

RAVI MEHTA
CHAIRMAN



SUPERSEDED
By: 96-103 (In part)

FAIR POLITICAL PRACTICES COMMISSION

December 1, 1995

Jane K. Willet
2433 Bunya Street
Newport Beach, CA 92660

Re: Your Request For Informal
Assistance
Our File No. I-95-342

Dear Ms. Willet:

This is in response to your request for advice on behalf of former Orange County Supervisor Gaddi Vasquez regarding the campaign provisions of the Political Reform Act.¹ Since your letter is general in nature, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c).²

QUESTIONS

1. In 1993, Supervisor Gaddi Vasquez filed Form 501 declaring his intention to run for reelection to the Orange County Board of Supervisors in 1996 and filed Form 502 redesignating the existing bank account for the March 26, 1996 election. Since Supervisor Vasquez resigned from office on September 28, 1995, and will not be seeking office in the March 1996 election, what is the status of the campaign funds held by the Gaddi Vasquez Campaign Committee?
2. If Mr. Vasquez's name will not appear on the ballot for the March 1996 election, when are campaign statements for the Gaddi Vasquez Campaign Committee required to be filed?
3. Are surplus funds allowed to earn interest income?

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 Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Sections 18329(c)(3).)

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CONCLUSIONS

1. Since the campaign funds in the bank account were redesignated to the 1996 election prior to Mr. Vasquez leaving office, the campaign funds are not considered surplus funds under the Act. Terminating the Form 501 filed for the 1996 election will not change this result.

2. The Gaddi Vasquez Campaign Committee must file a campaign statement, Form 490, by January 10, 1996, for the period October 1, 1995 through December 31, 1995. However, since Mr. Vasquez's name will not appear on the ballot for the March election, the committee is not required to file regular pre-election statements. The committee must continue to file semi-annual campaign statements until it is eligible to terminate.

3. Campaign funds, including surplus funds, may earn interest income, and may be transferred from a campaign bank account to a savings or other interest-bearing account. Prior to expenditure, the funds must be redeposited in the candidate's campaign bank account.

FACTS

In 1993, Supervisor Gaddi Vasquez filed Form 501 declaring his intention to run for reelection to the Orange County Board of Supervisors in the March 26, 1996 election and filed Form 502 redesignating the bank account to the 1996 election. On September 28, 1995, Supervisor Vasquez resigned from office and now has no intention of running in the 1996 election, nor using his campaign funds for any future election campaign. It is Mr. Vasquez's primary desire to use the remaining campaign funds to make donations to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations.

ANALYSIS

Use of Campaign Funds

Section 89519 provides:

Upon leaving any elected office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, campaign funds raised after January 1, 1989, under the control of the former candidate or elected officer shall be considered surplus campaign funds.

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Although Mr. Vasquez has left office, his campaign funds have been designated for the March 1996 election. Because he is no longer seeking office in the March election, he will not be a defeated candidate. The Commission has previously advised that the campaign funds of a candidate who raises funds for a particular election and later decides not to run in that election are not considered surplus funds under the Act. (Hertzberg Advice Letter, No. I-94-082, copy enclosed.)

Your letter states that Mr. Vasquez wishes to use the remaining funds to make donations to charitable and other nonprofit organizations in accordance with Government Code Section 89519(c), which governs the use of surplus campaign funds. However, since the funds are not considered surplus, the use of the funds to make donations to charitable, educational, civic, religious or similar tax-exempt, nonprofit organizations is governed by Section 89515, which provides:

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, where no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family, and where the donation or loan bears a reasonable relation to a political, legislative, or governmental purpose.

Enclosed for your review are copies of previously issued advice letters which provide guidance relating to the use of campaign funds to make donations to nonprofit organizations. If you have any questions regarding application of Section 89515 to a specific situation, please contact the Commission's Legal Division at (916)322-5660, Monday through Friday, 9:00 a.m. to 12:00 noon.

Campaign Filing Requirements

Candidates that are being voted upon are required to file pre-election campaign disclosure statements. (Section 84200.5.) Therefore, since Mr. Vasquez will not be listed on the ballot for the March election, he is not required to file regular pre-election statements in connection with the election.

The Gaddi Vasquez Campaign Committee must file a semi-annual campaign statement, Form 490, by January 10, 1996, for the period October 1, 1995 through December 31, 1995. (Section 84200.4, added by Stats. 1995, Chapter 470.) Thereafter, the committee must continue to file semi-annual statements no later than July 31

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for the period ending June 30, and no later than January 31 for the period ending December 31 until the committee is eligible to terminate. (Section 84200.) In addition, please consult the FPPC Information Manual for Candidates, Officeholders and Their Controlled Committees (Manual A) for information concerning special reports which may be required if the committee makes contributions or expenditures to support or oppose other candidates or measures.

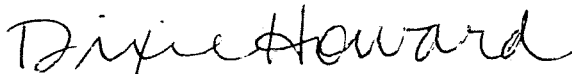
Bank Account Restrictions

The Act does not prohibit the receipt of interest income on campaign funds. In addition, Regulation 18524 specifies that candidates may transfer funds from the campaign bank account to certificates of deposit, interest-bearing saving accounts, money market accounts, or similar accounts which shall be established only for funds for the same elective office for which the campaign bank account was established. Prior to expenditure, the funds shall be redeposited in the candidate's campaign bank account. This regulation also applies to campaign funds that have become surplus pursuant to Section 89519.

If you have any questions, please contact me at
(916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



by: Dixie Howard
Political Reform Consultant
Technical Assistance Division