

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

February 19, 1997

Ellen Fletcher
777-108 San Antonio Road
Palo Alto, CA 94303-4826

Re: Your Request for Advice
Our File No. A-97-019

Dear Ms. Fletcher:

This is in response to your request for advice regarding the campaign provisions of Proposition 208 and the Political Reform Act (the "Act").¹ You held office as a city councilmember from July 1, 1977, to December 31, 1989. You have not received any new funds, other than interest, since your last campaign in 1985. Prior to January 1, 1997, you used the surplus campaign funds to make donations to candidates, propositions and party committees.

QUESTIONS

1. Do the new emergency regulations regarding Proposition 208 apply to you? If so, how may you use your surplus funds and must you dispose of your campaign funds in 90 days from January 1, 1997?
2. Are the offices of the Fair Political Practices Commission accessible via electronic mail?

CONCLUSIONS

1. You held office from July 1, 1977, to December 31, 1989. Therefore, your funds became surplus before January 1, 1990, but after January 1, 1989. Funds that became surplus after January 1, 1989, may be used as set forth in Section 89519 in effect as of December 31, 1996 (repealed 1997; Regulation 18519.4(c), copy attached; Johnson Advice Letter, No. A-96-316a.) Therefore, you

¹ Government Code Sections 81000-91014. All references are to the Government Code unless otherwise indicated. All references to regulations are to Title 2 of the California Code of Regulations.

do not need to dispose of your surplus funds within 90 days from January 1, 1997. However, Section 89519 as it existed on December 31, 1996, provides limitations on how you can use your surplus funds as of January 1, 1997. Please refer to the attached regulation.

2. You may access the Fair Political Practices Commission by using either our web site address or our fax-on-demand number. The Commission's web site address is www.fppc.ca.gov/fppc/. The letters pertaining to Proposition 208 can be accessed by our fax machine. If you call 1 (888) 622-1151 you will be prompted how to access the available information. We expect that in the near future our offices will be accessible via electronic mail.

ANALYSIS

Payments made from surplus funds before January 1, 1997, were subject to either Section 89519 of the Government Code or Section 20300 of the Elections Code. Campaign funds that became surplus after January 1, 1989, but before January 1, 1997, were subject to Government Code Section 89519 in effect as of December 31, 1996 (repealed 1997). Campaign funds that became surplus prior to January 1, 1989, were subject to Elections Code Section 20300 in effect as of December 31, 1996 (repealed 1997).

Because your funds were raised in 1985, Section 20300 of the Elections Code governed the use of your funds. Prior to January 1, 1997, one of the permissible uses of surplus funds under that law was contributions to other candidates. (Biggs Advice Letter, No. I-92-445.)

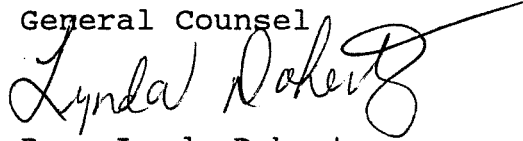
Section 20300 of the Elections Code as well as Government Code Section 89519 were repealed as of January 1, 1997. Therefore, the Commission adopted emergency Regulation 18519.4, to help people identify permissible uses of surplus funds. The regulation focuses on when funds became surplus, rather than when they were raised. Your campaign funds became surplus after January 1, 1989, but before January 1, 1997. Your facts fit under subdivision (c) of Regulation 18519.4. Therefore, as of January 1, 1997, you may use the surplus funds for those uses permitted under Regulation 18519.4(c). In other words, you may use the surplus funds for campaign debt, donations to non-profit charitable or educational organizations, donations to a political party, and payment for professional services. Under Regulation 18519.4(c), you may not make contributions to candidates for California races, but you may contribute to federal candidates, out-of-state candidates, and ballot measures.

Commission staff may be proposing some amendments to emergency Regulation 18519.4 when it is considered for permanent adoption in May. Please contact our office after May 1st so we can provide you with a copy of the new regulation if any changes are made.

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 cursive script that reads "Lynda Doherty". The signature is written in black ink and is positioned over the typed name and title of the signatory.

By: Lynda Doherty
Political Reform Consultant
Legal Division

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Enclosures