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FAIR POLITICAL PRACTICES COMMISSION

March 11, 1997

Sharon L. Whipkey
Assistant Vice President
California Life Underwriters' Political Action Committee
70 Washington Street, Suite 325
Oakland, California 94607

Re: Your Request for Advice
Our File No. A-97-045

Dear Ms. Whipkey:

This letter is a response to your request for advice on behalf of the California Life Underwriters' Political Action Committee regarding the provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. What are the procedures for converting from a general recipient committee to a small contributor committee? Are there new registration requirements?

It is important to note that forming a small contributor committee does not "convert" your current committee from a general purpose recipient committee, because the small contributor committee will also be a general purpose recipient committee. An organization may establish a small contributor committee pursuant to section 85203. A small contributor committee must have a membership of at least 100 individuals, must have been in existence for at least six months, may not be controlled by a candidate, and may not receive a contribution from any person in excess of \$50 per year. (Section 85203.) Prior to making any contribution, a committee that meets the above requirements must amend its statement of organization to indicate that it is a small contributor committee and the date on which it qualified as a small contributor committee. (Regulation 18502.1.) If you have a pre-existing committee with contributions from any person in excess of \$50 per year, you may not use any of those funds to form the small contributor committee. If you want to convert any of those contributions into small contributor committee contributions, you must return them to the contributors and ask

¹ Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

them to re-contribute up to \$50 to the small contributor committee. (*McCallum* Advice Letter, No. A-96-359.)

2. Must an existing committee open a new bank account for the receipt of contributions as a small contributor committee? If not, must funds be somehow segregated?

The existing committee must have a separate bank account from the small contributor committee. The small contributor committee funds must be segregated from the existing committee funds. The committee may not make contributions using funds that were collected in excess of \$50. Further, no funds that were collected from contributions exceeding \$50 may be intermingled with small contributor committee funds. In essence, the pre-existing committee must divest itself of all contributions made before the committee will qualify as a small contributor committee.

One way to accomplish these requirements would be to set up a separate committee to act as the small contributor committee, while at the same time keeping the old committee in place until the existing funds are depleted. The two committees could function separately, although section 85311 may require the financial activity of the two committees to be aggregated. Section 85311 states that “[a]ll payments made by a person established, financed, maintained, or controlled by any business entity, labor organization, association, political party, or any other person or group of such persons shall be considered to be made by a single person.” Thus, section 85311 would require contributions made by committees established by the same person to be aggregated together.

3. What are the reporting requirements for small contributor committees? Must every contribution of \$50 or less be reported? Is Form 420 still valid for reporting small contributor committees?

Small contributor committees have the same reporting requirements as other committees and may use a Form 420 (recipient committee - long form) or a Form 450 (recipient committee - short form). In addition, the committee need not report every contribution of \$50 or less. The \$100 contribution reporting threshold will still apply.

4. What are the new reporting deadlines (both off-election and election years) for small contributor committees?

As noted in response to Question 1, the new small contributor committee will remain a general purpose recipient committee. Thus, the reporting deadlines for small contributor committees are the same as those for other recipient committees.

5. Can associations establish an administrative account (for purposes of paying the costs of running the committee) to receive larger contributions and concurrently form a small contributor committee?

Absent an exception, cash payments or nonmonetary payments, such as staff time or office space, made to a committee are considered contributions. If such payments exceed \$50, then the committee no longer qualifies as a small contributor committee. Therefore, absent an exception, if your small contributor committee receives more than \$50 in contributions from another committee or account, the committee will no longer qualify as a small contributor committee. On January 21, 1997, the Commission promulgated an emergency regulation containing a limited exception that permits a sponsoring organization to pay the administrative overhead costs of its sponsored committee. (Regulation 18215(c)(16).) This regulation only applies to sponsored committees, however.

We have no facts to indicate whether your committee is a sponsored committee. If it is not a sponsored committee, the committee may not maintain an administrative account to pay the costs of running the small contributor committee. Any monetary or nonmonetary contributions given to the small contributor committee must not exceed \$50.

If, on the other hand, your small contributor committee is a sponsored committee, then the sponsoring organization may pay the administrative overhead expenses of the small contributor committee and such payments will not be considered contributions. Please keep in mind that the sponsoring organization is the only entity permitted to make such administrative overhead payments. Payments made by individual members of the organization or payments made by other political committees, whether sponsored by the same organization or not, are not included in the exception. Moreover, such payments must be made by a separate instrument than that used for contributions and may only be used for administrative expenses, not contributions.

6. Can contributions collected prior to the establishment of a small contributor committee be used for the administrative costs of operating the committee?

As noted above, administrative costs are considered contributions absent an exception, a small contributor committee may not receive contributions in excess of \$50, and the small contributor committee may not intermingle contributions in excess of \$50 in the committee's funds. Therefore, contributions collected prior to the establishment of a small contributor committee may not be used for the administrative costs of operating the committee.

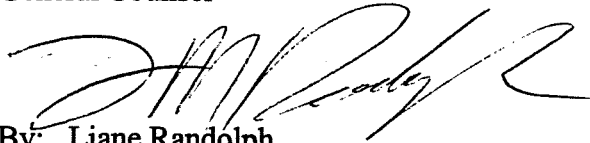
7. Can the money contributed to a committee prior to the passage of Proposition 208 be used to support candidates if contributions after establishment of a small contributor committee are \$50 or less?

The money contributed to a committee prior to the passage of Proposition 208 may not be intermingled with small contributor committee funds. If such funds are intermingled, then the small contributor committee will no longer qualify as a small contributor committee. Only the funds that are actually collected in amounts of less than \$50 per calendar year per contributor may be used by the small contributor committee to make contributions to candidates.

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