



California Fair Political Practices Commission

November 10, 1992

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

Re: Your Request for Advice
Our File No. I-92-514

Dear Mr. Bell:

This is in response to your request for confirmation of telephone advice provided to Chris Micheli of your office on September 25, 1992, concerning the use of campaign funds under the provisions of the Political Reform Act (the "Act").¹ You have not provided us the name of the official whose duties under the Act are at issue. Accordingly, we provide you with informal assistance pursuant to the provisions of Regulation 18329.²

As discussed, the Act imposes restrictions on the use of campaign funds that are held by candidates and committees. (Section 89511; Section 89512.) The general rule is that an expenditure of campaign funds must be reasonably related to a political, legislative, or governmental purpose. However, where an expenditure of campaign funds confers a substantial personal benefit on a controlling member of a committee, the expenditure must be directly related to a political, legislative, or governmental purpose.³ In addition, certain specified

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.

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).)

³ "Substantial personal benefit" means an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$100 to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee. (Section 89511(b)(3).)

expenditures are permitted only if the expenditures are directly related to political, legislative or governmental purposes. (Sections 89513, et seq.)

Mr. Micheli asked whether campaign funds may be used by a candidate committee to pay for attorneys' fees and other costs incurred in defending defamation and emotional distress actions which arose from the candidate's conduct as a candidate for the State Legislature and directly out of the committee's activity. The plaintiff, the candidate's opponent, filed a lawsuit alleging that one of the candidate's radio advertisements which aired during the campaign was defamatory of the plaintiff's character. The suit does not seek to enjoin the alleged defamatory statements; rather, monetary damages are the only remedy sought by the plaintiff.

Section 89514 provides:

Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

It appears that the litigation arose directly out of the candidate's activities, duties, or status as a candidate or elected officer. Thus, campaign funds may be used to pay the attorneys' fees incurred in connection with defending this lawsuit.

Mr. Micheli also asked whether campaign funds may be used by the candidate's committee to pay any monetary damages awarded by the court in the defamation and emotional distress actions. As discussed above, the payment of attorneys' fees incurred in defending the defamation and emotional distress actions is

permitted pursuant to Section 89514. Furthermore, Section 89513(c)(2) provides:

(c) Campaign funds shall not be used to pay or reimburse finances, penalties, judgments, or settlements, except those resulting from either of the following:

(1) Parking citations incurred in the performance of an activity which was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

Emphasis added.

Thus, I advised Mr. Micheli that pursuant to Section 89513(c)(2) campaign funds may be used by the candidate to pay any monetary damages awarded in connection with the lawsuit.⁴

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.⁵

Sincerely,

Scott Hallabrin
Acting General Counsel



By: Luisa Menchaca
Counsel, Legal Division

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⁴ This advice is limited to the facts provided. Other types of litigation, not expressly set forth in Section 89514, may not be considered political in nature. For example, we have advised that in defamation and emotional distress actions where a candidate is the plaintiff, any portion of the lawsuit to recover damages is solely personal and is not related to a political, legislative, or governmental purpose. Therefore, campaign funds may not be used to pay for attorneys' fees in connection with the portion of the lawsuit to recover damages. (Lively Advice Letter, No. A-91-241.)

⁵ 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.