



California Fair Political Practices Commission

October 29, 1990

Robin Maisel
Co-Chair, Socialist Workers
Campaign Committee
2546 W. Pico Boulevard
Los Angeles, CA 90006

Re: Your Request for Advice
Our File No. I-90-551

Dear Mr. Maisel:

You have requested confirmation of telephone advice provided to you concerning the campaign provisions of the Political Reform Act.¹ My recollection of that advice differs somewhat from what you expressed in your letter.

As we discussed on September 25, 1990, in a telephone conversation, this letter was delayed due to a decision by the United States District Court, Eastern District of California. That decision is referenced in footnote 3 and discussed within the text of this letter.

The questions you have asked are general in nature; therefore, we consider your request to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed). The following discussion summarizes the information I provided in our telephone conversation.

DISCUSSION

You state that supporters of the Socialist Workers Party (SWP)² candidates are forming the Socialist Workers Campaign Committee. This committee will be raising funds in order to support SWP candidates. However, no candidate will "exercise any substantial control or influence over the committee."

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 The Socialist Workers Party does not meet the definition of a political party pursuant to Article 2 (commencing with Section 6430) of Chapter 5 of Division 6 of the Elections Code.

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You describe this committee as a "broad support recipient committee." We assume that you are describing what the Act refers to as a "broad based political committee." (Section 85102(d).) The Act differentiates between a political committee and a broad based political committee for purposes of defining contribution limitations only.³ A political committee may contribute no more than \$2,500 per state legislative candidate per fiscal year, whereas a broad based political committee may contribute up to \$5,000 per state legislative candidate per fiscal year. (Sections 85303.)

By definition, a broad based political committee:

...has been in existence for more than six months, receives contributions from 100 or more persons, and acting in concert makes contributions to five or more candidates.

Section 85102(d).

Since the Socialist Workers Campaign Committee has not been in existence for more than six months, it does not meet the definition of a broad based political committee and is therefore limited to making contributions, including non-monetary contributions, of \$2,500 per state legislative candidate per fiscal year.

The Act does not, however, limit independent expenditures. The Socialist Workers Campaign Committee may support its state legislative candidates by making contributions totaling \$2,500 to each candidate within a fiscal year, and then the Committee may make independent expenditures without regard to limits in order to support these candidates.

An independent expenditure is:

...an expenditure made by any person in connection with a communication which expressly advocates the election or

³ On September 25, 1990, the United States District Court, Eastern District of California, in the case of Service Employees International Union, et al. v. Fair Political Practices Commission (Case No. CIVS 89-0433 LKK-JFM), ruled, in part, that contribution limitations based on a fiscal year were unconstitutional. Subsequently, a partial stay of this decision, as it pertained to state legislative candidates, was granted. In other words, as of this writing, the state does not impose contribution limitations on candidates for elective office other than state legislative candidates.

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defeat of a clearly identified candidate...but which is not made to or at the behest of the affected candidate or committee.

Section 82031.

"Made at the behest" is defined as:

...a payment made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of a candidate, controlled committee, official committee of a political party, or organization formed or existing primarily for political purposes.

Regulation 18215(c).

You mentioned that the Socialist Workers Campaign Committee might make "in-kind" contributions to SWP candidates by paying for candidate filing fees or costs for printing a statement of qualifications for the voters' pamphlet. Please note that non-monetary contributions, such as these, must be counted when determining whether the candidate has received \$1,000 or more in a calendar year for purposes of forming a committee (Section 82013), and in determining whether the contribution limits for state legislative candidates have been met. (Sections 85301-85303.)

Candidates must file a statement of organization (Form 410) within 10 days of receiving or spending \$1,000 in a calendar year. (Section 84101.) By filing this form, the candidate forms a committee. In addition, the candidate will be required to disclose the contributions made by the Socialist Workers Campaign Committee. (Sections 84200-84226.) Please refer to the enclosed Information Manual A for further information.

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

Enclosure