

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

January 12, 1996

Honorable Edward Vincent
Mayor, City of Inglewood
One Manchester Boulevard
Inglewood, CA 90301-1750

Re: Your Request for Advice
Our File No. A-96-020

Dear Mayor Vincent:

This is in response to your letter requesting advice regarding the appropriate use of campaign funds pursuant to the "personal use" provisions of the Political Reform Act (the "Act").¹

QUESTION

May you use campaign funds raised for position as Mayor of Inglewood to pay fines incurred for violating the gift limits of the Act applicable to you as an appointed member of the California Coastal Commission and World Trade Commission?

CONCLUSION

Since the violation occurred because of your position as a member of the two commissions and was not "directly related" to your position as Mayor of Inglewood, you may not use campaign funds to pay the fine.

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

FACTS

You are the Mayor of Inglewood and an appointed member of the California Coastal Commission and World Trade Commission. You stated that you were appointed to the two commissions, in part, based on your experience as Mayor of Inglewood. You were appointed to both positions by Willie Brown who knew you because you were an elected official.

While you held these positions, you received gifts of \$768 from the Los Angeles Lakers and \$724 from Alamo Rent-A-Car. Neither donor had business before the two commissions on which you serve.

ANALYSIS

The general rule of the personal use law is that any expenditure of campaign funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. (Section 89512.) However, under some circumstances, the personal use law requires a stricter standard.²

You have asked whether campaign funds raised for your election to Mayor of Inglewood may be used to pay for fines incurred for violation of gift limits applicable to your appointed positions with the Coastal Commission and World Trade Commission.

The Act provides:

The following provisions govern the use of campaign funds for the specific expenditures set forth in this section. It is the intent of the Legislature that these provisions shall guide the interpretation of the standard imposed by Section 89512 as applied to other expenditures not specifically set forth below.

* * *

(c) Campaign funds shall not be used to pay or reimburse fines, penalties, judgments, or settlements, except those resulting from either of the following:

² For example, where an expenditure confers a substantial personal benefit on the candidate or officeholder, the expenditure must be directly related to a political, legislative, or governmental purpose. (Section 89521.) A "substantial personal benefit" is defined as a direct personal benefit to the candidate or officeholder of \$100 or more. (Section 89511.)

(1) Parking citations incurred in the performance of an activity which was directly related to a political, legislative, or governmental purpose.

(2) Any other action for which payment of attorney's fees from contributions would be permitted pursuant to this title.

Section 89513.

Expenditures of campaign funds for attorney's fees and other costs in connection with administrative, civil, or criminal litigation are not directly related to a political, legislative, or governmental purpose except where the litigation is directly related to activities of a committee that are consistent with its primary objectives or arises directly out of a committee's activities or out of a candidate's or elected officer's activities, duties, or status as a candidate or elected officer, including, but not limited to, an action to enjoin defamation, defense of an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action arising from an election contest or recount.

Section 89514, emphasis added.

Thus, the rule in Section 89513 is that campaign funds may not be used to pay fines. However, an exception is provided for actions for which payment of attorney's fees from contributions would be permitted pursuant to Section 89514.³ The test set forth in Section 89514 is not merely whether the fine is related to the officeholder's elected position, but is the fine directly related to the "elected officer's activities, duties, or status as a candidate or elected officer...."

In this case, the gifts in question did not violate any obligations on you as the Mayor of Inglewood. The violation did not arise from your activities, duties, or status as a candidate

³ As exceptions to the general rules prohibiting the use of campaign funds for the payment of fines, a narrow interpretation of this exception is preferred. (Julius Goldman's Egg City v. Air Pollution Control Dept. of Ventura County (1981) 116 Cal.App.3d 741.)


or as Mayor of Inglewood.⁴ The violation was incurred by virtue of the fact that you were a member of the two commissions. This obligation is directly related to the appointed positions (just as would be the case with the obligation to file statements of economic interests for the commissions or to obey the Bagley-Keene open-meeting laws as a commission member) and is only incidentally related to your position as mayor.

Consequently, campaign funds raised for your mayoral election may not be used to pay fines incurred for violating laws applicable to Coastal Commission or World Trade Commission members.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5660.⁵

Sincerely,

Steven G. Churchwell
General Counsel


By: John W. Wallace
Counsel, Legal Division

⁴ The fact that your experience as mayor was considered in your appointment to the two commissions is not persuasive. The same mayoral experience might be considered in appointing you to many private or nonprofit boards, but in no case could we conclude that violating laws imposed on you as a member of that private board would be "directly related" to your office as mayor.

⁵ 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.