

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

December 4, 1995

Kevin M. Cunningham
Assistant General Counsel
National Rifle Association of America
11250 Waples Mill Road
Fairfax, VA 22030

Re: Your Request for Advice
Our File No. A-95-372

Dear Mr. Cunningham:

This is in response to your request for advice on behalf of the National Rifle Association (the "NRA") regarding the campaign reporting provisions of the Political Reform Act (the "Act").¹ Your letter requested an Advisory Opinion pursuant to Regulation 18320, however, you verbally amended your request on November 17, 1995, to ask for written advice pursuant to Section 83114(b).

QUESTION

1. May the NRA Institute for Legislative Action loan each of 23 member councils \$1,000 to be used for fundraising seed money in support of a state ballot measure without triggering the registration and reporting requirements of Section 82013?
2. Would the individual member councils incur filing obligations pursuant to Section 82013 simply by virtue of conducting fundraising events to benefit a ballot measure committee?

CONCLUSION

1. No, the NRA ILA may not loan each of the 23 member councils \$1,000 to be used for fundraising seed money in support

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 18000-18995.

of a state ballot measure without causing the member councils to qualify as committees upon receipt of the \$1,000 loan.

2. Yes, the individual member councils will incur filing obligations by virtue of conducting fundraising events to benefit the ballot measure committee if they receive contributions totaling \$1,000 or more in a calendar year to fund their activities in support of the ballot measure committee.

FACTS

You are an Assistant General Counsel of the National Rifle Association of America, headquartered in Fairfax, Virginia. As a corporate counsel of the Association, you also represent 23 individually chartered NRA "Member Councils" constituted within the State of California.

Member councils are comprised of NRA members and have been in existence for approximately two to four years. In addition to their role as grassroots activists, the councils have provided a variety of services to the National Rifle Association by assisting in membership recruitment, providing public service to promote the shooting sports, providing public education upon firearms related matters, and serving as local spokesmen for the NRA. Neither the individual members nor officers of the councils are employees or agents of the National Rifle Association, the NRA Institute for Legislative Action, or the NRA Political Victory Fund. The member councils desire to take an active part in the upcoming election season, specifically by working to support The Committee to Pass S.B. 28 in passing a statewide ballot measure.

At this time, the NRA has no plans to undertake a primary leadership role within The Committee to Pass S.B. 28 or to form a sponsored state ballot measure committee, but rather only to support the efforts of other like-minded organizations willing to take on that role. It is envisioned that the member councils will work independently of one another in their own localities in support of the measure by distributing literature for, and fundraising on behalf of, The Committee to Pass S.B. 28 once that committee is formed and officially registered.

The NRA Institute for Legislative Action (the "NRA ILA") would like to support the efforts of these councils by loaning \$1,000 to each of the 23 member councils in order to provide them with "seed money" to begin their fundraising ventures. It is anticipated that once a council had recouped the \$1,000, the council would be required to repay the loan to the NRA ILA on a fixed date. "Profits" from the fundraising venture (i.e., any monies raised over and above the initial \$1,000) would be donated as contributions to the ballot measure committee, although it has not yet been determined whether such contributions would be made directly by the individual member council or whether the councils would return the proceeds of the fundraising events to the NRA ILA

who would, in turn, make a cumulative contribution in the NRA ILA name.

Mr. Steve Helsley, California State Liaison for the National Rifle Association, clarified by telephone on November 15, 1995, that the NRA ILA envisions donating the seed money to the member councils, the member councils would use the funds to raise money for the ballot measure committee and then at the end of a time certain, the member council would either give the proceeds to the NRA ILA which would make a contribution to the ballot measure committee or the member councils would give the contributions directly to the ballot measure committee. At that time, the member councils would repay the \$1,000 loaned by the NRA ILA.

ANALYSIS

Section 82013 defines a committee as any person or combination of persons who directly or indirectly:

- a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year.
- b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year or
- c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

Section 84216 provides that a loan is a contribution, unless the loan is received from a commercial lending institution in the ordinary course of business or it is clear from the surrounding circumstances that the loan is not made for political purposes.

A payment is made for political purposes if it is made "for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure." (Regulation 18215.)

The facts here indicate that the loan would be received from the NRA ILA for the purpose of influencing or attempting to influence the action of the voters for the qualification or passage of the ballot measure. Accordingly, at the time each member council receives the \$1,000 loan from the NRA ILA for the purpose of holding fundraisers for the statewide ballot measure, the member council will qualify as a "recipient" committee and incur filing obligations. (Sections 82013(a) and 84200-84205.) This provision would apply whether the funds ultimately raised were then contributed directly to the ballot measure committee by the individual member council or whether the councils would give the proceeds to the NRA ILA who would in turn make a cumulative contribution.

In answer to your second inquiry, a member council may incur filing obligations merely by conducting fundraising events to benefit a ballot measure committee. If the member council raises \$1,000 in contributions from the council's members or outside organizations in a calendar year, the council will incur filing obligations pursuant to Section 82013(a).


The member council may not immediately qualify as a committee under limited circumstances. If the member council uses existing funds, such as dues, to make expenditures or contributions, and the donor does not have reason to know that all or part of the payment will be used to make contributions, then the committee would not immediately qualify as a recipient committee. This rule does not apply if the organization has made at least \$1,000 in contributions in any of the immediately preceding four years. (Regulation 18215(b)(1).) Regardless of the council's past practices, if the council spends more than \$10,000 of its own funds making contributions to the ballot measure committee, the council will qualify as a "major donor" committee pursuant to Section 82013(c).

There are no facts here, however, to indicate that the member councils will be using previously existing funds to sponsor the events. Therefore, in this instance, each member council will become a recipient committee at the time it raises \$1,000 in contributions in a calendar year to pay for any events the council may conduct to benefit the ballot measure committee.

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: Liane Randolph
Counsel, Legal Division

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