



SUPERSEDED

by A-98-202

RAVI MEHTA
CHAIRMAN

FAIR POLITICAL PRACTICES COMMISSION

February 29, 1996

Daniel C. Faller
Apartment Owners Assn. of
Southern California
6060 Sepulveda Blvd., Ste. 202
Van Nuys, CA 91411

Re: Your Request for Informal
Assistance
Our File No. I-96-032

Dear Mr. Faller:

You have requested advice concerning the campaign provisions of the Political Reform Act (the "Act").^{1/} Because your inquiry is general in nature, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c).^{2/}

QUESTION

You have asked whether it is permissible for the Apartment Owners Association of Southern California's political action committee ("AOA PAC") to participate in a marketing program to raise funds for the committee.

CONCLUSION

There is nothing in the Act or Commission regulations which would prohibit the committee from raising funds in the manner you propose. However, please note that the Commission's jurisdiction is limited to the provisions of the Act, and we cannot address other laws (e.g., tax laws) which may regulate the committee's activities.

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. (Section 83114; Regulation 18329(c)(3).)

Payments received by the committee must be disclosed on the committee's campaign statements. In addition, the payments may be contributions to the committee under the provisions of the Act.

FACTS

AOA PAC proposes to enter into a marketing program with a company that sells home and health products. The committee will refer the company to its members. In exchange, the company will pay the committee a percentage on all products purchased by AOA PAC members as well as a monthly override on all of the goods the company sells. The company will handle all of the products, orders, and payments in connection with the sales.

ANALYSIS

The Act regulates the activities of general purpose committees^{3/} in two ways. First, expenditures made by committees must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. Expenditures which confer a substantial personal benefit must be directly related to a political, legislative, or governmental purpose. (Section 89512.) In general, expenditures made by a committee for legitimate fundraising activities are directly related to a political purpose and are not prohibited under the Act. In addition, we note that the proposed marketing program does not appear to involve any expenditure of committee funds.

Committees as defined in the Act must also file periodic reports disclosing contributions and other payments received as well as expenditures made. (Section 84200, et seq.)

"Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received ... The term "contribution" includes ... the granting of discounts or rebates not extended to the public generally

Section 82015.
(Emphasis added.)

Payments received by AOA PAC from the company must be disclosed on the committee's campaign statements. The payments will be considered contributions under the Act unless, in the

^{3/} An organization which receives \$1,000 or more from its members for the purpose of making contributions or expenditures to support a variety of state and/or local candidates or issues is defined in the Act as a "general purpose committee." (Sections 82013 and 82027.5.)

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normal course of business, the company enters into marketing agreements with other individuals or organizations on the same terms available to the committee. Any payments received which would not be considered contributions under the Act should be reported on Schedule I (Miscellaneous Increases to Cash) of the committee's campaign statements.

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

Sincerely,

Steven G. Churchwell
General Counsel

Carla Wardlow

By: Carla Wardlow
Division Chief
Technical Assistance Division