



California Fair Political Practices Commission

July 12, 1990

John Honigsfeld
350 S. Fuller Ave. #2B
Los Angeles, CA 90036

Re: Your Request for Advice
Our File No. A-90-406

Dear Mr. Honigsfeld:

You have requested advice on behalf of several Peace and Freedom Party candidates for Controller, Treasurer, Secretary of State, Board of Equalization, and various Assembly and State Senate races. Your question concerns the campaign provisions of the Political Reform Act.¹

QUESTIONS

1. How do Forms 470, 501, and 502 relate to each other?
2. If a candidate receives a \$25 contribution and does not have a bank account, how can the candidate comply with the Act if the candidate can not find a bank willing to open a checking account for \$25?

CONCLUSIONS

1. There is no "relationship" between the Form 470 and the Forms 501 and 502, per se. The requirement to file the Form 470 is not contingent upon whether the Forms 501 or 502 are filed. Conversely, the Forms 501 and 502 have their own separate filing requirements.

The Form 470 (Candidate and Officeholder Campaign Statement - Short Form) may be filed by a candidate in connection with a statewide, an Assembly, or a State Senate election in lieu of Form 490 (Candidate and Officeholder Campaign Statement -- Long Form) if the candidate does not intend to raise or spend \$1,000 in a calendar year for political purposes, including the candidate's own personal funds. The Form 470 is filed even if the candidate does not raise or spend any money.

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.

The Form 501 (Candidate Intention) must be filed prior to a candidate soliciting or accepting campaign contributions, including the use of the candidate's personal funds for political purposes. The only exception is when the candidate does not intend to receive contributions or make expenditures to support his or her candidacy and uses personal funds only to pay for filing fees and candidate qualification statement fees. In this case, the candidate is not required to file the Form 501. However, if campaign contributions are received, or the candidate uses personal funds to make other types of expenditures to support his or her candidacy, the funds must be placed into a bank account with a financial institution located in California.

The Form 502 (Campaign Bank Account) is filed within 24 hours after opening the bank account.

2. The Act does not specify the type of bank account into which contributions must be placed. Therefore, as an example, the \$25 contribution could be placed into a savings account and expenditures from the account made by money order. In addition, the candidate might choose to loan his or her campaign the funds necessary to open a bank account so that if contributions are received, an account exists into which they could be placed. In the alternative, the candidate could return the contribution to the contributor. Under no circumstances, however, may a candidate place campaign contributions received into a personal bank account commingled with personal funds.

FACTS

You represent Peace and Freedom candidates running for Controller, Treasurer, Secretary of State, Board of Equalization, and various State Senate and Assembly seats. None of the candidates listed in your letter has raised or spent any money for political purposes and, therefore, has not filed either the Form 501 or 502. Since no candidate expects to raise or spend \$1,000 this calendar year, all of the candidates have filed the Form 470. -

ANALYSIS

Sections 84200, 84200.5, 84200.6, 84200.7, 84200.8 require candidates to file campaign statements disclosing contributions received and expenditures made during specified reporting periods. Section 84206 and Regulation 18406 permit the Commission to provide for a short form for candidates who raise or spend less than \$1,000 in a calendar year. The Commission has designated Form 470 as the short form.

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Section 85200 requires

Prior to solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office shall file with the commission a statement...of intention to be a candidate for a specific office.

After filing this statement (Form 501),

...the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(Section 85201(a).)

Contributions may not be commingled with the personal funds of the candidate receiving them. (Section 84307.)

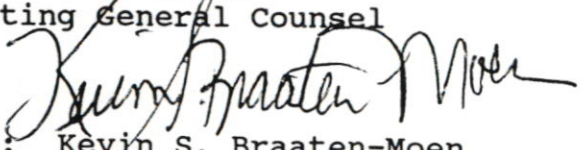
Section 84211(q) states that if a contribution is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported, the contribution is deemed not to have been accepted.

Since Section 85201(a) contains no requirement that a candidate's contributions be placed in a checking account, any type of account at a California financial institution may be used to deposit contributions. Please note, however, that Section 85201(e) requires that all of a candidate's campaign expenditures be made from this account. Any expenditure from the account of \$100 or more cannot be in cash. (Section 84300(b).) Therefore, a candidate must draw funds from the account for these types of expenditures in some form of check or negotiable instrument.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Scott Hallabrin
Acting General Counsel


By: Kevin S. Braaten-Moen
Political Reform Consultant