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CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

April 14, 1997

Vigo G. Nielsen, Jr.  
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Parrinello, Mueller & Naylor  
591 Redwood Highway, #4000  
Mill Valley, California 94941

**Re: Your Request for Advice**  
**Our File No. A-97-150**

Dear Mr. Nielsen:

This letter is a response to your request on behalf of the San Francisco 49ers for advice about the Political Reform Act (the "Act").<sup>1</sup>

### I. QUESTIONS

- (1) If the only contributions of \$50,000 or more to the ballot measure committee come from Mr. DeBartolo (the 49ers owner), his companies and family members, does the proposed amended name of the committee satisfy the requirements of Section 84504(a)?
- (2) If contributions of \$50,000 or more to the committee come from certain other types of persons, does the proposed amended name of the committee satisfy the requirements of Section 84504(a)?
- (3) If the two largest contributions to the committee come from Mr. DeBartolo, his companies and family members, does the proposed amended name satisfy the requirements of Section 84503?

### II. CONCLUSIONS

- (1) Yes. The proposed amended name explicitly discloses the economic interests of Mr. DeBartolo, his companies and family members by identifying the committee

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

as one "to develop and build a new stadium."

- (2) As to nine of the twelve types of persons described in your advice request, the apparent economic or special interests of these persons is adequately disclosed by explicit references in the proposed amended name to "develop[ing] and build[ing] a new stadium," and to "creat[ing] jobs and economic opportunity." Therefore, as to these nine types of persons, the proposed amended name satisfies Section 84504(a) if such persons contribute \$50,000 or more. As to the remaining three types of persons referred to in your letter, the description is too vague to allow us to advise about such persons.
- (3) Even if each of the two largest contributors to the committee is a named corporation and/or family member of Mr. DeBartolo, the specific identity of each of the two largest contributors must be disclosed on any advertisement, along with the committee name.

### III. FACTS

The San Francisco 49ers, the Board of Supervisors ("Board") and the Mayor of the City and County of San Francisco propose to build a new football stadium for the team. To this end, two measures, about a bond issue (Measure D) and about an expedited permitting process (Measure F), will be presented to San Francisco's voters.

Edward J. DeBartolo, Jr., on behalf of himself and members of his family, created DeBartolo California, LLC to develop the stadium project if the voters approve the measures. Mr. DeBartolo owns the 49ers and develops shopping malls and large construction projects throughout the United States.

A recipient committee ("committee") was formed in late February to support a 'yes' vote on Measure D, which will be on the June 3, 1997 ballot. To date, the only contributions to the committee have come exclusively from Mr. DeBartolo's corporations and family members, through DeBartolo California LLC. At least two of these contributions have been of at least \$50,000 each. Mr. DeBartolo may in the future solicit contributions from potential investors in, potential developers and/or builders of, and other persons interested in the stadium project. All or some of these possible contributions may exceed \$50,000 apiece. More specifically, these possible contributors include:

1. Would-be investors in the stadium project.
2. Would-be development partners with Mr. DeBartolo in the stadium project.
3. Would-be builders of the stadium project.
4. Would-be subcontractors of said developers and builders.
5. Would-be suppliers, architects, planners, bond companies, consultants, etc., to the builders, developers, and subcontractors.
6. Other companies reasonably related to developing and building the stadium project.

7. The San Francisco Chamber of Commerce.
8. The San Francisco Convention and Visitors Bureau.
9. The Mayor's and/or Supervisors' ballot measure committees.
10. The committee for Jobs (an organization of many major San Francisco employers, whose purpose is to stimulate economic development in San Francisco).
11. San Francisco corporations or labor unions (that see the stadium project as being in their economic best interest).
12. Economic development organizations that focus on underemployment areas like the proposed stadium site.

The committee plans to amend its Statement of Organization to provide for the following new name of the committee:

“Yes on D & Yes on F Campaign, a committee to develop and build a new stadium for the 49ers and create jobs and economic opportunity for Bayview-Hunters Point, sponsored and supported by the companies and family of Edward J. DeBartolo, Jr.”

(Hereafter, this name will be referred to as the “proposed amended name.”)

#### IV. ANALYSIS

##### A. Introduction.

Proposition 208 added a new Article 5, “Disclosure in Advertisements” (Sections 84501-84510), to Chapter 4 of the Act. Subdivision (a) of Section 84504 provides,

“Any committee that supports or opposes one or more ballot measures shall name and identify itself using a name or phrase that clearly identifies the economic or other special interest of its major donors of fifty thousand dollars (\$50,000) or more in any reference to the committee required by law, including, but not limited, to its statement of organization filed pursuant to Section 84101.”

The purpose of this naming requirement is to make the public aware of the economic or “special interest” motivations of persons willing to contribute \$50,000 or more to support or oppose a measure.

Measures D and F are “measures,” within the meaning of the Act. (Section 82043.) The committee supports these measures. Therefore, the committee's name must comply with Section 84504(a).

##### B. Question (1)

Your first question assumes that the only contributions of \$50,000 or more to the

committee come from Mr. DeBartolo, his controlled companies, and his family members (through DeBartolo California LLC). Given this assumption, we advise that the proposed amended name satisfies the requirements of Section 84504(a). We agree with the assertion in your request for advice that the “economic or special interest” of those persons is “to develop and build” the stadium project. As they are, for the purposes of your first question, the only contributors of \$50,000 or more, the identification of “the companies and family of Edward J. DeBartolo, Jr.” satisfies Section 84504(a).

Although your advice request does not ask about Section 84107, please note that the proposed amended name may not comply with that section. Section 84107 requires a “committee which has as its principal activity the support ... of a ballot measure” to “include the statement, ‘a committee for Proposition \_\_\_,’ ... in any reference to the committee required by law.” As the committee-in-question appears to have as its “principal activity” to the support of two ballot measures, we advise you to consider the impact of Section 84107 on the proposed amended name.

#### **C. Question (2)**

Your second question actually parses into twelve related sub-questions, one for each of the twelve groups of potential investors-contributors referred to in your advice request. For convenience, each of these twelve groups of potential contributors will be referred to by the number assigned to it in part III of this letter.

Only three of the twelve group descriptions identify particular potential contributors: the San Francisco Chamber of Commerce (group III.7), the San Francisco Convention and Visitors Bureau (group III.8), and the Committee for Jobs (group III.10). As to these particularly identified potential contributors, we can reasonably assume that the economic or special interests of such persons is “to develop and build” the stadium project in order to “create jobs and economic opportunity,” which interests are identified in the proposed amended name. Thus, the proposed amended name complies with Section 84504(a) as to the San Francisco Chamber of Commerce, the San Francisco Convention and Visitors Bureau, and the Committee for Jobs if any of those persons’ cumulative contributions exceed \$50,000.

We are unable to respond to the remainder of this question because the descriptions of the possible contributors are simply too vague. None of the descriptions identify a particular potential contributor. For example, group III.1 refers only to “would-be investors” without elaboration. Similarly, group III.11 describes without elaboration unidentified “corporations or labor unions.” Without more facts, we are unable to respond at this time.

#### **D. Question (3)**

Your final question assumes that each of the two largest contributors to the committee is a named company and/or family member of Mr. DeBartolo. Your question implies that the only disclosure on the anticipated advertisements will be the use of the committee name; i.e., that the

names of the specific DeBartolo company and/or the specific family member who actually made the two largest contributions will *not* be particularly disclosed on the advertisement.

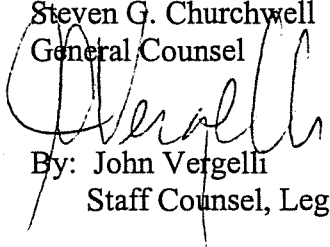
The disclosure requirements of Section 84504(c),<sup>2</sup> which applies to supporting or opposing committees, and Section 84503, which applies to particular contributors,<sup>3</sup> are *distinct* requirements, *each* of which must be complied with. Section 84503 requires explicit disclosure of the identity of the particular person(s) making the largest (or two largest) contribution(s). Indirect identification of these persons in the committee name (see Section 84504(a)) is *not* a substitute for the direct disclosure required by Section 84503.

Thus, even if the economic or special interest of the two largest contributors is disclosed in the committee name, and even if the relationship of the two largest contributors to Mr. DeBartolo is implied by the committee name, the identity of the two largest contributors must be specifically disclosed on any advertisements in accordance with Section 84503 and the rest of Article 5 of Chapter 4 of the Act.

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

Sincerely,

Steven G. Churchwell  
General Counsel

  
By: John Vergelli  
Staff Counsel, Legal Division

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<sup>2</sup> Section 84504(c) provides:

“(c) Any committee which supports or opposes a ballot measure, shall print or broadcast its name as provided in this section as part of any advertisement or other paid public statement.”

<sup>3</sup> Section 84503 provides:

“(a) Any advertisement for or against any ballot measure shall include a disclosure statement identifying any person whose cumulative contributions are fifty thousand dollars (\$50,000) or more.”

(b) If there are more than two donors of fifty thousand dollars (\$50,000) or more, the committee is only required to disclose the highest and second highest in that order. In the event that more than two donors meet this disclosure threshold at identical contribution levels, the highest and second highest shall be selected according to chronological sequence.”