



California Fair Political Practices Commission

May 4, 1994

Hugh Breckenridge, Esq.
4199 Campus Drive, Suite 700
Irvine, CA 92715

Re: Your Request for Advice
Our File No. I-94-126

Dear Mr. Breckenridge:

We write in response to your April 6, 1994 request for advice regarding the Political Reform Act (the "Act").¹ As your request does not seek advice regarding a specific individual or public decision, we consider your request to be for informal assistance under Regulation 18329(c). Informal assistance does not provide immunity from enforcement. (Regulation 18329(c)(3).)

QUESTION

Would the political contributions of a committee sponsored by Consolidated Disposal Service, Inc. be aggregated with the contributions of the sponsor for the purpose of Section 84308 conflict analysis?

CONCLUSION

Yes. Based on the facts presented, Commission regulations would require the contributions of Consolidated Disposal Service, Inc. to be aggregated with those of its sponsored committee for the purpose of Section 84308 conflict analysis.

FACTS

Your client, Consolidated Disposal Service, Inc. ("Consolidated"), has restricted the amount of its contributions to public officials to less than \$250 dollars in order to avoid the possibility of later forcing them to disqualify themselves in proceedings involving Consolidated. Consolidated wishes to form a

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, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

sponsored recipient committee, consistent with the provisions of the Act, in an attempt to avoid the \$250 dollar limitation.²

ANALYSIS

Section 84308 generally prohibits a board member, commissioner, or head of a government agency from soliciting or receiving contributions of \$250 or more from parties or participants seeking a license, permit, or certain entitlements from their agency. It also requires the disqualification of the public official if he/she has received such a contribution within 12 months preceding the decision.

Under the Act, a committee is defined as any person or combination of persons who directly or indirectly: receive contributions of \$1,000.00 or more in a calendar year; make independent expenditures of \$1,000.00 or more in a calendar year; or make contributions of \$10,000.00 or more in a calendar year to or at the behest of candidates or committees. (Section 82013.) A "sponsored" committee is a committee with one or more sponsors. (Section 82048.7.) A person sponsors a committee if, among other things, the committee receives eighty percent or more of its contributions from the person, its members, officers, employees or affiliates. (Section 82048.7.) The definition of a "person" includes Consolidated. (Section 82047.)

The Commission has long held that if the same person directs and controls the contributions of two entities, their contributions are aggregated when contribution limits apply. (See Section 18531.5; Bell Advice Letter, No. A-89-238; Suzuki Advice Letter, No. I-89-071; Perry Advice Letter, No. A-81-054.) We presume that a sponsor will exercise direction and control over its sponsored committee. (See Section 82048.7(b); Erlandson Advice Letter, No. A-87-165 (the Commission does not regulate the exercise of control over sponsored committees).) Based on the facts you present, the contributions of the two entities must be aggregated for the \$250 contribution limit imposed by Section 84308 of the Act.

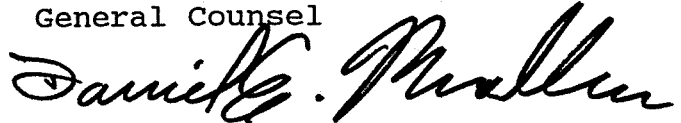
We note that a contrary interpretation would completely eviscerate the policy underlying Section 84308. As the purpose of the Act is furthered through this construction, additional support for our interpretation is found in Sections 81002 and 81003.

² If Consolidated currently contributes \$10,000 or more in a calendar year to, or at the behest of candidates or committees, it would currently be considered to be a major donor committee. (Section 82013(c).)

We trust that this letter fully addresses your request. Should you desire additional advice under the Act, the Commission staff remains available to assist you.

Sincerely,

Steven G. Churchwell
General Counsel

A handwritten signature in cursive script, appearing to read "Daniel E. Muallem".

By: Daniel E. Muallem
Counsel, Legal Division