



# California Fair Political Practices Commission

August 21, 1992

Sue C. Hestor  
Attorney at Law  
870 Market Street, Suite 1121  
San Francisco, CA 94102

Re: Your Request for Advice  
Our File No. A-92-362, Follow-up

Dear Ms. Hestor:

I am writing in response to your letter of July 31, 1992, wherein you questioned our interpretation of Government Code Section 84308(d). You specifically questioned the three month prohibition on contributions of more than \$250 to a member of an appointed board or commission. The statute states, in pertinent part:

(d) ... No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding.

(Emphasis added.)

The statute defines the terms "officer" and "agency" as follows:

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

Ms. Bierman was removed from the San Francisco Planning Commission on March 17, 1992. Thus, the prohibition on contributions does not apply because she is no longer an "officer" of the planning commission and she is no longer participating in governmental decisions in which she may have a financial interest due to certain contributions. (Bagatelos Advice Letter, No. I-89-696 and Fishburn Advice Letter, No. A-91-514, copies enclosed.)


Therefore, once an official resigns or leaves a commission, the restrictions of Section 84308 are no longer applicable. However, if a contribution is solicited during the pendency of an application for a license, permit or entitlement for use, a violation would have occurred at the time of the solicitation even if the contribution was received after the resignation of the official. The resignation would not nullify the violation.

Campaign contributions do not trigger a conflict of interest under any other provisions of the Political Reform Act. Therefore, if Ms. Bierman is now a candidate for the board of supervisors, an elected office, she is not subject to the provisions of Section 84308. Additionally, under Section 82030(b)(1), campaign contributions are specifically excluded from the definition of income.

I trust this answers your question.<sup>1</sup>

Sincerely,

Scott Hallabrin  
Acting General Counsel

By:   
Jill Stecher  
Counsel, Legal Division

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Enclosures

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<sup>1</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.