



California Fair Political Practices Commission

February 10, 1993

Melba Bishop
4966 Tyler Street
Oceanside, CA 92057

Re: Your Request for Advice
Our File No. A-93-050

Dear Ms. Bishop:

This is in response to your letter requesting confirmation of advice provided to you by this office on January 29, 1993, regarding the appropriate use of campaign funds pursuant to the "personal use" provisions of the Political Reform Act (the "Act").¹

You stated that you lost your bid for reelection in November, 1992. However, you continue to have \$2,500 in your campaign bank account for the November election. As you were advised, these funds are now considered surplus campaign funds and are subject to a limitation on their use.² (Section 89519.)

Surplus campaign funds may only be expended for the following:

- (a) The payment of outstanding campaign debts or elected officer's expenses.

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 Pursuant to the definition of "surplus funds" in Section 89519, your campaign funds became surplus campaign funds at the end of the post-election reporting period following your defeat, December 31, 1992.

(b) The pro-rata repayment of contributions.

(c) Donations to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.

(d) Contributions to a political party or committee so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office.

(e) Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

(f) The payment for professional services reasonably required by the committee to assist in the performance of its administrative functions, including payment for attorney's fees for litigation which arises directly 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 brought for a violation of state or local campaign, disclosure or election laws, and an action arising from an election contest or recount.

Section 89519.

Thus, surplus campaign funds may be donated to nonprofit organizations irrespective of the purpose of the donations, so long as the recipient organization is a bona fide charitable, educational, civic, religious, or similar tax-exempt nonprofit organization, and no substantial part of the proceeds of the donation will have a material financial effect on the former candidate or elected official or any member of his or her immediate family. (Section 89519(c).)

According to your facts, the CHOOSE program is a nonprofit drug abuse prevention program in Oceanside. Thus, so long as the funds are not used to benefit you or any member of your immediate family, the donation to the nonprofit is a permissible use of

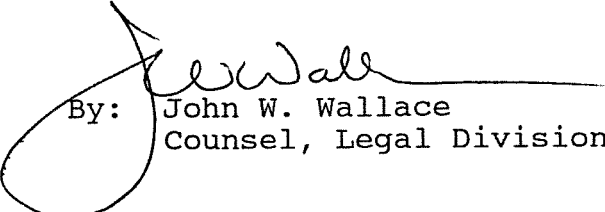
surplus campaign funds.

You have provided language with your letter that you intend to submit with the donated funds to restrict their use in compliance with the statute. Assuming that the requirements of the statute are complied with and you do not control the disposition of the funds once the funds are provided to the nonprofit, the donation of funds would be appropriate pursuant to Section 89519.³

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.⁴

Sincerely,

Jeff Marschner
General Counsel


By: John W. Wallace
Counsel, Legal Division

³ We would suggest that the express terms of Section 89519(c) be incorporated into the letter submitted with your donation to CHOOSE to avoid other uses that may have a material financial effect on you, your immediate family, or your treasurer.

⁴ 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.