



# California Fair Political Practices Commission

September 29, 1994

Maris L. McCrory  
State of Louisiana Commission On  
Ethics For Public Employees  
7434 Perkins Road - Suite B  
Baton Rouge, LA 70808-4379

Re: Your Request for Information  
Our File No. G-94-300

Dear Ms. McCrory:

We write in response to your request for information regarding the California Political Reform Act and its application to, or possible conflict with, the attorney's Code of Professional Responsibility.

The Political Reform Act (the "Act"), California Government Code Sections 81000-91015, regulates the conduct of public officials and employees, candidates for office, political committees, and lobbyists. The Fair Political Practices Commission (the "Commission") enforces the Act against civil violations and the state attorney general and county district attorneys enforce the Act against criminal violations in their respective jurisdictions. (Cal. Gov. Code § 91001.) Attorneys are regulated under the Act to the extent that they fall within one of the above enumerated groups. The Act does not regulate attorneys as a group; however, if an attorney is charged civilly, administratively or criminally with violating the Act, the Commission will often refer the matter to the State Bar for review.

The State Bar Act, California Business and Professions Code Sections 6000-6228, regulates the legal profession as a group. Attorneys are also bound by the California Rules of Professional Conduct, as formulated by the State Bar Board of Governors and approved by the California State Supreme Court. (Cal. Bus. & Prof. Code § 6076.) The State Bar Board of Governors has the power to investigate complaints concerning the conduct of attorneys, however, disbarment, suspension, reproof or other discipline power is vested in the California State Supreme Court. (Cal. Bus. & Prof. Code § 6078.)

We are not aware of any reported decision addressing a possible conflict between the provisions of the Act and the California Supreme Court's statutory and inherent power to discipline attorneys. California does have a line of cases which

you may find helpful by analogy. In Yapp v. State Bar, 62 Cal. 2d 809, 44 Cal. Rptr. 593, 402 P.2d 361 (1965), the California Supreme Court addressed whether or not a criminal acquittal on grand theft charges had any preclusive effect on state bar disciplinary proceedings for the misuse of client funds. The Court stated:

'It is apparent that the purposes of the two proceedings are vastly different. A criminal proceeding has for its purpose the punishment of the accused if he is found guilty. A disciplinary proceeding against an attorney is not intended for his punishment, but is for the protection of the public, the courts, and the legal profession.'

Yapp, 62 Cal. 2d at 817, quoting Best v. State Bar, 57 Cal. 2d 633, 637, 21 Cal. Rptr. 589, 371 P.2d 325 (1962).

By analogy, at least in California, the state bar's sole jurisdiction to discipline attorneys should not prohibit the enforcement of generally applicable regulations in the area of political law. While an attorney may face civil or criminal enforcement for violating the Act, and while such conduct may also lead to state bar disciplinary proceedings, it is apparent that the purposes of the two proceedings are vastly different. The political laws of California were enacted to eliminate improper practices in elections and to eliminate improprieties and the appearance of improprieties in public service. (Cal. Gov. Code § 81002.) The state bar disciplinary system serves the equally compelling but diverse purpose of protecting the public, the courts, and the legal profession. Yapp, supra. Accordingly, in so far as the Act may regulate the conduct of attorneys who enter government service or participate in the political process, we do not believe it conflicts with the state bar's disciplinary power.

If we can be of any further help, please do not hesitate to contact the undersigned at (916) 322-5901.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Daniel E. Muallem  
Counsel, Legal Division