



# California Fair Political Practices Commission

March 6, 1992

Honorable David Roberti  
P.O. Box 2856  
Los Angeles, California 90028

Re: Your Request for Informal Assistance  
Our File No. I-92-78

Dear Senator Roberti:

This letter is in response to your request for advice regarding your duties and responsibilities under the provisions of the Political Reform Act (the "Act").<sup>1</sup> Your request does not address a pending decision but rather seeks general guidance. Accordingly, we treat your letter as a request for informal assistance under the provisions of Regulation 18329 (copy enclosed).<sup>2</sup>

## QUESTION

May an officeholder or a candidate rent or lease real property "jointly" with his or her campaign committee on a prorated basis for physical premises which will have campaign and personal uses?

## CONCLUSION

An officeholder or a candidate may not "jointly" rent or lease real property with his or her campaign committee on a prorated basis for physical premises which will have campaign and personal uses. However, so long as no other provision of the Act is violated, a portion of real property may be leased by a campaign committee where a separate lease exists for the remaining

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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).)

portion of the premises and the use of the campaign premises for other purposes is only incidental to its use for political, legislative, or governmental purposes.

#### FACTS

In your letter, you have asked whether it is proper for an officeholder or a candidate to share space with his or her campaign committee. Based on your facts, an officeholder or a candidate for an elective office would jointly rent or lease real property with his or her campaign committee on a prorated basis according to the amount of space used for campaign purposes on the one hand and personal use on the other. Separate leases may or may not be written for the separate uses. The time period for the duration of the lease or leases is unspecified.

#### ANALYSIS

Section 89512 enunciates the standards applicable to the expenditures of campaign funds under the Act. The general rule is that any expenditure of campaign funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose.<sup>3</sup> Section 89517 sets out specific rules regarding the restrictions on the use of campaign funds for the lease of office space.

Section 89517 states:

(a) Campaign funds shall not be used for payment or reimbursement for the lease of real property or for the purchase, lease, or refurbishment of any appliance or equipment, where the lessee or sublessor is, or the legal title resides, in whole or in part, in a candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds, or member of his or her immediate family.

(b) Campaign funds shall not be used to purchase real property. Except as prohibited by subdivision (a), campaign funds may be used to lease real property for up to one year at a time where the use of that property is

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<sup>3</sup> Where an expenditure confers a substantial personal benefit on the candidate or officeholder, the expenditure must be directly related to a political, legislative, or governmental purpose. A substantial personal benefit is defined as a direct personal benefit to the candidate or officeholder of \$100 or more. (Section 89511(b)(2).)

directly related to political, legislative, or governmental purposes.

(c) For the purposes of this section, real property, appliance, or equipment is considered to be directly related to a political, legislative, or governmental purpose as long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes.

Pursuant to subdivision (b) of Section 89517, campaign funds may be used to lease real property for up to one year at a time where the use of that property is directly related to political, legislative, or governmental purposes. Consequently, the lease or rent of office space for campaign purposes for up to one year at a time is directly related to a political, legislative, or governmental purpose.

Campaign funds cannot be used for payment or reimbursement for the lease, or rent, of real property where the lessee or sublessor is a candidate, elected officer, campaign treasurer, or any individual with authority to approve the expenditure of campaign funds, or member of his or her family. (Section 89517(a).) Campaign funds, therefore, cannot be used to make payments for real property associated with the campaign when an officeholder or a candidate has a lease or rental agreement on the same physical premises. Accordingly, the statute prohibits "joint" lease or rental agreements for the same real property, even if there are separate uses of the property which are pro-rated according to its use. However, so long as no other provision of the Act is violated, a portion of real property may be leased by a campaign committee where a separate lease exists for the remaining portion of the premises.

Subdivision (c) of Section 89517 provides real property is deemed directly related to a political, legislative, or governmental purpose, so long as its use for other purposes is only incidental to its use for political, legislative, or governmental purposes. Consequently, an officeholder or a candidate may not use the area leased by the campaign committee, unless such use is incidental to its use for a political, legislative or governmental purposes.

To guide officeholders and candidates in the interpretation of this subdivision, the Commission has adopted Regulation 18951<sup>4</sup>

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<sup>4</sup> Regulation 18951 is in the rulemaking process at the Office of Administrative Law. The regulation will become effective on the 30th day after it is filed with the Secretary of State. (Section 11346.2.) However, at the present time, the regulation represents the policy of the Commission for purposes of rendering advice regarding the expenditure of campaign funds.

which provides:

(a) For purposes of Government Code Section 89516(e) and 89517 (c), the use of any real property, appliance, equipment, or vehicle is incidental to its use for political, legislative, or governmental purposes only if all of the following apply:

(1) The use occurs in conjunction with its use for a purpose which is directly related to a political, legislative, or governmental purpose;

(2) The value of the use constitutes 5 percent or less of the total use of the item in any one calendar month; and

(3) The value of the use does not exceed a fair market value of \$100 in any one calendar month.

Where a portion of real property is leased to the campaign and a separate lease exists for the other portion of the property for an officeholder or a candidate's personal use, the provisions of this regulation should be closely followed. Furthermore, it is the obligation of an officeholder or a candidate to ensure the reporting and disclosure requirements are met.

I trust this letter has provided you with the guidance you requested.<sup>5</sup> If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin  
Acting General Counsel



By: Luisa Menchaca  
Counsel, Legal Division

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Enclosure

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<sup>5</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.