

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

June 24, 1997

Charles G. Abdelnour  
City Clerk, City of San Diego  
City Administration Building  
202 C Street  
San Diego, California 92101

**Re: Your Request for Advice  
Our File No. I-97-223**

Dear Mr. Abdelnour:

This letter is a response to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> The facts outlined in your letter address aspects of the City of San Diego's Municipal Code. The Commission's authority is limited to the provisions of the Act. It has no authority to interpret municipal codes. Therefore, I can only provide you with the following informal discussion of the Act's provisions as applied to your questions.<sup>2</sup>

### QUESTIONS

When are campaign disclosure statements required to be filed by councilmembers who are the subject of a possible recall and by primarily formed committees supporting the recall of the councilmembers?

### CONCLUSION

Under the Act, committees formed to support or oppose a recall effort are required to file, at a minimum, semi-annual campaign statements. In addition, these committees may be required to file quarterly statements. If the petition drive is successful and an election is called, pre-election statements must be filed in connection with the election. Because the San Diego

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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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

Municipal Code excludes recall elections from the definition of "measure," you will need to consult your city attorney concerning when the committees must begin filing disclosure statements. (*Angus Advice Letter*, No. A-97-173.)

### FACTS

Two councilmembers in the City of San Diego are subjects of a possible recall. You indicate that both councilmembers have formed controlled committees in anticipation of the recall and that two primarily formed committees have been formed for the purpose of recalling the councilmembers. All four committees have filed a Statement of Organization, Form 410. According to the San Diego Municipal Code (SDMC), the first date that the councilmembers are eligible for recall is June 2, 1997. Assuming the recall proponents publish their notices of intention on that date, and follow the recall process according to the SDMC, the first date recall petitions could be circulated is June 23, 1997. In addition, one aspect of your local law which defines the term "measure" states in part, "The term 'measure' does not include a recall election." (SDMC 27.2903(k)(2).)

### ANALYSIS

Section 82043 of the Act defines a "measure" as:

[A]ny constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum *or recall procedure* whether or not it qualifies for the ballot. (Emphasis added.)

The term "measure" includes a referendum, initiative, or recall procedure, whether or not it qualifies for the ballot. However, the Commission has held that such a procedure does not become a measure until the proponents begin to circulate signature petitions to qualify the measure for the ballot. As discussed in the *Roberti Advice Letter*, No. A-89-358 (copy enclosed), the recall process does not begin until an officeholder is served with a notice of intention to circulate a recall petition and the notice is filed and published or posted. (See Elections Code Section 11006; *Angus Advice Letter*, supra.) Once the proponents of the recall begin circulating signature petitions to qualify the measure for the ballot, which your letter indicates may be June 23, 1997, contributions received and expenditures made in connection with qualifying or supporting the measure count toward the \$1,000 threshold for becoming a committee.

According to your facts, four committees have filed a Statement of Organization, Form 410, in connection with a possible recall. Since the committees have filed the statement of organization, the following reporting requirements apply.

### **Semi-Annual Statements**

All recipient committees are required to file semi-annual campaign statements. The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed. For the period ending June 30, 1997, semi-annual statements must be filed no later than July 31, 1997. For the period ending December 31, 1997, semi-annual statements must be filed no later than January 31, 1998. (Section 84200.)

### **Quarterly Reports**

In addition to semi-annual statements, ballot measure committees are required to file quarterly statements during each six-month period in which the measure is not being voted upon. Quarterly statements must be filed on or before April 30, covering the period January 1 through March 31 and on or before October 31, covering the period July 1 through September 30. The quarterly reports are not required during any six-month period in which the measure is being voted upon. (Section 84202.3.) Because San Diego's Municipal Code does not define a recall election as a measure, you may want to obtain a legal opinion from your city attorney regarding the requirement to file quarterly reports in connection with the recall election.

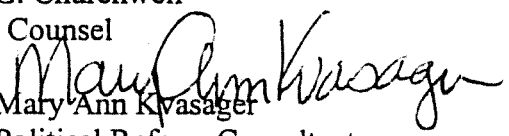
### **Pre-Election Statements**

If the recall qualifies for the ballot, pre-election statements must be filed. Times for filing pre-election statements are based on the date of the election. For the period ending 45 days before the election, the statement must be filed no later than 40 days before the election. For the period ending 17 days before the election, the statement must be filed no later than 12 days before the election. (Section 84200.8.)

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

Sincerely,

Steven G. Churchwell  
General Counsel

By:   
Mary Ann Kvasager  
Political Reform Consultant

Enclosure