



California Fair Political Practices Commission

June 10, 1993

Jay T. Imperial
9039 Newby Street
Rosemead, CA 91770

Re: Your Request for Advice
Our File No. A-93-213

Dear Mr. Imperial:

I am writing to confirm our telephone conversation on May 28, 1993, wherein we discussed your request for advice, Letter No. A-93-213. I informed you that the campaign funds remaining in your 1992 account are now considered "surplus" and the use thereof is governed by Government Code Section 89519 of the Political Reform Act (the "Act").¹

You were an unsuccessful candidate for reelection to the Rosemead City Council in April, 1992. In May of 1992, you called our office seeking advice regarding the use of your remaining 1992 campaign funds for the April, 1994 city council election. You stated that you were informed that "the funds could remain in your account for the two year period and then be utilized for campaign-related expenses." It is not possible to comment on the advice you were given. However, it was necessary for you to file a new Form 502 (Section 85201) and redesignate your 1992 campaign bank account for the 1994 election, if it was your desire to use the campaign funds for the 1994 campaign. Since you did not redesignate your account, your funds are considered "surplus" and may not be used for your 1994 election campaign.

Section 89519 provides for the following uses of "surplus" funds:

Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former

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.

candidate or elected officer shall be considered surplus campaign funds and shall be disclosed pursuant to Chapter 4 (commencing with Section 84100) and shall be used only for the following purposes:

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

(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 of a violation of state or local campaign, disclosure or election laws, and an action arising from an election contest or recount.

Since the funds in your 1992 campaign account are now considered "surplus," they may only be used for the purposes prescribed in the statute.² The Commission has no authority to grant you "special dispensation" from the express provisions of state law.

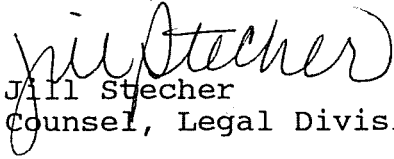
² Please note that the law regarding "surplus" funds became effective on January 1, 1990 and we have been advising pursuant to it since that time.

We cannot confirm what advice was provided when you contacted our office in 1992. Therefore, in order to avoid any confusion in the future, you may wish to request written advice or confirm telephone advice in writing.

I trust this answers your question.

Sincerely,

Jeff Marschner
General Counsel

By: 
Jill Stecher
Counsel, Legal Division

JM:JS:ak