

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

December 13, 1996

John L. Bailey
Taxpayers for a Better Moreno Valley
23020 Atlantic Circle
Moreno Valley, California 92553

Re: Your Request for Advice
Our File No. A-96-309

Dear Mr. Bailey:

This letter is a response to your request for advice under the Political Reform Act (the "Act")¹ regarding the propriety of a contribution of campaign funds remaining in the account of a local ballot measure committee, Taxpayers for a Better Moreno Valley ("Taxpayers"), on whose behalf you write.

QUESTION

May Taxpayers, a local ballot measure committee, contribute funds left over after the recent election to an existing general purpose committee, the Moreno Valley Action Committee ("MOVAC"), without violating the "personal use" restrictions of the Political Reform Act?

CONCLUSION

Funds remaining in the account of a local ballot measure committee do not become "surplus campaign funds" after the election. The only provision of the Act specifically directed to leftover or "surplus" campaign funds is section 89519, which addresses solely the leftover campaign funds of a candidate or elected officer. The committee may therefore expend its funds in any manner consistent with Article 4 of the Act, sections 89510-89522. This includes contribution to a bona fide political action committee.

¹ Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18000 - 18995, of the California Code of Regulations.

FACTS

MOVAC is a general purpose committee which was formed and exists to pursue issues and matters for the betterment of Moreno Valley. The members of the Moreno Valley Action Committee also formed Taxpayers as a special purpose committee to facilitate and pursue the passage of Measures AA (utility tax) and BB (business license tax), which were on the November ballot in the City of Moreno Valley.

When the Taxpayers group was formed, they stated on their filing statement that the disposition of surplus funds would be used for "any lawful purpose." Now that the November election is over, the Taxpayers group has a few thousand dollars left in its account. It is the desire of the Taxpayers group to contribute these leftover campaign funds to MOVAC.

ANALYSIS

Article 4 of the Act (sections 89510-89522) governs the use of campaign funds, and its provisions prescribe the use of such funds by committees, although not every section is addressed to committees. Section 89511 states the broad reach of Article 4, as follows:

"(a) This article applies to campaign funds held by candidates for elective office, elected officers, controlled committees, ballot measure committees opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013.

(b) (1) For purposes of this chapter, "campaign funds" includes any contributions, cash, cash equivalents, and other assets received or possessed by a committee as defined by subdivision (a) of Section 82013.

(2) For purposes of this chapter, "committee" means a controlled committee, ballot measure committee, committee opposed to a candidate or measure, and any committee which qualifies as a committee pursuant to subdivision (a) of Section 82013."

* * * *

Although it is clear that the Act's provisions regarding campaign funds are intended to apply generally to such funds without regard to who or what may hold them, it is also clear that particular sections of Article 4 are applicable only to certain parties. Thus, immediately following the above quoted statute, section 89511.5 expressly and plainly applies only to incumbent elected officials. Similarly, the only reference to "surplus" funds, section 89519, expressly addresses only the use of such funds by former candidates or elected officers.

We have historically construed section 89519 by its plain meaning, concluding that campaign funds held by ballot measure committees do not become "surplus" funds within the meaning of section 89519. (See, e.g., *Carter Advice Letter No. A-90-746.*) As a result, the

particular restrictions of section 89519 give way in such instances to the other provisions of Article 4 governing the use of campaign funds. *Id.* See also *Hiltachk* Advice Letter No. I-90-053. The general rule for expenditures of committees such as Taxpayers is given at section 89512.5, as follows:

“(a) Subject to the provisions of subdivision (b), any expenditure by a committee not subject to the trust imposed by subdivision (b) of Section 89510 shall be reasonably related to a political, legislative, or governmental purpose of the committee.

(b) Any expenditure by a committee that confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, shall be directly related to a political, legislative, or governmental purpose of the committee.”

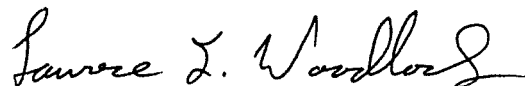
The information you have provided to us indicates that the purpose of MOVAC is the overall betterment of the City of Moreno Valley, while the purpose of Taxpayers is the same, albeit focused on specific means to that end. In such a case, a contribution to MOVAC would be reasonably related to the political, legislative, or governmental purpose of Taxpayers, and thus permissible under the Act.

You have not alerted us to any basis for suspecting that the planned contribution would enure to the personal benefit of any individual, invoking the higher standard of section 89512(b). We do not, therefore, offer any opinion as to whether the planned contribution would also meet that standard. Similarly, Election Code Section 18680 imposes duties on those entrusted with funds directed at the promotion of ballot measures. The advice given here presumes compliance with the fundamental obligations of Section 18680.

If you have any other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Lawrence T. Woodlock
Staff Counsel, Legal Division