



# California Fair Political Practices Commission

Mr. Robert E. Leidigh  
OLSON, CONNELLY, HAGEL,  
FONG & LEIDIGH  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Your Request for  
Confirmation of Telephone  
Advice <sup>169</sup>  
Our File No. A-90-~~699~~

Dear Mr. Leidigh:

This is in response to your request for confirmation of telephone advice given to you on October 23, 1990 concerning the duties of your client, Clinton Reilly, under the Political Reform Act (the "Act").<sup>1</sup>

In our conversation, you informed me that Mr. Reilly, who operates a slate mailer organization, planned to produce a slate mailer which highlighted the publicly announced endorsements of Senator Quentin Kopp. Mr. Reilly had sought Senator Kopp's assurance that the Senator would not institute legal action against him for producing the mailer. However, Mr. Reilly and the Senator did not coordinate, consult or cooperate regarding the specifics of the mailer.

This is to confirm that, on the basis of these facts, I informed you that:

1. The slate mailer would not constitute an in-kind contribution to Senator Kopp from the slate mailer organization because the organization's expenditures for the mailer were not "at the behest" of Senator Kopp pursuant to Section 82015 or Regulation 18215(b) (See Davis Advice Letter, No. I-90-173, copy enclosed.).

<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.


2. The slate mailer would not constitute an in-kind contribution to or independent expenditure on behalf of Senator Kopp from the slate mailer organization because the production or distribution of slate mailers by slate mailer organizations cannot be contributions to or independent expenditures on behalf of candidates. (Sections 82048.3 and 82048.4.).

3. Pursuant to the recent ruling in the case of Wax, et al. v. Fair Political Practices Commission, U.S. District Court, Eastern District of California, Case No. CIVS-90-1232 LKK, the slate mailer would not constitute an in-kind contribution to Senator Kopp from the slate mailer organization in any event if it did not expressly advocate Senator Kopp's election to office.

4. Where a committee paid for space on the slate mailer to expressly advocate the election of Senator Kopp to office, depending upon the circumstances, the payment would constitute a contribution to or independent expenditure on behalf of Senator Kopp.

Should you have any questions, please contact me at (916) 322-5901.

Sincerely,

  
SCOTT HALLABRIN  
Acting Chief Counsel

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Enclosure