

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

January 6, 1996

Mr. David Weldy, Treasurer
Carole Migden for Assembly
4430 20th Street
San Francisco, California 94114

**Re: Your Request for Advice
Our File No. A-96-331**

Dear Mr. Weldy:

This letter is a response to your request for advice regarding the campaign provisions of Proposition 208 and the Political Reform Act (the "Act").¹

FACTS

You are treasurer of the campaign committee Carole Migden for Assembly. On behalf of Assemblymember Migden, you ask the following questions about the officeholder provisions of Proposition 208.

QUESTIONS AND ANSWERS

1. May the Carole Migden For Assembly Committee transfer \$10,000 from campaign funds on hand as of December 31, 1996, into an officeholder account, or must the committee raise funds to be used for an officeholder account in 1997?

Pursuant to Emergency Regulations 18530.1 and 18531.3 (copies enclosed), the 1996 campaign committee may transfer up to \$10,000 from campaign funds raised prior to January 1, 1997, into a Proposition 208 officeholder account. If the committee transfers \$10,000 into Assemblymember Migden's officeholder account for 1997, the Assemblymember may not raise and deposit any additional funds into that account for 1997. Funds in a Proposition 208 officeholder account are governed by section 85313 which provides that they may only be used

¹ All statutory references are to the Government Code. Proposition 208 substantially amends the Political Reform Act of 1974, contained in sections 81000 - 91015. Commission regulations appear at title 2, sections 18000 - 18995, of the California Code of Regulations.

for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer. In addition, the Assemblymember may keep the funds in the 1996 campaign committee and continue to make expenditures from those funds consistent with sections 89510-89518 of the Act governing the permitted use of campaign funds and prohibited personal use.

2. If the committee has more than \$10,000 in campaign funds on hand as of December 31, 1996, may it transfer into the Proposition 208 officeholder account an additional \$10,000 in funds to be used for officeholder expenses in 1998?

The 1996 campaign committee may not transfer an additional \$10,000 into Assemblymember Migden's Proposition 208 officeholder account until the year 1998.

3. May the committee redesignate the bank account currently used for the 1996 election as its officeholder bank account?

If Assemblymember Migden wants to set up a Proposition 208 officeholder account (see below), she must establish a new account rather than redesignate a current account. As discussed above, however, she may keep the 1996 campaign committee account open and continue to make officeholder expenditures from this account.

4. May the committee use its current identification number for its officeholder account, or must the committee request a new identification number for an officeholder account?

Pursuant to Emergency Regulation 18531.4 (copy enclosed), the officeholder must register the Proposition 208 officeholder account as a separate "controlled committee" if \$1,000 or more is received or deposited in the account. The officeholder must file a new statement of organization on Form 410 and get a new committee ID number for her officeholder account. Note that the new statement of organization (Form 410) must be filed within ten days of depositing \$1,000 into the Proposition 208 officeholder account. In addition, when registering, the words "officeholder account" must be included in the name of the committee. Then the officeholder will use existing Form 490 -- the officeholder, candidate and controlled committee campaign statement -- to file disclosure of contributions to and expenditures from the officeholder account. The officeholder must file semi-annual disclosure statements for the Proposition 208 officeholder account pursuant to Chapter 4 of the Act. (Regulation 18531.4.)

5. If the committee still expects to pay expenditures relating to the 1996 election after January 1, 1997, may the committee use one bank account for that purpose and for officeholder expense purposes, or must the committee maintain two separate bank accounts?

As discussed above, if the Assemblymember wishes to establish a Proposition 208 officeholder account, she needs to set up a separate committee and a separate bank account.

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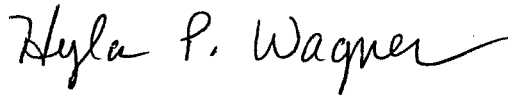
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Under Regulation 18530.1, however, the 1996 campaign committee may continue to pay expenses relating to the 1996 election and officeholder expenses. If Assemblymember Migden has debt from the 1996 election, she must abide by Sections 85305(c) and (e) of Proposition 208 regarding debt from elections held before January 1, 1997. (See Regulation 18530.7, copy enclosed.)

In addition to several regulations, I have enclosed a copy of the *Johnson* Advice Letter, No. 96-316a, which addresses the uses of funds raised before January 1, 1997, and officeholder accounts. If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Hyla P. Wagner
Staff Counsel, Legal Division

Enclosures

SGC:HPW:ak