropriate. A county clerk is required to send a copy of a Statement of Organization to the clerk of each city in the county which is deemed appropriate. (Section 84101.)

The Act also requires recipient committees to file periodic campaign disclosure reports. (Section 84200-84221.) A city general purpose committee is required to file its original campaign statements with the clerk of the city. (Section 84215(e).)

Filing officers are required to notify promptly all persons and known committees who have failed to file a report or statement. (Section 81010.) In addition, Regulation 18110(a)(1) and (2) provide:

^{3/} The requirement that a committee file a copy of its Statement of Organization with the local filing officer was added to Section 84101 on January 1, 1987. (Stats. 1986, Chapter 544.)

(a) It shall be the duty of a filing officer pursuant to Section 81010(b) in connection with the filing of candidate and committee campaign statements to determine whether required documents have been filed.

(1) In order to fulfill his or her duty to determine whether required documents have been filed, if the filing officer is aware that a candidate or committee has an obligation to file a campaign statement and has failed to do so, the filing officer shall notify the candidate or committee of the obligation to file a statement.

(2) In determining whether required documents have been filed, the filing officer shall not be required to conduct any investigation to determine whether or not a committee or candidate has an obligation to file a campaign statement. This subsection is not intended to prevent the filing officer from performing such an investigation.

Emphasis added.

In most cases, a local filing officer becomes aware that a new committee with filing obligations in the jurisdiction exists when he or she receives the committee's Statement of Organization. The filing officer also may become aware of a committee's existence through news reports or information provided by persons in the community. In addition, because filing officers are required under Regulation 18110 to review all original campaign statements received, receipt of a committee's original campaign statement would also put the filing officer on notice that the committee has or may have filing obligations in the jurisdiction. Filing officers are not required to review copies of campaign statements they receive.

In addition, please note that the Act only requires a filing officer to notify known committees if the committee has failed to file a required campaign statement. Advance notification is not required. Furthermore, as noted above, the Act requires a committee to file statements whether or not the committee is notified of its filing obligations by a filing officer.

The Act provides that filing officers may assess fees on late filings of statements or reports. Section 91013(a) states:

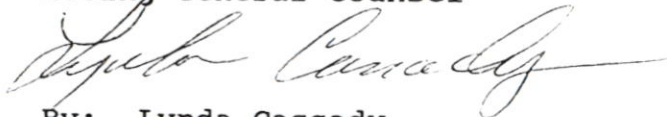
(a) If any person files an original statement or report after any deadline imposed by this act, he or she shall, in addition to any other penalties or remedies established by this act, be liable in the amount of ten dollars (\$10) per day after the deadline until the statement or report is filed, to the officer with whom the statement or report is required to be filed. Liability need not be enforced by the filing officer if on an impartial basis he or she determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the act,...

Filing officers have discretionary authority in assessing late penalties against filers who fail to file statements by the filing deadline so long as their discretion is exercised on an impartial basis. (In re Rundstrom (1975) 1 FPPC Ops. 188, copy enclosed.) There is nothing in the Act or Commission regulations that would provide a committee immunity from late filing penalties based on a filing officer's failure to notify the committee of its filing requirements.

I hope this information is helpful. Please contact me at (916) 322-5662 if you have additional questions concerning this matter.

Sincerely,

Scott Hallabrin
Acting General Counsel



By: Lynda Cassady
Political Reform Consultant

Enclosures