

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION
February, 3, 1997

Jonathan Lightman
Director
Government Relations and Political Affairs
National Association of Social Workers, California Chapter
1016 23rd Street
Sacramento, California 95816

**Re: Your Request for Advice
Our File No. A-96-363**

Dear Mr. Lightman:

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

QUESTIONS

1. Is it permissible for a California political action committee to receive funds from a check-off on the membership renewal application if those funds are first deposited in the account of a federal committee and then passed on to the California committee?
2. Is it permissible for a lobbyist to act as a staff member for the committee?

CONCLUSIONS

1. Yes. The committee may continue to raise funds through a check-off on the membership dues that are paid to the national association.
2. Yes. It is permissible for a lobbyist to act as a staff member for a political committee, but the lobbyist may not make or arrange contributions to officials whom the lobbyist is registered to lobby or to candidates seeking elections to agencies which the lobbyist is registered to lobby. The lobbyist may not sign or process contribution checks or recommend the making of

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

contributions unless there is independent review of the recommendation. The lobbyist may, however, participate in other management activities of the committee if those activities do not involve the making or arranging of contributions.

FACTS

NASW Cal Pace is a sponsored committee that makes contributions to candidates. The sponsor is the California chapter of a national association. Members of the sponsor association pay only one membership check, covering membership in the national association and the state chapter.

NASW Cal Pace receives the bulk of its funds from a check-off on the renewal membership application of the national association. In the renewal application, members are asked whether they wish to add \$10 to the cost of their membership as a contribution to the committee. All contributions made through this system are initially deposited in the federal PAC with 50 percent being returned to the state PAC of the members' residences. Twice yearly, NASW Cal Pace receives a check from the national PAC containing the money from California members who contributed through the check-off.

ANALYSIS

Commission Regulation 18215 states in pertinent part:

“(a) A contribution is any payment made for political purposes for which full and adequate consideration is not made to the donor. A payment is made for political purposes if it is:

(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or

(2) Received by or made at the behest of the following or any agent thereof:

(D) An organization formed or existing primarily for political purposes, including, but not limited to a political action committee established by any membership organization, labor union or corporation.” (Regulation 18215(a)(2)(D).)

NASW Cal Pace is a committee sponsored by the California chapter of a national organization. The payments made by each member through the federal PAC to the NASW Cal

Pace are contributions as defined by Regulation 18215. The national organization collects contributions from NASW's California members and then passes those contributions on to NASW. Regulation 18419 sets forth procedures for reporting contributions received through the sponsor. With respect to member contributions that are channeled through the sponsor, the member is the contributor. The committee must report the sponsor as an intermediary, if the sponsor directly or indirectly provides the committee with \$100 or more in member contributions, regardless of whether any member for whom the sponsor acts contributed \$100 or more on its campaign disclosure statements. (Regulation 18419; *Carroll* Advice Letter, No. I-96-270.)

Proposition 208, which was passed by the voters on November 5, 1996, and went into effect on January 1, 1997, provides that contributions made through an intermediary shall be treated as contributions from both the contributor and the intermediary for the purposes of contribution limits. (Section 85702.) This provision, however, applies only to contributions made directly, indirectly to, or on behalf of a particular candidate. Contributions made to a committee that is not controlled by a candidate are not subject to the restriction. Accordingly, NASW Cal Pace should continue to report the federal PAC as an intermediary and the individual members as contributors.

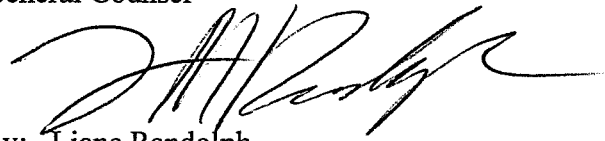
In your second question, you asked if it is permissible for a registered lobbyist to staff a political committee if the lobbyist's duties include advising the committee, processing check requests, and signing checks for both contributions and other purposes. Section 85704 provides that no candidate or elected officeholder may solicit or accept a campaign contribution from, through, or arranged by a registered lobbyist if that lobbyist finances, engages, or is authorized to engage in lobbying the governmental agency for which the candidate is seeking election or the governmental agency of the officeholder. In other words, a registered lobbyist is forbidden to make or arrange contributions to officials whom the lobbyist is registered to lobby.

NASW Cal Pace is staffed by a registered lobbyist. The lobbyist performs such duties as advising the committee, processing check requests, and signing committee checks for contributions and other purposes such as supplies. In light of Section 85704, the lobbyist must review his or her duties to ensure compliance with that statute. The lobbyist must avoid either making or arranging contributions to the prohibited officials or candidates. The lobbyist may not sign contribution checks if those checks go to officials or candidates whom the lobbyist is registered to lobby. The lobbyist also may not make the final decision authorizing such contributions, although the lobbyist may make recommendations to committee officials if those recommendations are independently reviewed. The lobbyist may be involved in day-to-day management of the committee, such as purchasing supplies, as long as these activities do not result in the lobbyist making or arranging contributions. Please keep in mind that this restriction only applies to contributions made to either officials in the agency the lobbyist is registered to lobby or candidates seeking election to an agency the lobbyist is registered to lobby. (Section 85704.)

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

Sincerely,

Steven G. Churchwell
General Counsel

A handwritten signature in black ink, appearing to read "Liane Randolph", written over a horizontal line.

By: Liane Randolph
Staff Counsel, Legal Division

SGC:LR:ak