



California Fair Political Practices Commission

January 3, 1991

Yvette Cartee
Administrative Assistant
Rossmoor Community Services District
3232 Hedwig Road,
Rossmoor, CA 90720

Re: Your Request for Informal
Assistance
Our File No. I-90-689

Dear Ms. Cartee:

You have requested confirmation of telephone advice provided to you concerning the campaign provisions of the Political Reform Act ("the Act").^{1/} Your request does not indicate that you are acting as an authorized representative of an officeholder, nor is the officeholder identified. Under these circumstances, we are treating your request as one for informal assistance and are limiting our assistance to an explanation in general terms of the requirements of the Act. (Regulation 18329(c)(4).)^{2/} The advice provided is premised upon our understanding that the items discussed will not be produced or distributed at public expense.

QUESTIONS

1. May an elected officeholder, who is not running for re-election, produce a flyer or an insert which is sent out with a newspaper, or pay for an announcement in a newspaper, which expresses her support for candidates in an upcoming election? The support expressed for those candidates is not made at their behest. In a telephone conversation on November 14, 1990, you

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), copy enclosed.)

indicated that the officeholder in question plans to spend personal funds.

2. An elected officeholder, who is not up for re-election at the next election, wishes to print a flyer to be handed out and inserted in newspapers showing the voting records of the other board members. What are the identification requirements if the flyer is to be handed out; inserted in a newspaper; or the contents of the flyer are printed in a newspaper?

CONCLUSIONS

1. The Act does not prohibit officeholders from using personal funds to make expenditures supporting or opposing other candidates or officeholders. An officeholder making such expenditures may incur additional campaign filing obligations as discussed below.

2. Fliers which are handed out are not subject to identification requirements under the Political Reform Act. Fliers inserted in newspapers, which are mailed, must identify the name and address of the candidate or officeholder who paid for the flier. The Act specifies no identification requirements if an advertisement is printed in the newspaper.

DISCUSSION

1. The Act places no limit on personal funds which an officeholder may expend independently to support or oppose candidates or measures. However, if an officeholder receives contributions or makes expenditures totaling \$1,000 or more in a calendar year, including personal funds used to make contributions and expenditures to support or oppose other candidates or measures, Section 84206 requires the filing of the long form campaign statement (Form 490, copy enclosed) to disclose that activity.

In addition, Section 84203.5 requires officeholders who make "independent expenditures" totaling \$500 or more to support or oppose a single candidate, a single measure, or the qualification of a single measure, to file a Supplemental Independent Expenditure Report (Form 465, copy enclosed). An "independent expenditure" is defined in Section 82031 as:

...an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

The Form 465 must be filed at the same time and in the same place that the candidates who are supported or opposed, or a committee primarily formed to support or oppose the measure, are required to file their regular campaign statements.

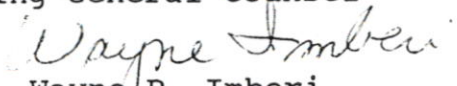
2. Section 84305 requires officeholders, candidates, and committees that make expenditures for a "mass mailing" (more than 200 substantially similar pieces of mail sent within a calendar month) to identify the name, address, and city of the sending officeholder, candidate, or committee on the outside of each piece of mail and on at least one insert in no less than 6-point type. However, if the sender is a single candidate or committee, the identification need only be shown on the outside of each piece of mail. If the sender is a controlled committee, the name of the person controlling the committee must be identified. If the material is sent out as an insert in a newspaper, which is mailed, the identification may be printed on the insert itself, and is not required to appear on the outside of the newspaper.

If the information is provided in a newspaper advertisement, or political material is handed out or distributed other than through the mail, the Act does not impose any identification requirements.

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

Sincerely,

Scott Hallabrin
Acting General Counsel


By: Wayne P. Imberi
Political Reform Consultant

Enclosures