



# California Fair Political Practices Commission

January 25, 1994

Judith Bruno  
Executive Property Manager  
Western Care Construction Company, Inc.  
4020 Sierra College Blvd., #200  
Rocklin, CA 95677

Re: Your Request for Informal  
Assistance  
Our File No. I-93-475

Dear Ms. Bruno:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act "the Act".<sup>1/</sup> Because your questions are general in nature, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c)(3).<sup>2/</sup>

### QUESTIONS

If a major donor committee makes a personal loan to a husband and wife and one of them runs for office after the loan is consummated, you have asked if the loan is required to be reported on the entity's Form 461 in any of the following circumstances:

1. If the loan proceeds will be used by the borrowers for personal expenses.
2. If you do not know how the loan proceeds will be used.
3. If the borrowers subsequently lend the proceeds to the spouse's campaign committee.

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<sup>1/</sup> 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.

<sup>2/</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

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### CONCLUSIONS

1-2. A loan is not required to be disclosed if it is clear from surrounding circumstances that it was made for personal purposes unrelated to the recipient's candidacy or status as an officeholder.

3. A loan made to a candidate is required to be disclosed unless it is clear from surrounding circumstances that the loan was received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it was not made for political purposes.

### ANALYSIS

The Act requires persons or combinations of persons who contribute \$10,000 or more in a calendar year to state and local candidates and committees to file periodic campaign reports disclosing contributions and expenditures made. (Sections 82013(c), 84200-84216.5.) In Section 84216, the Act states that:

... a loan received by a candidate or committee is a contribution unless the loan is received from a commercial lending institution in the ordinary course of business, or it is clear from the surrounding circumstances that it is not made for political purposes.

Additionally, Regulation 18215 states in part that:

A contribution is any monetary or nonmonetary payment made for political purposes for which full and adequate consideration is not made to the donor. A payment is made for political purposes if it is ... received by or made at the behest of a candidate, unless it is clear from surrounding circumstances that the payment was received or made at his or her behest for personal purposes unrelated to his or her candidacy or status as an office holder.

Your request for advice does not contain sufficient information to determine if the loan in question will be made for political purposes. Some factors to be considered in making this determination would include: (1) the terms and conditions of the loan; (2) the timing of the loan; (3) whether at the time of making the loan the entity knew that the recipient was a candidate or intended to run for office; (4) whether the entity has made personal loans to individuals in the past; and (5) whether the loan proceeds were used in a political campaign. Ultimately, the question is whether the entity made the loan for political or purely commercial purposes.

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If the loan was made for political purposes, the entity must report the loan on the campaign statement (Form 461) covering the period during which the loan was made. (Section 84216(b).)

Pursuant to your request, copies of the references cited in this letter are enclosed. If you have any questions or need further information, please contact me at (916) 322-5662.

Sincerely,

A handwritten signature in cursive script that reads "Dixie Howard".

Dixie Howard  
Political Reform Consultant  
Technical Assistance Division

Enclosures