



RAVI MEHTA  
CHAIRMAN

## FAIR POLITICAL PRACTICES COMMISSION

May 30, 1997

Charles H. Bell, Jr.  
Bell, McAndrews & Hiltachk  
455 Capitol Mall, Suite 801  
Sacramento, California 95814

**Re: Your Request for Advice  
Our File No. A-97-238**

Dear Mr. Bell:

This letter is a response to your request, on behalf of the now-terminated Assembly Republican Leadership Fund (ARLF), and its former treasurer, John Bressler, for advice regarding the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

1. Is the refund from the U.S. Postal Service (USPS) to the ARLF a contribution?
2. Is the refunded money "surplus funds" within the meaning of Section 89519?
3. May the ARLF, if properly reorganized, make contributions using the refund money?

### CONCLUSIONS

1. The refund from the Postal Service is not a contribution.
2. The refund moneys are not "surplus funds" within the meaning of Section 89519.
3. If the committee is properly reorganized, it may use the refund money to make any otherwise lawful contribution.

---

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

## FACTS

The ARLF was a non-controlled committee that terminated operations on October 31, 1996. At that time, all of the committee's assets were disposed of. On February 1, 1997, the ARLF's former treasurer received a refund check for \$6,186.95, payable to ARLF, from the USPS. This money represents funds advanced by ARLF to the Postal Service that were never used.

The former treasurer is prepared to reopen ARLF by filing a new statement of organization, identifying the committee as non-controlled, and depositing the refund check in the reorganized committee's account. The new ARLF would then, if legal, make contributions using the refund money.

## ANALYSIS

### **The refund is not a contribution.**

Under the Act, a *contribution* is a payment made for political purposes or a payment made at the behest of a candidate. (Regulation 18215.) The refund check from the USPS to the defunct ARLF fits neither of these descriptions; therefore, it is not a contribution. (See also *Ranish* Advice Letter, No. A-94-080 (a refund check from a governmental agency is not considered a contribution).)

### **The refunded moneys are not "surplus funds" within the meaning of Section 89519.**

Section 89519, "Surplus Campaign Funds," by its own terms, applies only to candidate-controlled committees. Regulation 18404, "Termination of Candidate's and Committee's Filing Requirements," refers to the disposition of a committee's "surplus funds." However, as used in the context of Regulation 18404, the word "surplus" does not have the specialized meaning it has in the context of Section 89519. As used in Regulation 18404, "surplus" merely refers to the money a terminating committee has "left over" as it winds up operations. (*Enserro* Advice Letter, No. A-97-136.)

Since ARLF was a *non*-controlled committee, Section 89519 does not apply to it. That section's restrictions upon the disposition of a candidate's surplus funds are not applicable to disposition of the refund moneys.

Whether the refund moneys are considered to be "surplus," as that word is used in Regulation 18404, of the defunct ARLF, or whether the refund moneys are considered to be "new" funds for a "new" ARLF, the same standard applies for determining whether expenditures from those funds are appropriate. Section 89512.5 covers "Expenditures by Committees not Controlled by Candidates." It provides that such expenditures must be reasonably related to a political, legislative, or governmental purpose of the committee. (Section 89512.5(a).) However, if the expenditure results in a substantial personal benefit to any individual with

authority to approve the expenditure, it must be directly related to a political, legislative, or governmental purpose of the committee. (Section 89512.5(b).)

**Contributions from the refund moneys.**

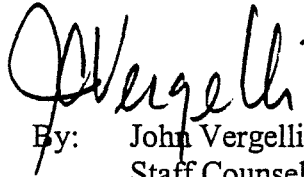
You inquire about the permissibility of three particular kinds of contributions which might be made by a reorganized ARLF from the refund moneys: (1) to candidates/officeholders seeking to retire debt from elections held prior to the effective date of Prop. 208; (2) to officeholder accounts (Section 85313(c)); (3) to the controlled committees of candidates for state elective office.

The ARLF, if reorganized, may dispose of the refund moneys in any manner which is lawful under the Act. Without more facts about a given particular contribution the committee would have in mind, it is impossible to approve or disapprove of the contribution. In principle, there is no reason why the ARLF could not make the kinds of contributions described in your advice request, assuming the contributions are otherwise legal.

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

SGC:JV:ak