



California Fair Political Practices Commission

March 30, 1994

Mark T. Boehme, Assistant
City Attorney
Lynnet Keihl, CMC, City Clerk
City of Concord
1950 Parkside Drive
Concord, CA 94519-2578

Robert Beasley
Concord Police Officers Association
P. O. Box 445
Concord, CA 94522

Re: Your Requests for Informal
Assistance
Our File Nos. I-94-036 and
I-94-073

Dear Mr. Boehme, Ms. Keihl and Mr. Beasley:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act (the "Act").^{1/} Specifically, your questions relate to the campaign disclosure obligations of the Concord Police Officers Association Political Action Committee (the "Committee") in connection with the city's November 1993 election. The Commission does not give advice with regard to past conduct. Thus, we consider your letters to be a request for informal assistance pursuant to Regulation 18329(c).^{2/}

In addition, please note that the assistance provided in this letter is based on the facts presented to us. The Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.)

^{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. (Section 83114; Regulation 18329(c)(3).)

QUESTION

You have asked whether the Concord Police Officers Association Political Action Committee was required to file pre-election and semi-annual campaign disclosure reports as a "city" committee in connection with the City of Concord's November 1993 election.

CONCLUSION

It appears from the information provided in your letters that the Committee may have qualified as a "city" general purpose committee for 1993. However, because the Committee intends to make contributions or expenditures in connection with county elections during 1994, it would not be practical to require the Committee to file additional or amended reports at this time in connection with the 1993 city election. It should also be noted that during 1993, the Committee complied with the filing requirements imposed on "county" general purpose committees, which is how it was identified on its statement of organization. This included filing with the Concord City Clerk the required reports disclosing independent expenditures made in support of the two city council candidates.

FACTS

The Committee filed a Statement of Organization (Form 410) on October 8, 1993, identifying itself as a county general purpose recipient committee which intended to make contributions to and expenditures on behalf of "local and county candidates and ballot measures sympathetic to law enforcement." Between October 8, 1993 and the City's November 2, 1993 election, the Committee raised \$9,350, almost all of which was used to make independent expenditures to support two candidates for the Concord City Council.

The Committee appears to have timely filed all required reports as a county general purpose committee, including late independent expenditure and supplemental independent expenditure reports which were filed with the Concord City Clerk.

According to Mr. Beasley, the Association has historically been active in city, county and state elections and the Committee plans to make expenditures to support candidates for various county offices during 1994.

ANALYSIS

The Act requires the filing of periodic campaign disclosure reports by "committees," which include entities and organizations that receive "contributions" totaling \$1,000 or more in a calendar year. (Sections 82013(a); 84200, et seq.) A "contribution" is a monetary or non-monetary 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 for the purpose of influencing the action of the voters for or against candidates or ballot measures. (Regulation 18215.) Organizations that qualify as committees under Section 82013(a) are commonly referred to as "recipient committees."

For purposes of when and where to file campaign disclosure reports, committees are categorized in various ways. A recipient committee which is not controlled by a candidate or officeholder must determine if it is a "primarily formed" or a "general purpose" committee.

"Primarily formed committee" means a committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose any of the following:

- (a) A single candidate.
- (b) A single measure.
- (c) A group of specific candidates being voted upon in the same city or county election....

Section 82047.5.

(a) "General purpose committee" means...any committee pursuant to subdivision (a) of Section 82013 which is formed or exists primarily to support or oppose more than one candidate or ballot measure, except as provided in Section 82047.5.

(b) A "state general purpose committee" is a committee to support or oppose candidates or measures voted on in a state election, or in more than one county.

(c) A "county general purpose committee" is a committee to support or oppose candidates or measures voted on in only one county, or in more than one jurisdiction within one county.

(d) A "city general purpose committee" is a committee to support or oppose candidates or measures voted on in only one city.

Section 82027.5.

In most cases, committees formed or sponsored by trade or labor organizations qualify as "general purpose recipient committees" because their political activities tend to support the overall goals of the organization rather than specific candidates. Mr. Beasley states in his letter that the Concord Police Officers Association has been active in past elections and the Committee will continue to support candidates in various elections who support law enforcement. Therefore, it appears that the Committee correctly organized as a "general purpose" committee rather than a committee primarily formed to support the two city council candidates.

For purposes of when campaign statements must be filed, city general purpose recipient committees must file semi-annual statements each year. (Section 84200(a).) In addition, they must file pre-election statements in connection with a city election if the committee makes contributions or independent expenditures totaling \$500 or more during the period covered by the pre-election statement. (Section 84200.5.) These campaign statements must be filed with the city clerk. (Section 84215(e).)

County general purpose recipient committees are subject to the same semi-annual and pre-election reporting requirements; however, their campaign statement filing deadlines correspond to the county or state election dates and statements are filed with the clerk of the county. (Section 84215(d).) This is so even if the committees make contributions or expenditures in connection with a city election.

In addition to semi-annual and pre-election campaign statements, a committee that makes "independent expenditures"^{3/} may incur additional filing obligations. These include the supplemental independent expenditure report (required if independent expenditures totaling \$500 or more are made to support or oppose a single candidate or a single measure) and the late independent expenditure report (required if independent expenditures totaling \$1,000 or more are made to support or oppose a single candidate or a single measure during the last 16 days prior to the election in which the candidate or measure is being voted upon). Both of these reports are filed in the jurisdiction in which the candidate or measure supported or opposed is being voted upon. (Sections 84203.5 and 84204.)

Occasionally, a committee organized to influence city elections will subsequently expand its activities to include county and/or state elections.^{4/} When this happens, the committee must amend its statement of organization and begin filing reports as a county or state committee.

^{3/} An "independent expenditure" is a payment for a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee. (Section 82031.)

^{4/} Previously, the Commission has advised that an occasional contribution outside the definitional boundaries of a committee's activities (e.g., a county committee that makes an occasional contribution to a state candidate or state committee) will not change the committee's filing status. (Whitaker Advice Letter, No. A-87-115.)

Based on the fact that the Concord Police Officers Association Committee formed just prior to the City's election and spent almost all of its funds to support two candidates for city council, it may have been more appropriate for the Committee to form as a "city general purpose recipient committee" during 1993 and then change its status to a "county" committee following the election. However, the Committee appears to have timely filed all required reports for a county committee, including the supplemental and late independent expenditure reports. In addition, Mr. Beasley has stated that the Committee plans to be involved at the county level during 1994. Therefore, there appears to be no reason to require the Committee to file amended or additional reports in connection with a city election which has already occurred.

Of concern, however, is the statement in Mr. Beasley's letter of February 28, 1994, that "It is common knowledge in political circles that the Concord Police Officers Association has been, and will continue to be, active at the local, county and state level in support of candidates and ballot measures that support law enforcement." (Emphasis added.) If the Committee plans to support state candidates or measures on an ongoing basis, it should amend its statement of organization (Form 410) to register as a state general purpose recipient committee. In addition, Mr. Beasley's letter indicates that the Association has been politically active in city, county and state elections for many years. It is recommended that Mr. Beasley contact the Commission for further advice concerning whether the Association may have incurred reporting obligations prior to 1993.

If you have questions concerning this letter, please contact me at (916) 322-5662.

Sincerely,



Carla Wardlow
Chief, Technical Assistance
Division