



California Fair Political Practices Commission

March 3, 1992

Kathleen A. Blomo
Management Assistant II
and City Clerk
City of Chino
P. O. Box 667
Chino, CA 91708-0667

Re: Your Request for Informal
Assistance
Our File No. I-92-57

Dear Ms. Blomo:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/} Because your questions are general in nature, we treat your letter as a request for informal assistance pursuant to Regulation 18329(c)(3).^{2/}

QUESTIONS

1. Must a member of the City Council who wishes to solicit contributions to run for the office of Mayor open a separate bank account and establish a separate committee from the ones established for his or her council seat?
2. May funds be transferred between the two accounts?

CONCLUSIONS

1. Candidates and officeholders are required to establish separate bank accounts and committees for each elective office for which they intend to solicit or receive funds.

^{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. (Section 83114; Regulation 18329(c)(3).)

2. Funds may be transferred between a candidate's or officeholder's campaign bank accounts. If a candidate or officeholder is running in a special election to fill a vacant position, transfers from a regular election account to a special election account are subject to contribution limits.

ANALYSIS

Proposition 73, passed by the voters in June 1988, added provisions to the Act requiring candidates to file a statement of intention (Form 501) prior to soliciting or receiving a contribution or loan to run for a state or local elective office, and to establish a campaign bank account for the purpose of receiving contributions and making campaign expenditures for that office. (Sections 85200 and 85201.) Within 10 days of opening a campaign bank account, a Campaign Bank Account notice (Form 502) must be filed. (Section 85201(b).)

Sections 85201 and 85202 require candidates to file a separate statement of intention and establish a separate campaign bank account for each office for which they intend to run if contributions will be received or expenditures made in connection with the election. In addition, Regulation 18521 requires that a separate committee be established for each office for which a candidate has raised \$1,000 or more.

Therefore, if a member of the City Council wishes to raise funds to run for Mayor, he or she must file Form 501 indicating his or her intention to run for Mayor, must open a campaign bank account for the mayoral race, and must file Form 502 within 10 days of setting up the account. Within 10 days of receiving \$1,000 or more for the mayoral race, the candidate must file a Statement of Organization (Form 410) to establish a committee. (Sections 82013(a) and 84101.)

Proposition 73 also imposed a ban on transfers between a candidate's controlled committees. (Section 85304.) However, this provision was declared unconstitutional in connection with Proposition 73's fiscal year contribution limits. (Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission (9th Cir. Feb. 7, 1992) ___ F.2d ___ [Dock. No. 89-15771].) Therefore, a candidate or officeholder who has more than one campaign bank account may transfer funds between those accounts.

However, because the contribution limits for any special election held to fill a vacant elective office remain valid, transfers to a special election account are subject to the contribution limits imposed by Section 85305. For example, if an individual has contributed \$5,000 to the officeholder's City Council account and the councilmember is running in a special

election to fill the office of Mayor, only \$1,000 (the contribution limit for individuals during a special election cycle) of that individual's contribution may be transferred to the special election account. If the councilmember is in a runoff election held in connection with the special election, an additional \$1,000 from that contributor may be transferred during the special runoff election cycle. In this example, the contributor would be prohibited from contributing any additional money directly to the special election account. Restrictions also apply to transfers involving candidates subject to local contribution limits.

If you have additional questions regarding this matter, please do not hesitate to contact me at (916) 322-5662.

Sincerely,

Scott Hallabrin
General Counsel

Carla Wardlow

By: Carla Wardlow
Assistant Division Chief
Technical Assistance and
Analysis Division