



RAVI MEHTA  
CHAIRMAN

FAIR POLITICAL PRACTICES COMMISSION

March 21, 1996

Amy Nelsen Smith  
Treasurer, Michael Sweeney  
for Assembly Committee  
P.O. Box 55242  
Hayward, CA 94545-0242

Re: Your Request for Advice  
Our File No. A-96-099

Dear Ms. Smith:

This is in response to your letter requesting advice on behalf of Assembly candidate Michael Sweeney regarding his responsibilities under the provisions of the Political Reform Act (the "Act") that regulate the appropriate use of campaign funds.<sup>1</sup>

Please note that nothing in this letter should be construed to evaluate any conduct which may have already taken place. In addition, this letter is based on the facts presented to us. The Commission does not act as the finder of fact in providing advice. (In re Oglesby (1975) 1 FPPC Ops. 71.)

QUESTION

May campaign funds be used to pay expenses in connection with the California Democratic Party Convention (such as Democratic State Central Committee dues, convention registration fees, and transportation, meals and accommodations) on behalf of the candidate and candidate's spouse?

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<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.

### CONCLUSION

Campaign funds may be used to pay these expenses. However, any part of the trip that may be personal in nature may not be paid with campaign funds. Moreover, campaign funds may not be used for the annual party dues for the spouse of the candidate.

### FACTS

Michael Sweeney is a Democratic candidate for Assembly. Mr. Sweeney plans to attend the California Democratic Convention. You have asked whether he may use campaign funds to pay, for himself and his spouse, Democratic State Central Committee dues, convention registration fees, meals, hotel accommodations, and travel expenses (such as air fare).

### ANALYSIS

#### General Rule

The general rule of the "personal use" provisions of the Act which regulate the expenditure of campaign funds is that any expenditure of campaign funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. However, where an expenditure confers a substantial personal benefit on the candidate or elected officer, the expenditure must be directly related to a political, legislative, or governmental purpose.<sup>2</sup> (Section 89512.)

Thus, payment of the candidate's annual dues to the party or those of his spouse (\$45 annually) must be reasonably related to a political, legislative or governmental purpose. As a candidate, the payment of annual party dues is clearly related to a political purpose. Thus, the candidate may pay the annual dues for himself.

However, the same would not necessarily apply for the dues of his spouse. Thus, absent an independent political justification for paying the candidate's spouse's dues, campaign funds may not be used.

#### Travel Expenses and Necessary Accommodations

Moreover, the personal use law sets forth specific standards concerning certain types of expenditures. Section 89513(a)(1), which deals with travel, provides:

- (a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to

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<sup>2</sup> A substantial personal benefit is defined as a direct personal benefit to the candidate or elected officer of \$100 or more. (Section 89511(b)(2).)

approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are directly related to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

(2) For the purposes of this section, payments or reimbursement for travel by the household of a candidate or elected officer when traveling to the same destination in order to accompany the candidate or elected officer shall be considered for the same purpose as the candidate's or elected officer's travel.

Thus, the test set forth in Section 89513(a)(2) is whether there is a direct relationship between a political, legislative, or governmental purpose and the trip the candidate wishes to take. Travel and accommodations related to the candidate's attendance at his party's state convention meet these standards. Thus, he may use campaign funds to travel to the convention and to pay the registration fee required to attend.

Moreover, according to Section 89513(a)(2), to the extent that it is permissible for the candidate to use campaign funds for the candidate's travel and accommodations, the candidate may use campaign funds for the candidate's spouse when she is traveling to the same destination in order to accompany the candidate. The candidate's spouse is deemed to be traveling for the same purpose.

Under your facts, the candidate is attending the convention as a candidate for Assembly. This was the justification for using campaign funds to attend the convention. Thus, the spouse is deemed to be traveling to the convention for the same purpose and campaign funds may be used for the spouse's travel and accommodations as well. This same conclusion would apply to paying for the registration fees of the spouse since she would be accompanying him to attend the convention.

Scope Payments

Section 89513(a)(2) provides that payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.

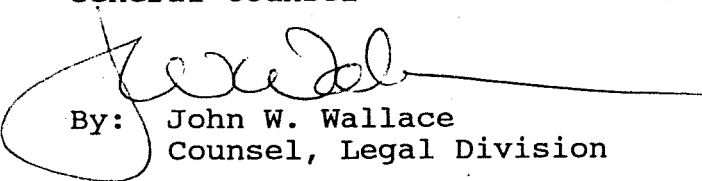
Internal Revenue Code Section 162(a)(2) sets forth general rules which permit the deduction of all ordinary and necessary traveling expenses while away from home in the pursuit of a trade or business. Pursuant to this section, campaign funds may be used for "business portions" of the trip. To the extent that any day is not a business day (such as days on which there are no meetings or formal activities), campaign funds may not be used.<sup>3</sup>

Moreover, personal activities not related to a governmental purpose may not be paid for with campaign funds, even if those activities occur on a business day.

If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5660.<sup>4</sup>

Sincerely,

Steven G. Churchwell  
General Counsel

  
By: John W. Wallace  
Counsel, Legal Division

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<sup>3</sup> A travel day is considered a business day if followed immediately by a day that is devoted, at least in part, to a business purpose. Moreover, where a weekend falls between business days, the weekend will also be counted as business time.

<sup>4</sup> 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.