



# California Fair Political Practices Commission

April 1, 1992

Charles H. Bell, Jr.  
Bell and Hiltachk  
555 Capitol Mall, Suite 530  
Sacramento, CA 95814

Re: Your Request for Informal Assistance  
Our File No. I-92-081

Dear Mr. Bell:

This is in response to your letter requesting assistance with respect to the provisions of the Political Reform Act (the "Act")<sup>1</sup> which control campaign disclosure and the appropriate use of campaign funds (the "personal use" provisions). You have requested informal assistance.<sup>2</sup> Please note that nothing in this letter should be construed to evaluate any conduct that has already taken place.

### QUESTION

May two candidates establish and control a joint officeholder account which may be used to raise funds for contributions to other legislative candidates?

### CONCLUSION

Multiple candidates for elective office may create a joint committee established for the controlling candidates' current term of office and make contributions to other candidates from the account.

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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).)

## DISCUSSION

### Campaign Committees

Proposition 73, adopted by the voters of California in 1988, established specific procedures relating to the solicitation and acceptance of campaign funds by candidates. Pursuant to Proposition 73, before any contributions can be solicited or accepted, the candidate must file a Candidate Intention Statement (form 501) and open a campaign bank account for the election. (Section 85200.) Within 10 days after a campaign bank account is established, the candidate must file a Campaign Bank Account Statement (form 502) with the Commission. (Section 85201(b).)

Section 85201(c) provides that all contributions or loans made to a candidate, or to the candidate's controlled committee, for a specific election must be deposited in the campaign bank account established for that election. The Commission has interpreted this to mean that a candidate for elective office may have only one campaign bank account and one controlled committee for each office sought.<sup>3</sup> (Riddle Advice Letter, No. A-88-409.)

However, a candidate may seek more than one elective office simultaneously. Thus, the candidate may establish one campaign bank account and one controlled committee for each office the candidate is seeking. For example, a candidate may maintain a 1992 Assembly election committee and campaign bank account, as well as a campaign bank account and committee established for the 1994 Senate election because the candidate is campaigning for both offices. The candidate may not have two committees ostensibly established for the 1992 Assembly election to the same office.

Once a candidate is elected to office, the campaign bank account established for that election may be used for the purpose of collecting funds to defray the costs of holding that term of office. (Section 85201.) For example, an Assemblymember elected in 1990 could use the 1990 campaign bank account and committee to raise money to use for officeholder expenses during the Assemblymember's term in office. Funds in the 1990 campaign bank

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<sup>3</sup> The only exception to this rule pertains to candidate controlled ballot measure committees. (Olson Advice Letter, No. A-89-363.)

account could not be used for future campaigns.<sup>4</sup> (Regulation 18525.)

In addition, an officeholder who has terminated his or her campaign committee and bank account established for the officeholder's current term of office may reestablish the campaign committee and campaign bank account for his or her current term of office.

#### The Transfer Prohibition

As you correctly point out, since the decision in SEIU, generally transfers between candidates are no longer prohibited.<sup>5</sup> Based on this change in law, we have advised that candidates may create joint campaign committees. (Bott Advice Letter, No. A-91-386.) In addition, we have advised that contributions to other candidates may be made from committees established for an officeholder's current term of office. (Weems Advice Letter, No. A-91-326.) Therefore, a joint officeholder committee may be created and may be used to make contributions to other candidates so long as the expenditure is reasonably related to a political, legislative or governmental purpose. (Section 89512.)

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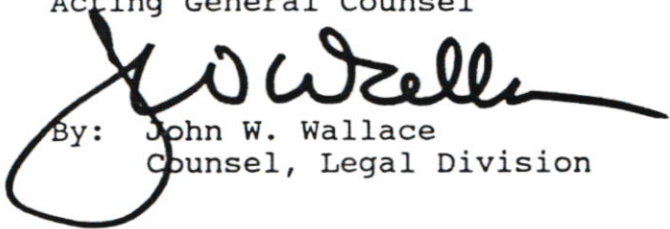
<sup>4</sup> Proposition 73 limited the use of campaign funds raised for a specific election to that election. It did not permit the use of the funds for any other election to office. In a series of decision, culminating on September 25, 1990, in the decision in Service Employees International Union, AFL-CIO, CLC, et al. v. Fair Political Practices Commission (1990) (E.D. Calif. 1990) 747 F.Supp. 580, affirmed by the U.S. Court of Appeals, 9th Circuit, Case Nos. 89-15771, 90-16200 and 90-16372 ("SEIU"), a United States District Court invalidated several provisions of Proposition 73. In light of the court's decision, the transfer of campaign funds between a candidate's various campaign bank accounts is now permitted.

<sup>5</sup> The transfer of campaign funds to another candidate continues to be prohibited where the recipient is in a special election, or where the recipient is in an election in a jurisdiction with local campaign contribution limits. (Riffenburgh Advice Letter, No. A-90-761.)

If you have any further questions regarding this matter,  
please feel free to contact me at (916) 322-5901.<sup>6</sup>

Sincerely,

Scott Hallabrin  
Acting General Counsel



By: John W. Wallace  
Counsel, Legal Division

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<sup>6</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.