



# California Fair Political Practices Commission

August 28, 1990

E. Jane Pool  
City Clerk  
City of Encinitas  
527 Encinitas Boulevard  
Encinitas, CA 92024

Re: Your Request for Informal Assistance  
Our File No. I-90-503

Dear Ms. Pool:

This is in response to your request for advice regarding the contribution limits of the Political Reform Act (the "Act").<sup>1</sup> Since your request is for general information and does not relate to a specific decision, we are treating your request as one for informal assistance.<sup>2</sup>

#### QUESTION

Are contributions of husbands and wives cumulated for purposes of the Act's contribution limits?

#### CONCLUSION

The contributions of husbands and wives are not cumulated for purposes of the contribution limits. Each spouse may contribute the maximum amount permitted to be contributed by a person under the Act.

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<sup>1</sup> 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.

<sup>2</sup> 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

As city clerk, you anticipate being asked during the November campaign whether contributions of husbands and wives are cumulated for purposes of the campaign contribution limits of the Act. In 1988, you were advised that contributions would be cumulated due to California community property laws. You have read a recent summary of an advice letter issued by the Commission (Grant Advice Letter No. I-90-144, copy enclosed) which seems to contradict your understanding. You seek clarification of the Commission's advice regarding cumulation of contributions of spouses for purposes of the campaign contribution limits.

### ANALYSIS

The Act defines "person" for most purposes as follows:

"Person means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

Section 82047 (emphasis added).

However, Proposition 73, a statewide initiative passed by the voters at the June 1988 statewide primary election, added a new definition of "person" for purposes of the contribution limits added to the Act by the initiative. (Title 9, Chapter 5.) For purposes of the contribution limits, "person" is defined as follows:

"Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and labor organization.

Section 85102 (b).

Based upon the differences between the two definitions, the Commission has determined that contributions of husbands and wives should not be cumulated. Each spouse may therefore contribute the maximum amount contributable by a person--\$1,000 to a candidate (Section 85301) and \$2,500 to a political committee to be used to support or oppose candidates (Section 85302). (In re Bell (1988) 11 FPPC Ops 1; Clendenin Advice Letter No. I-89-624, copies enclosed.)

The Grant advice letter, supra, reaffirms that husbands and wives are treated as separate persons under the Act. However, the Grant letter additionally discussed a proposed situation in which a husband and wife formed a partnership. The issue was whether a contribution by the partnership would restrict the ability of

individual partners to make contributions to the same candidate. The Grant letter indicated that the contributions of the partnership would be cumulated with a spouse's individual contribution only as to a spouse who in fact directs and controls the contributions of the partnership.

I trust that this has provided you with the information that you have requested. If you have any questions, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin  
Acting General Counsel



By: Margaret W. Ellison  
Counsel, Legal Division

Enclosures