

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

October 10, 1996

Joseph Dawidziak, Councilmember
City of Redondo Beach
415 Diamond Street
Post Office Box 270
Redondo Beach, CA 90277-0270

Re: Your Request for Advice
Our File No. A-96-264

Dear Mr. Dawidziak:

You have requested advice concerning the campaign disclosure provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. You have filed amendments to your campaign disclosure statements (Form 490) for the past three and a half years, and you are asking if those amendments accurately correct the erroneous amount of interest due on outstanding loans reported on the original statements.

2. Does the law permit you to forgive loans you have made to your committee, and if you do, what are your subsequent reporting obligations?

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.

CONCLUSIONS

1. Your amendments are properly completed to correct the interest due on your outstanding loans. However, in reviewing some of your original statements, we find other problems which must be corrected with additional amendments.

2. The law does not prohibit candidates/officeholders from forgiving loans they make to their committees. Therefore, you may forgive your loans and terminate your committee. In any subsequent year in which you do not have a committee and you do not intend to raise or expend \$1,000 for political purposes, you may satisfy your filing obligations as an officeholder by filing the short form campaign statement (Form 470).

FACTS

You formed a controlled committee for your election in January, 1993. You financed the campaign with personal loans of \$200 and of \$900. After the election, you closed your bank account after repaying part of the loan with the remaining funds. At this point, your committee owed you a balance of \$829.33 and you set up a spreadsheet calculation charging the committee simple interest of 7% per annum on the remaining balance. However, you inaccurately reported interest owed on the remaining balance of your loan at a monthly compound rate of 7%. On September 6, 1996, you filed amendments for periods covering from February 14, 1993 through June 30, 1996, to correct the error.

ANALYSIS

One of the principal purposes of the Act is to provide to the public full and complete information regarding receipts and expenditures in election campaigns "in order that the voters may be fully informed and improper practices may be inhibited." Section 81002(a). Section 81004 provides that all filers shall use diligence in preparation of reports and statements filed pursuant to the Act. Information included in these reports should be true and complete to the best of their knowledge.

Section 81004.5 allows for the filing of amendments to reports and statements which are incorrect or incomplete. Once again, this provisions is intended to ensure the most complete disclosure possible to the public.

The Act provides that officeholders, candidates and committees must file all campaign statements required by Sections 84200, et seq.

You have indicated that you closed your bank account shortly after the March 1993 election after applying the remaining funds in the account to the loans made to your committee. Subsequently, you reported an incorrect amount of interest as an accrued

expense. You have filed amendments to correct the amount of unpaid interest and to indicate there were no accrued expenses.

A review of your original statements filed for the periods covering January 1, 1995 through June 30, 1995, and January 1, 1996 through June 30, 1996, reveals some other problems which should also be corrected. The summary page information for those statements shows figures in Column B (total previous period). However, the instructions on the form indicate that for the "first report filed for the calendar year Column B should be blank except for Loans Received (Line 2), Enforceable Promises (Line 6), Loans Made (Line 9), and Accrued Expenses (Line 11)." Therefore, the only line of Column B on those statements which should be completed is Line 2. If the same errors were made on your statement covering the first half of 1994, you should also amend that statement.

There is no limit on the number of amendments you may file for one reporting period. In fact, you are obligated to file as many amendments as necessary to correct problems with your filings.

Regulation 18404(b) provides that:

A candidate may terminate his or her status as a candidate, and a treasurer of a committee which qualifies pursuant to Government Code Section 82013(a) may terminate the committee's status as a committee, only by filing a Statement of Termination declaring, under penalty of perjury, that the candidate or committee:

- (1) Has ceased to receive contributions and make expenditures and does not anticipate receiving contributions or making expenditures in the future;
- (2) Has eliminated or has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations;
- (3) Has no surplus funds; and
- (4) Has filed all required campaign statements disclosing all reportable transactions.

Therefore, you may terminate your committee after forgiving your loan to the committee or with the loan outstanding so long as you are willing to declare that you have no intention or ability to pay off the loan.

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You may terminate your committee before the end of the year by filing a Form 490 and a termination statement (Form 415). Regulation 18426 allows candidates to file a semiannual statement before the statement closing date so long as the statement includes all expenditures and contributions made or received during the semiannual reporting period. If the filer then makes expenditures or receives contributions after filing the semiannual statement but before the closing date for the semiannual statement the filer must file an amendment before the semiannual deadline, disclosing all of the additional expenditures and contributions. Or you may wait until the end of 1996 to file a semiannual Form 490 along with a Form 415 to terminate your committee's filing obligations.

You may file Form 470 for 1997 so long as you do not form another committee for 1997 and you do not intend to raise or expend \$1,000 or more for political purposes in 1997.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Steven G. Churchwell
General Counsel

Wayne Imberi
By: Wayne P. Imberi
Political Reform Consultant