



# California Fair Political Practices Commission

September 29, 1994

Kim Rubin  
825 Cambridge Avenue  
Menlo Park, CA 94025

Re: Your Request for Informal Assistance  
Our File No. I-94-304

Dear Mr. Rubin:

This is in response to your letter requesting advice regarding your responsibilities under provisions of the Political Reform Act (the "Act").<sup>1</sup> Since you are requesting general advice, we are treating your request as one for informal assistance.<sup>2</sup> Please note that Commission advice is the application of the law to a specific set of facts provided by the requestor. The Commission does not act as the finder of fact in providing advice. (In re Oglesby (1975) 1 FPPC Ops. 71.) Thus, the application of these responses to future expenditures depends on the facts surrounding those future expenditures.

In addition, please note that nothing in this letter should be construed to evaluate any conduct which may have already taken place.

## QUESTIONS

You are a candidate for Menlo Park City Council. You have asked the following:

1. May you reimburse yourself for expenditures made from personal funds prior to the issuance of campaign checks by your bank?

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<sup>1</sup> 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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

2. May you reimburse yourself for expenditures that cannot be made with a campaign check?
3. May you reimburse your spouse for campaign expenditures she makes with personal funds?
4. May you reimburse yourself for mileage when you use your personal automobile for campaign purposes?
5. If you use your personal telephone for campaign purposes, how should the telephone bill be paid?
6. May you use campaign funds to install a new telephone line in your house and to purchase a campaign telephone to be used for campaign purposes?
7. May you use your campaign funds for meals when the meals relate to campaign issues?

#### CONCLUSIONS

- 1 and 2. You may not be reimbursed for expenditures made from personal funds prior to the issuance of campaign checks by your bank or for expenditures that cannot be made with a campaign check.
3. You may reimburse your spouse if she is a campaign volunteer or paid employee of the controlled committee and the treasurer of the committee is provided with a dated receipt and a written description of each expenditure prior to reimbursement, and reimbursement is paid within 45 calendar days after the expenditures are paid by the person to be reimbursed.
4. You may reimburse yourself for mileage at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code if the vehicle use is directly related to a political, legislative or governmental purpose, and the purpose for the travel and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.
5. If you use your personal telephone for campaign telephone calls, upon receipt of the billing, the campaign portion of the bill must be paid with a campaign check. The other portion must be paid with your personal funds.
6. Alternatively, you may purchase a campaign telephone to install in your home so long as (1) the legal title of the equipment is in the name of the committee, and (2) any other use is only incidental to its use for political, legislative, or governmental purposes. Moreover, since the telephone and line continues to be a campaign asset, at the time you close your

campaign committee you must (1) either return the telephone to the committee or you may purchase the phone at fair market value, and (2) you must reimburse the committee for the cost of installing the line for the telephone.

7. Assuming the expenditure is less than \$100, campaign funds may be used only for meals which are reasonably related to a political purpose (or directly related to a political purpose where the aggregate cost is \$100 or more).

### DISCUSSION

#### Reimbursement of Candidate Expenditures

Section 85201 provides that all contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account and all campaign expenditures shall be made from the account. (Section 85201(c) and (e).)

Section 89511.5 permits an incumbent elected officer to use his or her personal funds for expenditures without first depositing those funds in the campaign bank account under certain circumstances. However, this provision does not apply to nonincumbents. Thus, you may not reimburse yourself for expenditures made from personal funds prior to the issuance of campaign checks by your bank or for expenditures that cannot be made with a campaign check.

However, Regulation 18524 does permit the candidate to establish one or more credit card accounts or one or more charge accounts for each campaign bank account. Payments made for the charges incurred on the credit card or charge account must be made only from the campaign bank account.<sup>3</sup> In addition, the candidate may establish, for each campaign bank account, one petty cash fund at each campaign office which may contain no more than \$100.<sup>4</sup> Expenditures made from the petty cash fund are deemed to be expenditures from the campaign bank account.

#### Reimbursement of Campaign Workers

Regulation 18526 provides that volunteers, paid employees of a controlled committee, and agents or independent contractors (such as campaign consultants or advertising agents) may be

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<sup>3</sup> The credit card and charge accounts shall be used only for expenses associated with the candidate's election to the specific elective office designated in the statement of intention or expenses associated with holding that office.

<sup>4</sup> No expenditure totaling \$100 or more shall be made from a petty cash fund.

reimbursed for goods, services or travel. Thus, your spouse may be reimbursed if she is a campaign volunteer or paid employee of the committee and:

1. The treasurer of the committee is provided with a dated receipt and a written description of each expenditure prior to reimbursement, and

2. Reimbursement is paid within 45 calendar days after the expenditures are paid by the person to be reimbursed.<sup>5</sup>

#### Reimbursement for Mileage

Section 89516(d) allows for the use of campaign funds for vehicle expense as follows:

(d) Campaign funds may be used to reimburse a candidate, elected officer, his or her immediate family, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or an employee or member of the staff of the committee or of the elected officer's governmental agency, for the use of his or her vehicle at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code in connection with deductible mileage expenses under the federal income tax law, if both of the following requirements are met:

(1) The vehicle use for which reimbursement is sought is directly related to political, governmental, or legislative purposes.

(2) The specific purpose and mileage in connection with each expenditure is documented in a manner approved by the Internal Revenue Service in connection with deductible mileage expenses.

#### Use of Personal Telephone for Campaign Purposes

As noted above, campaign expenditures must be made from the campaign account. Thus, if you use your personal telephone for campaign telephone calls, upon receipt of the billing, the

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<sup>5</sup> If reimbursement is not paid within the time permitted by this section, the expenditure shall be reported on the campaign statement as a nonmonetary contribution received on the 45th day after the expenditures are paid by the person to be reimbursed, unless the person seeking reimbursement makes a good faith effort to obtain reimbursement and is unable to collect. (Regulation 18526(d).)

campaign portion of the bill must be paid with a campaign check. The other portion must be paid with your personal funds.

#### Installation of a Campaign Telephone in Your Home

Section 89517 permits campaign funds to be used for the purchase of equipment so long as (1) the legal title of the equipment is in the name of the committee, and (2) any other use is only incidental to its use for political, legislative, or governmental purposes. However, Section 89517 provides that the use of appliances for personal purposes must be only incidental.<sup>6</sup>

In the past we have advised that an officeholder could use campaign funds to install a cellular telephone in her personal automobile. (Myers Advice Letter, No. A-92-663.) Similarly, it is permissible to purchase and install a telephone and telephone line in your home so long as (1) the legal title of the equipment is in the name of the committee, and (2) any other use is only incidental to its use for political, legislative, or governmental purposes.

However, please note that the telephone and the line continue to be campaign assets. If you desire to keep the telephone at the time you close your campaign committee, you must purchase it at fair market value. Moreover, you must reimburse the committee for the cost of installing the additional telephone line in your home. This would be the case even if you plan to return the telephone to the committee when it is time to terminate the campaign committee.

#### Meals

Campaign funds may be used for meals under certain circumstances. Section 89512 provides that an expenditure to seek office is within the lawful execution of the trust imposed by Section 89510 if it is reasonably related to a political purpose. Meals for a candidate (or his or her staff) while campaigning may meet this test, assuming that campaign business is performed during the meal.

However, expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or

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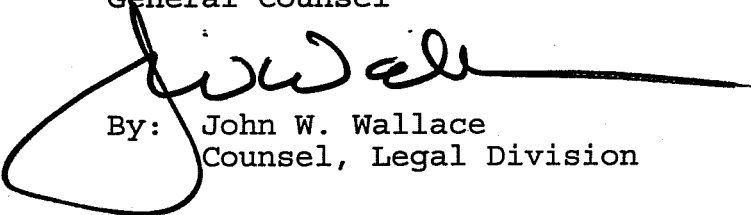
<sup>6</sup> A personal use is incidental if the use occurs in conjunction with its use for a purpose which is directly related to a political, legislative, or governmental purpose and the value of the use constitutes 5 percent or less of the total use of the item in any one calendar month; and the value of the use does not exceed a fair market value of \$100 in any one calendar month.

governmental purpose.<sup>7</sup> Very few meals would meet this stricter standard. Of course, any definitive answer would depend on the facts and circumstances surrounding a specific meal. You have not provided such facts in your letter.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.<sup>8</sup>

Sincerely,

Steven G. Churchwell  
General Counsel



By: John W. Wallace  
Counsel, Legal Division

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<sup>7</sup> Section 89511(b)(3) defines "substantial personal benefit" as an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$100 to a candidate.

<sup>8</sup> Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.