



California Fair Political Practices Commission

March 4, 1992

Martha F. Stanton
Certified Public Accountant
2091 East Valley Parkway
Escondido, CA 92027

Re: Your Request for Advice
Our File No. A-92-041

Dear Ms. Stanton:

This is in response to your letter requesting advice regarding your responsibilities as a campaign treasurer under the campaign disclosure provisions of the Political Reform Act (the "Act").¹

QUESTION

May a husband and wife each contribute the maximum amount permitted to be contributed by a person under the Act to a single candidate from community funds?

CONCLUSION

Yes. Husbands and wives are treated as separate persons under the Act. Therefore, the contributions of spouses to a single candidate are not cumulated for purposes of the contribution limits.

FACTS

As a campaign treasurer for a candidate for the Escondido city council election in June, 1991, you hesitate to begin soliciting and accepting contributions until you resolve the conflicting information you have received concerning the issue of cumulation of contributions of husbands and wives under the Act for purposes of the campaign contribution limits. In December,

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.

1991, you received a letter from the Escondido city attorney which stated that contributions from a husband and wife are considered to be from a single source and are cumulated. The city attorney's letter relied, in turn, on a memorandum prepared by a former city attorney in April, 1986. It is your understanding that the city's intent with respect to the treatment of spousal contributions is to be consistent with the position of the Commission.

You recently reviewed the FPPC's publication entitled Information Manual A 1990. On page 19 of this manual, under the chapter heading "Contribution Limitations" and the section heading "Aggregation of Contributions," it states:

Individuals may make separate contributions using jointly held funds (i.e., spouses may each contribute \$1,000 to a single candidate in a fiscal year). However, when a contribution is made by a check bearing the imprinted name of more than one individual, it must be attributed to the individual who signs the check unless an accompanying document indicates the amount to be attributed to each individual. If each individual signs the check, the contribution must be attributed equally to each individual unless an accompanying document indicates otherwise. Accompanying documents must be signed by each contributing individual.

You were advised at a FPPC workshop held in 1991 that these FPPC guidelines continued to be in full force and effect. Thus, the FPPC guidelines appeared to contradict the memorandum from the city attorney. 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 determined that contributions of husbands and wives should no longer be cumulated. (Poole Advice Letter, No. I-90-503.) Each spouse may therefore contribute the maximum amount contributable by a person under the Act, and, in the case at hand, under the city ordinance.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.²

Sincerely,

Scott Hallabrin
Acting General Counsel

Deanne Stone

By: Deanne Stone
Counsel, Legal Division

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² Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.