



California Fair Political Practices Commission

September 5, 1990

Honorable Christine S. Knight
Councilmember, City of Novato
310 Country Club Drive
Novato, CA 94949

Re: Your Request for Advice
Our File No. I-90-383

Dear Ms. Knight:

This is in response to your request for advice regarding your responsibilities under the Political Reform Act (the "Act").¹ Since you are seeking general guidance regarding reimbursement of expenses for use of your automobile, we are treating your request as one for informal assistance pursuant to Section 18329(c) (copy enclosed).²

QUESTION

Can you reimburse yourself for the use of your automobile for activities in connection with your duties as councilmember of the City of Novato?

CONCLUSION

You may reimburse yourself for use of your automobile provided you document the use of the vehicle in connection with your duties as a councilmember in a manner approved by the Internal Revenue Service, and then seek payment from the campaign back account within a reasonable time period thereafter.

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).)

FACTS

You use your automobile for activities, such as to attend meetings, in connection with your duties as a councilmember.³ You keep a daily log of mileage for the record. You have been advised that you may not deduct these costs for the use of the automobile from your income tax. You would like to claim reimbursement for this mileage from your campaign account.

ANALYSIS

Effective January 1, 1990, the Act was amended by Senate Bill 1431 to include new provisions that regulate the appropriate use of campaign funds. (Section 85800, et seq., the "personal use" law.) The purpose of the legislation was "to ensure that candidates, elected officers and the people clearly recognize acceptable and unacceptable uses of campaign funds." (Senate Elections Committee Analysis of SB 1431.)

The general rule of the new personal use law is that any expenditure of campaign funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. (Section 85801.) However, where an expenditure confers a substantial personal benefit on the candidate or officeholder, the expenditure must be directly related to a political, legislative, or governmental purpose. (Section 85801.) Section 85804 provides specific guidance regarding the use of campaign funds for vehicle expenses.

Section 85804(a) permits the use of campaign funds to purchase a vehicle provided title to the vehicle is held by the campaign committee and not the elected officer and the use of the vehicle is directly related to a political, legislative, or governmental purpose. Section 85804(b) permits the use of campaign funds to lease a vehicle provided the lessee is the campaign committee, and not the elected officer, and use of the vehicle is directly related to a political, legislative, or governmental purpose. Use of such vehicles, owned or leased by the campaign committee, is considered directly related to a political, legislative or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes. (Section 85804(e).) Campaign funds may then be used to pay for or reimburse the operating costs, including insurance, maintenance and repairs for such vehicles. (Section 85804(c).)

³ In your letter you sought advice regarding reimbursement of mileage expenses for the use of your personal vehicle in 1989. In a subsequent telephone conversation you explained that you had closed your campaign bank account and had no funds available to reimburse yourself for 1989. You are, therefore, seeking advice regarding reimbursements for the future use of your automobile.

If the candidate or elected officer elects to use his or her personal vehicle for campaign related matters, Section 85804(d) provides specific guidance regarding reimbursement for the use of such vehicle.

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or an employee or member of the staff of the campaign committee or of the elected officer's governmental agency for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

Section 85804(d).

Section 85806 provides for reimbursement, made pursuant to Section 85201, of out-of-pocket expenses, incurred for a political, legislative, or governmental purpose. Section 85201(d) requires that a candidate's personal funds, which will be utilized to promote the candidate's election, be deposited in the campaign bank account prior to the expenditures. Section 85201(e) provides that all campaign expenditures must be made from the campaign bank account. Together these provisions limit the circumstances in which an elected officer may be reimbursed from the campaign bank account. (See, Regulations 18526 and 18526.1, copies enclosed.) However, payment for the use of the personal automobile can only be made immediately following the use, after determining the number of miles driven; such use would be akin to payment for a ride in a taxicab. Thus, if the payment is made within a reasonable time, the expenditure will be deemed to have been made from the campaign bank account within the meaning of Section 85201(e). Accordingly, if you follow a procedure to document the use of the personal vehicle for your activities in connection with your duties as a councilmember in a manner approved by the Internal Revenue Service, and then seek payment from the campaign bank account within a reasonable time period thereafter, you can reimburse yourself for use of your personal vehicle.

I trust this letter has provided you with the guidance you requested. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel



By: Jeevan S. Ahuja
Counsel, Legal Division

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Enclosure