



RAVI MEHTA
CHAIRMAN

FAIR POLITICAL PRACTICES COMMISSION

April 22, 1997

John Bovée
The Bovée Company
1127 11th Street, Suite 226
Sacramento, CA 95814

**Re: Your Request for Advice
Our File No. I-97-075**

Dear Mr. Bovée:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹ Since your advice request is not on behalf of a specific official, we are treating your request as one for informal assistance.²

QUESTIONS & CONCLUSIONS

1. *Under section 85305, how does a member of the State Legislature who is fundraising to eliminate a campaign deficit that occurred before January 1, 1997, handle the fundraising expenses that occur as a result of trying to eliminate that deficit? What about the use of professional fundraisers?*

Proposition 208 went into effect on January 1, 1997. Among other things, Proposition 208 prohibits candidates from accepting campaign contributions during the period the off-year ban is in effect. (Section 85305.) However, candidates may accept contributions during the off-year period to retire a campaign debt incurred prior to the effective date of Proposition 208. (Section 85305(c); Emergency Regulation 18530.7(b)(1).) You would like to know how a candidate may pay for the fundraising expenses that occur as a result of trying to eliminate the pre-1997 campaign debt.

Emergency regulation 18530.7(b)(1)³ provides that funds may be collected at any time to

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

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329.)

³ Emergency regulations expire by operation of law 120 days after adoption. Regulation 18530.7 will expire on May 7, 1997. The Commission may adopt the regulation as a permanent regulation before the expiration date.

retire a campaign debt incurred prior to January 1, 1997. We construe this provision to allow candidates to use a portion of the contributions, which were raised during the off-year ban to retire a pre-1997 campaign debt, to pay for the *reasonable* expenses necessarily incurred as a result of collecting such contributions. Such expenses may include the cost of hiring a professional fundraiser. To illustrate, if a candidate spends \$100 to raise contributions totaling \$1,000, \$100 out of the \$1,000 may go towards the amount the candidate had to spend to collect the contributions.

2. *Do expenses resulting from retiring a pre-1997 campaign debt incurred with respect to the 1998 election, including the expenses of hiring a professional fundraiser, count against the 1998 campaign contribution and spending limits. Does it matter if the professional fundraiser is paid on commission (15 percent of the net raised) or straight salary (\$3,000 a month) for deficit reduction fundraising assistance?*

Under Proposition 208, the contribution limit applicable to legislative districts is \$250 per person per election. (Section 85301(b).) If a legislative candidate agrees to accept the voluntary spending limit, the applicable contribution limit for that candidate is \$500 per person per election. (Section 85402(b).) For Assembly candidates, the voluntary spending limit is \$150,000 in the primary election and \$200,000 in the general election. (Section 85400.) For Senate candidates, the voluntary spending limit is \$300,000 in the primary election and \$400,000 in the general election. (*Id.*) Proposition 208's contribution limits and voluntary expenditures ceilings apply to all legislative elections held after January 1, 1997.

Funds raised to pay the expenses resulting from retiring a pre-1997 campaign debt incurred with respect to the 1998 election, including the expenses of hiring a professional fundraiser, are in effect funds raised for the 1998 election. As such, these funds count against the contribution and spending limits applicable to the 1998 election. The result is the same whether the professional fundraiser is paid on commission or straight salary.

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Julia Butcher
Graduate Assistant, Legal Division

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