



California Fair Political Practices Commission

March 10, 1995

Larry McConnell
Gary Woods for Assembly
740 North Lake Avenue
Pasadena, California 91104

Re: Your Request for Advice
Our File No. A-95-047

Dear Mr. McConnell:

You have requested advice on behalf of Mr. Gary Woods, a candidate in a special election for the 59th Assembly District, concerning the campaign provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. May Mr. Woods or his campaign committee obtain a line of credit (loan) through a commercial lending institution which will be secured by his commercial property?
2. Would the contribution limits of Section 85305 apply to the loan?
3. May Mr. Woods be reimbursed for personal expenses associated with processing the loan and for interest payments?

CONCLUSIONS

1. Yes. The Act does not prohibit a commercial lending institution from providing a loan to a candidate or his or her campaign committee in the ordinary course of business, which will be secured by the candidate's real property.
2. No. The contribution limits of Section 85305 would not apply.

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.

3. No. Mr. Woods may not be reimbursed for personal expenses made in connection with the loan. However, if the loan is made in the name of the committee, payments for the appraisal fees, loan points, and interest expenses could be made directly to the lending institution by the committee. In the alternative, he may make a personal loan to his campaign for payment of these expenses, and he may be repaid by his committee for the personal loan.

FACTS

Mr. Gary Woods is currently contemplating campaigning in a special election for the 59th Assembly District. In your letter, you indicate that Mr. Woods intends to borrow money to loan funds to his campaign committee for purposes of paying campaign costs.

You also indicate that it is Mr. Woods' intention to obtain a line of credit from a commercial lending institution secured by his commercial real property. During our telephone conversation on February 28, 1995, you stated that the commercial lending institution will be making the loan in the lender's regular course of business on terms available to members of the general public. In addition, on March 8, 1995, you stated in a telephone conversation that the lender would be appraising the commercial property and would lend the candidate up to a specified amount, based on the value of the property.

ANALYSIS

1. Loan From a Commercial Lending Institution Secured by Candidate's Property

A line of credit personally guaranteed by a candidate is considered a loan under the Act. (Section 84216; Bagatelos Advice Letter, No. I-90-337.) The first question you ask is whether the loan for Mr. Woods' campaign may be secured by his commercial real property. The Act does not prohibit a commercial lending institution from providing a loan to a candidate, or to a candidate's committee, which will be secured by the candidate's commercial real property. Therefore, Mr. Woods' commercial property may be used to secure the loan.

2. Contribution Limits

According to your facts, Mr. Woods intends to campaign in a special election for the 59th Assembly District. Therefore, the contribution limits of Section 85305 will apply to contributions received by his campaign committee. Section 85305(c) provides generally that a candidate may not accept any contribution or loan to exceed \$1,000 during any special election cycle or special runoff election cycle.

However, Section 85307 provides:

The provisions of this article regarding loans shall apply to extensions of credit, but shall not apply to loans made to the candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

The loan in question will be made by a commercial lending institution in the ordinary course of business on terms available to members of the general public, and the candidate will be personally liable for the loan. Therefore, we conclude that under these facts the contribution limits of Section 85305 would not apply to the loan payments.

Please note that when a candidate receives a loan from a commercial lending institution, the commercial lending institution must be identified on the campaign disclosure statement, Schedule B, Part I, as the source of the loan. (Section 84216(b).) In addition, current law requires all campaign expenditures to be made from the campaign bank account. (Section 85201(e).) Therefore, since Mr. Woods intends to use the monies received from the loan for his candidacy, the monies received must first be deposited into his campaign bank account before an expenditure is made from the loan proceeds.

3. Payment of Loan Costs

You also ask if the candidate may be reimbursed for interest expenses incurred in connection with the loan, and if he may be reimbursed for his personal expenses in connection with processing the line of credit, such as loan points and appraisal fees.

According to existing law, candidates and officeholders may not be reimbursed for use of their personal funds in connection with seeking office; officeholders may be reimbursed for officeholder expenses only. (Section 89511.5; Regulation 18526.1.) Moreover, a candidate's personal funds to be used to support his or her candidacy must be deposited into a campaign bank account before such funds are spent. (Section 85201(d).) Accordingly, Mr. Woods may not be reimbursed for making expenditures of his personal funds in connection with the loan to the committee.

However, if the loan is made in the name of the committee, payments for the appraisal fees, loan points, and interest expenses could be made directly to the lending institution by the

committee. Such expenditures would constitute a permissible expenditure to seek office. (Section 89512.)²

4. Assets of the Committee, Including the Appraisal

Once a payment is made by the committee for an appraisal of real property, the appraisal becomes an asset of the committee. Campaign assets acquired by the candidate for his or her personal use at no cost, or a cost below its fair market value, would constitute an unlawful appropriation of the asset for personal use. (Milman Advice Letter, I-92-440.) Therefore, Mr. Woods could not utilize the appraisal of the property for personal purposes. Moreover, to the extent that a tax deduction may be available, Mr. Woods may not use the deduction (for either personal or business purposes).

If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Steven G. Churchwell
General Counsel



By: Luisa Menchaca
Counsel, Legal Division

² Please note that the candidate may also make a personal loan to his campaign for payment of these expenses, and he may be repaid by his committee for the personal loan. However, there must be an agreement or understanding at the time the loan is made that it is to be treated as a loan. (Hertzberg Advice Letter, No. A-94-092.)