



California Fair Political Practices Commission

June 9, 1992

Jeremiah F. Hallisey
Hallisey & Johnson
300 Montgomery Street
San Francisco, CA 94104

Re: Your Request for Advice
Our File No. A-92-316

Dear Mr. Hallisey:

You have requested advice on behalf of Jack Davis concerning the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Is Mr. Davis required to file campaign disclosure reports in connection with a flyer distributed in San Jose prior to the June 2, 1992 election?

CONCLUSION

The flyer appears to be an "independent expenditure." Therefore, Mr. Davis' expenditures must be disclosed.

FACTS

Jack Davis is a San Francisco based political consultant. Mr. Davis paid approximately \$2,000 from personal funds to produce a flyer for distribution in San Jose and San Francisco. The flyer states:

FLIP OFF BOB LURIE

This is the "Lurie Light Switch". Cut out Bob's photo and tape it over your light switch. Think of Bob Lurie every time you turn on your lights, cook a meal, or heat a cold room.

^{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.

Bob Lurie is one of America's most wealthy individuals. In fact, Fortune 500 has estimated his wealth to be almost \$500,000,000. Some financial experts believe that the Giant's franchise today is worth five times more than when Mr. Lurie bought it.

Mr. Lurie wants a new ballpark so he can make even more money. This is his right. But is it right to pay for that ballpark by taxing everyday essentials? Think of Bob Lurie every time you turn on your lights, cook a meal, or heat a cold room!

Regardless of how you vote on the ballpark issue don't forget to flip off Bob Lurie and conserve energy.

[Photo of Bob Lurie]

Paid for solely by Jack Davis an individual who believes Bob Lurie to be one of America's cheapest individuals. Mr. Davis supports private financing of sports facilities and opposed the ballpark in San Francisco. 1801 Van Ness Ave., S.F. 94109.

At the time the flyer was distributed, a ballot measure for financing construction of a baseball stadium in San Jose which would potentially be used by the San Francisco Giants baseball team was pending on the city's June 2, 1992, election ballot.

ANALYSIS

The Act requires disclosure of contributions received and expenditures made to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure. (Sections 82015, 82025; Regulations 18215, 18225.) Persons or entities which meet the Act's definition of "committee" must file periodic reports disclosing such receipts and expenditures. (Section 84100, et seq.)

The term "committee" is defined in Section 82013:

"Committee" means any person or combination of persons who directly or indirectly does any of the following:

- (a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year.
- (b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or
- (c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees....

Emphasis added.

An "independent expenditure" is:

...an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

Section 82031.

As I informed you by telephone on May 28, 1992, taken as a whole and in context, the flyer distributed by Mr. Davis appears to unambiguously urge a particular result in connection with the ballpark measure appearing on the ballot in the city of San Jose. Therefore, Mr. Davis qualified as a committee under Section 82013(b) when he expended \$1,000 or more to distribute the flyer.

I also explained that Mr. Davis will be required to file Form 461 (Independent Expenditure Committee and Major Donor Committee Campaign Statement), Form 465 (Supplemental Independent Expenditure Report), and possibly late independent expenditure reports pursuant to Section 84204. The deadlines and locations for filing such reports will depend on the date Mr. Davis qualified as a "committee" under the Act, and whether he made other contributions or expenditures during the first six months of 1992.

If you have any questions concerning this letter, please contact me at (916) 322-5662.

Sincerely,

Scott Hallabrin
Acting General Counsel

Carla Wardlow

By: Carla Wardlow
Chief, Technical Assistance
and Analysis Division