



# California Fair Political Practices Commission

August 16, 1994

Ms. Lyn Greene  
Treasurer  
Elder Election Committee  
13503 Glasgow Place  
Hawthorne, CA 90250

Re: Your Request for Advice  
Our File No. A-94-213a

Dear Ms. Greene:

We write to amend the analysis previously provided to you on behalf of David Elder. While the advice given to you was accurate in result, the analysis inadvertently relied on an inapplicable code section. Accordingly, in order to correct the written record, Advice Letter A-94-213 is hereby withdrawn and this letter, A-94-213(a), should be relied upon as the formal written advice of the Commission.

#### QUESTION

May a defeated candidate continue to pay litigation expenses with campaign account funds?

#### CONCLUSION

Yes, where litigation expenses arise directly out of a candidate's activities, duties or status as a candidate, campaign account funds may be used to pay for litigation expenses.

#### FACTS

David Elder was a candidate for the State Board of Equalization. As a candidate, Mr. Elder initiated a suit to reapportion the City of Los Angeles' share of the sales tax allocation. Mr. Elder receives no personal benefit from this litigation.

#### ANALYSIS

The general rule under Section 89512 is that a candidate may use campaign funds for any expenditure which is reasonably related to a political purpose, but expenditures which confer a substantial personal benefit on the candidate must be directly related to a political purpose. After the post-election reporting

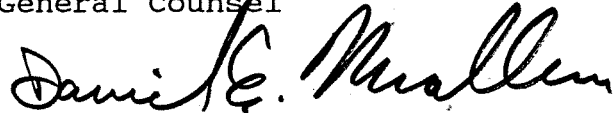
period following defeat of a candidate, funds are deemed to be surplus and are required to be used only for purposes outlined in Section 89519. Accordingly, attorney's fees must arise directly out of a candidate's activities, duties, or status as a candidate. (Section 89519(f).)

Under the facts you have provided, the litigation expenses associated with Mr. Elder's lawsuit to reapportion sales tax revenue may continue to be paid with campaign account funds. We base this advice on the fact that Mr. Elder initiated this legal action as a candidate for the State Board of Equalization, a state taxing authority. The direct connection between the lawsuit and his political candidacy appears self-evident. As the lawsuit was directly related to his candidacy when initiated, it may continue to be funded with surplus campaign account funds under Section 89519(f).

If you should have any questions regarding the above advice, please contact the undersigned at 916/322-5901.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Daniel E. Muallem  
Counsel, Legal Division