



California Fair Political Practices Commission

June 17, 1992

Leonard R. Locher
City Clerk
4319 East Slauson Avenue
Maywood, CA 90270

Your Request for Informal Assistance
Our File No. I-92-314

Dear Mr. Locher:

This is in response to your letter requesting advice concerning the campaign provisions of the Political Reform Act (the "Act").^{1/} The Commission is not able to provide advice on past conduct. Therefore, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c)(3).^{2/}

QUESTION

What is a filing officer's duty with respect to notifying candidates of their obligation to file campaign statements?

CONCLUSION

When a filing officer is aware that a candidate has failed to file the required campaign statements, the filing officer has a duty to notify the candidate of his/her filing obligation. It appears from your letter of May 13, 1992, addressed to the Secretary of State, that you did everything necessary to obtain compliance. If the committee does not amend its statement, you should refer this matter to the district attorney or the commission for possible enforcement action.

^{1/}Government Code Section 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. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

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FACTS

Three candidates jointly formed a committee for election to Maywood city council. The election was April 14, 1992. The first pre-election campaign statement required to be filed in connection with this election was due March 5, 1992, covering the period January 1 through February 29, 1992. You received the committee's Form 490 on May 7, 1992. Your review indicates that the committee's identification number was not disclosed on the committee's Form 490. Subsequently you verified that as of May 18, 1992, the committee had not filed its Statement of Organization, Form 410, with the Secretary of State's office. You indicate that you have advised the candidates of this filing requirement.

ANALYSIS

The Act requires that candidates file an original and one copy of the Statement of Organization (Form 410) with the Secretary of State and a copy of the Form 410 with the local filing officer within 10 days of qualifying as a committee. (Section 84101.)

Filing officers are required to notify promptly all persons and known committees who have failed to file a report or statement. (Section 81010.) In addition, Regulation 18110(a)(1) and (2) provide:

(a) It shall be the duty of a filing officer pursuant to Section 81010(b) in connection with the filing of candidate and committee campaign statements to determine whether required documents have been filed.

(1) In order to fulfill his or her duty to determine whether required documents have been filed, if the filing officer is aware that a candidate or committee has an obligation to file a campaign statement and has failed to do so, the filing officer shall notify the candidate or committee of the obligation to file a statement. (Emphasis added.)

(2) In determining whether required documents have been filed, the filing officer shall not be required to conduct any investigation to determine whether or

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not a committee or candidate has an obligation to file a campaign statement. This subsection is not intended to prevent the filing officer from performing such an investigation.

Additional filing officer duties include:

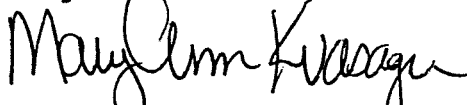
- Supplying the necessary forms and manuals prescribed by the Fair Political Practices Commission.
- Reporting apparent violations of the Political Reform Act to the appropriate agencies.
- Compiling and maintaining a current log of all reports and statements filed.

As noted above, notification of non-filers and late filers is one of the statutory duties of a filing officer. Failure to file the required statements places the committee in possible violation of the provisions of the Act and subject to late fines. (Section 91013.)

If you have any questions regarding this letter, please contact me at 916/322-5662.

Sincerely,

Scott Hallabrin
Acting General Counsel



By: Mary Ann Kvasager
Political Reform Consultant