



# California Fair Political Practices Commission

February 24, 1992

Diane Fishburn  
Olson, Connelly, Hagel, Fong & Leidigh  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Your Request for Informal Assistance  
Our File No. I-92-64

Dear Ms. Fishburn:

You have requested advice regarding the application of Section 85201(a) of the Political Reform Act (the "Act").<sup>1</sup> Since you have not specified the person on whose behalf this assistance is requested, we are treating your request as one for informal assistance in interpreting the provisions of the Act.<sup>2</sup> In order to expedite our response, we have limited our advice to the specific question posed.

#### ISSUE

Does Section 85201(a) prohibit a candidate-controlled committee formed prior to January 1, 1989, from placing part of its funds in an investment account with an out-of-state brokerage company, if the committee has neither solicited nor received any contributions on or after January 1, 1989?

#### CONCLUSION

A candidate-controlled committee formed prior to January 1, 1989, which contains no contributions either solicited or received

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<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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

on or after January 1, 1989, is not prohibited by Section 85201(a) from placing part of the committee's funds in an investment account with an out-of-state broker.

ANALYSIS

Section 85201 provides as follows:

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) Upon the establishment of an account, the name of the financial institution, the specific location, and the account number shall be filed with the commission within 10 days, except as provided by subdivision (h).

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate's payment for a filing fee and statement of qualifications from his or her personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than one thousand dollars (\$1,000) in a calendar year to support his or her candidacy. For purposes of this section, a candidate's payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) Before expending one thousand dollars (\$1,000) or more in a calendar year, any candidate who does not establish a campaign contribution account pursuant to subdivision (g) shall establish one campaign contribution account at an office of a financial institution located in the state and file the information required under subdivision (b) with the commission within five days of establishing the account.

Regulation 18524 permits candidates to place all or part of their campaign funds in secondary accounts such as money market

accounts, interest-bearing savings accounts and similar accounts so long as the funds are returned to the main campaign bank account prior to their expenditure. However, such secondary accounts must also be maintained at a financial institution within the state in order to remain consistent with the requirements of Section 85201. (Bauer Advice Letter, No. I-91-181.)

Section 85201 applies only to funds solicited under circumstances which would trigger the filing of a statement of intention to be a candidate. (Sections 85200-85201.) We have previously advised that no statement of intention is required until a candidate solicits or receives contributions or loans on or after January 1, 1989. (Gilmore Advice Letter, No. A-89-162.<sup>3</sup>)

In the situation that you describe, where a campaign bank account is established prior to January 1, 1989, and holds no contributions solicited or received on or after January 1, 1989, Section 85201(a) would not apply.

If you have any additional questions regarding this matter, please contact me at (916) 322-5901.<sup>4</sup>

Sincerely,

Scott Hallabrin,  
Acting General Counsel



By: Margaret W. Ellison  
Counsel, Legal Division

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<sup>3</sup> This advice letter contains other information which may not be current in light of changes in the law since its issuance.

<sup>4</sup> 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.