

RAVI MEHTA  
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

October 23, 1995

Peter Bagatelos  
Bagatelos and Fadem  
601 California Street, Suite 1801  
San Francisco, CA 94108

Re: Your Request for Advice  
Our File No. A-95-238

Dear Mr. Bagatelos:

This is in response to your letter requesting advice on behalf of Hollywood Park, Inc., regarding its responsibilities under the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup>

QUESTION

Does the payment of the costs of a special election held September 12, 1995, in the City of South San Francisco by Hollywood Park, Inc., constitute the making of reportable contributions?

CONCLUSION

Yes. Payment of the costs of the special election constitute reportable contributions to the political committee established to support the measure.

FACTS

On June 14, 1995, the City Council of South San Francisco placed a measure on the ballot. The measure involved

---

<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 18000-18995. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

the development of a card club and major commercial center in the City of South San Francisco. The council also decided to call a special election on September 12, 1995, at which time the measure would be considered by the voters. The voters rejected the measure.

Immediately following the decision to place the measure on the ballot, the city council and Hollywood Park, Inc. ("Hollywood Park") agreed that Hollywood Park would pay the costs of the special election, an amount totaling approximately \$40,000.

Hollywood Park also sponsored the political committee established to support the passage of the measure. The recipient committee is entitled, "Yes on Measure A, Supported by Hollywood Park, Inc." According to the information you provided on September 7, 1995, Hollywood Park is the sole monetary contributor to the committee. However, the committee also received nonmonetary contributions from another source for office space. The sponsored committee was established by Hollywood Park after the agreement between Hollywood Park and the city concerning the payment for the election was made.

#### ANALYSIS

The question you pose is whether, under the Act, the payment for the special election in question is considered a contribution by Hollywood Park that must be reported on campaign statements.<sup>2</sup>

Since Hollywood Park sponsored the measure, the specific question posed is whether the reimbursement to the City of South San Francisco for the costs of the election are considered contributions to the sponsored committee, a recipient committee. You also asked whether Hollywood Park independently qualifies as a major donor committee pursuant to Section 82013(c).

Under the Act, any person<sup>3</sup> who makes payments for political purposes may have campaign disclosure obligations. (Sections

---

<sup>2</sup> Please note that although you raise various questions in your letter about Regulations 18215 and 18225, we limit our advice to the specific factual situation posed in your letter, based on the facts provided in your incoming letter, and supplemental information provided by telephone by you on September 7, 1995, and Mr. Peter Fadem on August 17, 1995.

<sup>3</sup> The term "person" includes a committee. (Section 82047.) A person qualifies as a committee, and is subject to the campaign reporting requirements of the Act, if it receives "contributions" in the amount of \$1,000 or more in a calendar year, makes "independent expenditures" of \$1,000 or more in a calendar year, or makes "contributions" in the amount of \$10,000 or more in a calendar year to or at the behest of candidates or committees. (Section 82013.)

82013, 82015, and 82025.) A payment is made for political purposes if it is intended to influence the action of voters for or against the qualification or passage of any measure. (Regulations 18215 and 18225.) Accordingly, if Hollywood Park donated the funds to the city for the purpose of influencing the voters in support of the measure a contribution results.

In your letter, you suggest that there is no political purpose for the payment. However, in considering the context in which the payment is to be made, and all the facts, it is clear that the agreement to pay for the costs of the election and the payment for the election are inextricably linked to Hollywood Park's campaign to secure a favorable outcome on the ballot measure. As noted, Hollywood Park sponsored the measure. Its agreement to underwrite the costs of the special election was not done with philanthropic motivation. Rather, this expenditure is part of the overall scheme to enact the measure. Therefore, we conclude that the payment will ultimately be made for the purpose of influencing or attempting to influence the action of the voters and must be reported as a contribution to the sponsoring recipient committee.

In addition, since the payment to reimburse the city for the costs of the election is a reportable contribution by Hollywood Park, Hollywood Park would be considered a major donor.<sup>4</sup>

However, please note that Regulation 18419(c) provides, in pertinent part:

(c) A sponsor is not a committee within the meaning of Government Code Section 82013 if all of the following criteria are satisfied:

(1) The sponsor does not make or receive a sufficient amount of contributions or independent expenditures, other than those in support of its sponsored committee, to satisfy the thresholds set forth in Government Code Section 82013. A sponsoring organization makes contributions and expenditures in support of its sponsored committee when it provides the committee with member contributions, money from its treasury, supplies or administrative services;

(2) The sponsored committee reports all contributions and expenditures made in support of the committee by the sponsor, its intermediate units, and the members of such entities. With

---

<sup>4</sup> As you are aware, due to the pending consideration and adoption of extensive amendments to Regulation 18215, we were unable to provide you formal written advice within the 21-day statutory time period provided in Section 83114.

respect to a member contribution which is channeled through the sponsor or an intermediate unit, the member is the contributor;

(3) The sponsored committee reports as an intermediary the sponsor and, if required by paragraph (f) of this regulation, any intermediate unit, as an intermediary, if the sponsor or intermediate unit directly or indirectly provides the committee with \$100 or more in member contributions regardless of whether any member for whom the sponsor or intermediate unit acts contributed \$100 or more; and

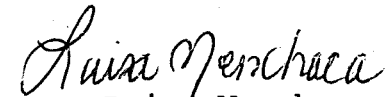
(4) A responsible officer of the sponsor, as well as the treasurer of the sponsored committee, verifies the committee's campaign statement pursuant to Government Code Section 81004.

If Regulation 18419(c) is applicable, Hollywood Park does not incur additional reporting responsibilities as a major donor.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Luisa Menchaca  
Counsel, Legal Division