

RAVI MEHTA
CHAIRMAN



208

FAIR POLITICAL PRACTICES COMMISSION

March 28, 1997

Diane Knight
Cook Knight & Associates
Post Office Box 2121
Chico, California 95927

**Re: Your Request for Advice
Our File No. A-97-117**

Dear Ms. Knight:

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

Question 1

You act as treasurer of several different recipient committees. You sign the committees' checks, but do not make decisions regarding which candidates or causes to support or oppose. If these recipient committees support or oppose a candidate for election, does your position make the actions of those committees affiliated according to Section 85311?

Section 85311 provides 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." You have stated that you act as treasurer for several committees, but you do not make decisions regarding how to spend committee funds. It does not appear that you "control" the recipient committees. Absent more facts, merely sharing the same treasurer who performs administrative duties and does not determine the disposition of funds would not make the committees affiliated pursuant to Section 85311.

Question 2

May an individual contribute to a candidate committee and also contribute to a political action committee that ends up supporting the same candidate?

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

Section 84301 prohibits anyone from making a contribution, directly or indirectly in the name of another. (Section 84301.) Moreover, Section 85703 more specifically prohibits a person, including a committee, from accepting a contribution on the condition or agreement that it will be contributed to any particular candidate. An individual may contribute to a candidate and also contribute to a political action committee that also supports the candidate so long as the contribution to the political action committee is not earmarked to be used to support the candidate and thus made in violation of Section 84301 or 85703.

Also, please keep in mind that Section 85500(c) provides that any contributor who contributes more than \$100 to a candidate is considered to be acting in concert with that candidate and may not make independent expenditures and contributions that exceed the contribution limitations applicable to that candidate.

Question 3

If the PAC in Question 2 had not decided to back the candidate when it accepted the above contribution, should it refund all overlapping contributions? What steps should the PAC take if this situation arises?

Given the answer to Question 2, if a committee accepts a contribution from an individual, and subsequently discovers that the individual has also made a contribution directly to a candidate the committee also supports, the committee need not return the contribution.

Question 4

May a candidate committee that was formed for a pre-1997 election make expenditures for goods and services in 1997 other than to retire pre-1997 debt? As an example, may a candidate committee pay for a thank you dinner for all 1996 volunteers?

The expenditures of campaign funds are governed by the "personal use" provisions of the Act. (Section 89510-89518.) These sections provide generally that a campaign committee may use campaign funds for purposes that are reasonably related to a political, legislative, or governmental purpose. (Section 89512.) If the expenditures confer a substantial personal benefit on the candidate, then the expenditures must be directly related to a political, legislative, or governmental purpose. (Section 89512.) These provisions were not amended or repealed by Proposition 208. Therefore, a campaign committee formed for a pre-1997 election may make any expenditure permitted by Sections 89510 through 89518.²

² Campaign committees formed for elections to be held after January 1, 1997, may also make any expenditures permitted by Sections 89510 through 89518, however, such expenditures will be subject to the applicable voluntary expenditure limitation for that election, should the candidate choose to accept it.

In the example you have provided, a committee would like to pay for a thank you dinner for all 1996 volunteers. Campaign funds may be used for an election victory celebration or similar campaign event. (Section 89513(f)(2).)

Please keep in mind that these are rules for the expenditure of campaign funds, not the raising of campaign funds. Pursuant to Section 85305, campaign funds may be raised during the off-year fundraising ban only to retire debt incurred with elections held prior to January 1, 1997, and then raised only subject to the contribution limits of Article 3 of the Act. If the committee does not have funds on hand to host the thank you dinner, the committee may not raise funds for that purpose.

Question 5

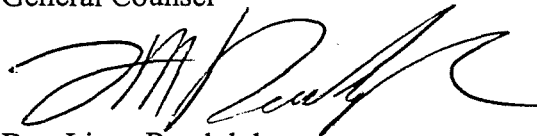
If someone knows of violations of the Political Reform Act, what mechanism is in place for individuals to report such matters for investigation and/or prosecution?

If individuals know of a violation of the Act, they may file a complaint with the FPPC. They may contact the Enforcement Division to obtain a complaint form or merely file the complaint in the form of a letter identifying the parties involved and the grounds for believing that a violation has occurred. The FPPC has also established a toll-free enforcement hotline that can be reached at (800) 561-1861.

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