



California Fair Political Practices Commission

May 23, 1994

Michael D. Bradbury
District Attorney
County of Ventura
Hall of Justice
800 South Victoria Avenue
Ventura, CA 93009

Re: Your Request for Advice
Our File No. A-94-165

Dear Mr. Bradbury:

This letter replies to both your letter to Commission General Counsel Steven G. Churchwell dated May 17, 1994 and Donald D. Coleman's letter written to Mr. Churchwell on May 10, 1994. You seek advice concerning the restrictions under the Political Reform Act (the "Act").¹

Please note that Commission regulations prevent us from giving formal advice on conduct that has already happened, except to the extent that the advice applies to a person's filing obligations under the Act. (See Regulation 18329(b)(8)(A) and (c)(4)(A).) Therefore, the immunity conferred by Section 83114(b) is not applicable to your questions concerning whether you acted legally when you transferred campaign funds to candidates for other Ventura County offices. We can provide you with general advice on the subject, however. Also, Section 83114(b)'s immunity will apply to our advice on the reporting of these transfers.

QUESTIONS

1. Did you violate the Act when you transferred \$450 of your campaign funds (\$150 each) to candidates for the Ventura County Auditor, the Ventura County Assessor and the Ventura County Clerk?

2. Having been repaid each of the \$150 transfers from the candidates referenced in Question 1, how should you report these transactions? Also, how do you report the \$150 contributions you

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.

thereafter made from your personal funds to each of these three candidates?

CONCLUSIONS

1. We cannot comment on conduct that has already taken place. The general rule is that, under Section 85304, as modified in the case of Service Employees International Union, AFL-CIO, CLC v. Fair Political Practices Commission (9th Cir. 1992) 955 F.2d 1312, a candidate cannot transfer campaign funds to: (a) the special election account of another candidate who is running in a special election, or (b) any candidate in a jurisdiction with valid contribution limits.

2. These transactions should be reported on the second pre-election campaign report as follows:

- Report the initial payment of the three \$150 transfers on both the Form 490 Allocation Page (Part I) and the Form 490 Schedule E.

- Report the return of the three \$150 transfers on Form 490 Schedule I and add a footnote explaining the reasons for the return.

- Report any campaign contributions you make from your personal funds on the Form 490 Allocation Page (Part II).

FACTS

You are the District Attorney of Ventura County and your term of office expires in January of 1995. The position is up for reelection which was scheduled to be held on June 7, 1994. Earlier this year, you filed a statement of intention to run for reelection (Form 501) and actively solicited campaign contributions in anticipation of having a contested election. It has subsequently developed that no other candidate filed to run for District Attorney. As a result, you are unopposed for reelection.

During the current reporting period (second pre-election period due May 26, 1994), you donated \$150 each to a candidate for Ventura County Auditor, Ventura County Assessor and Ventura County Clerk from your campaign fund, "Friends of Mike Bradbury" ID No. 78-1002, which you solely control.

Ventura County has in place a valid campaign contribution limitation ordinance. Pursuant to the ordinance, its terms apply only to elections for "county office." The three \$150 contributions referenced above were contributed to candidates currently in an election contest for positions defined by the county ordinance as county offices.

Last week you learned that such contributions may violate provisions of Section 85304. Upon learning of this, the treasurers of each of the three campaigns receiving the contributions were notified of the potential violation and promptly returned the contributions. You have subsequently sent each a like contribution from your personal checking account. All of this was accomplished before the relevant reporting period ended.

ANALYSIS

Transfers of Campaign Funds

We cannot comment on whether your prior conduct, in transferring \$150 in your campaign funds to each of three different candidates for Ventura "county office," violates the Act. However, we can give you general advice on this issue.

Section 85304, among other things, prohibits a candidate from transferring his or her campaign funds to another candidate. In Service Employees International Union, AFL-CIO, CLC v. Fair Political Practices Commission (9th Cir. 1992) 955 F.2d 1312, cert. den. 112 S.Ct. 3056, 112 S.Ct. 3057, the court modified Section 85304's application to prohibit candidate-to-candidate campaign fund transfers only when: (a) the candidate to receive the transfer is running in a special election, or (b) the candidate to receive the transfer is running in a jurisdiction with valid contribution limits.

Thus, if a candidate is running in a special election or in a jurisdiction with valid contribution limits, he or she cannot receive contributions consisting of campaign funds from other candidates.

Reporting

Since each of the \$150 transfers your campaign committee gave to the three "county office" candidates has been returned to your campaign account, you ask how this transaction must be reported. Furthermore, you ask how the subsequent contributions to these three candidates from your personal account must be reported.

These transactions should be reported on the second pre-election campaign report as follows:

- Report the initial payment of the three \$150 transfers on both the Form 490 Allocation Page (Part I) and the Form 490 Schedule E.

- Report the return of the three \$150 transfers on Form 490 Schedule I and add a footnote explaining the reasons for the return.

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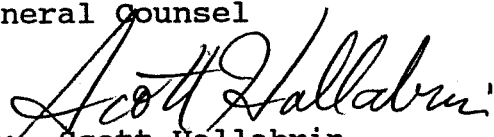
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- Report any campaign contributions you make from your personal funds on the Form 490 Allocation Page (Part II).

Should you have further questions, please contact me at 916/322-5901.

Sincerely,

Steven G. Churchwell
General Counsel


By: Scott Hallabrin
Assistant General Counsel

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