

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

June 2, 1997

Gene Raper  
Russo Marsh & Raper, Inc.  
770 L Street, Suite 950  
P.O. Box 1863  
Sacramento, California 95812

**Re: Your Request for Advice  
Our File No. I-97-244**

Dear Mr. Raper:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup> Because your questions are of a general nature and you have not identified the client(s) on whose behalf you are requesting advice, we consider your request to be one for informal assistance.<sup>2</sup> Due to the hypothetical nature of your questions it is not possible for us to give specific, detailed responses. I trust the general guidance provided below will be helpful.

### QUESTIONS AND ANSWERS

1. May a candidate or officeholder solicit funds from contract lobbyists as long as those contract lobbyists do not lobby the office or agency that the candidate or officeholder holds or for which he or she is running?

Section 85704 of the Act sets forth the rule regarding solicitation of campaign funds from a lobbyist. That section states:

"No elected officeholder, candidate, or the candidate's controlled committee may solicit or accept a campaign contribution or contribution to an officeholder account from,

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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, subd. (c)(3).)

through, or arranged by a registered state or local lobbyist if that lobbyist finances, engages, or is authorized to engage in lobbying the governmental agency for which the candidate is seeking election or the governmental agency of the officeholder.”

Section 85303(c) of the Act sets forth the rule regarding solicitation of funds from a lobbyist to be used in an officeholder account. That section states:

“No elected officeholder or officeholder account shall solicit or accept a contribution to the officeholder account from, through, or arranged by a registered state or local lobbyist or a state or local lobbyist employer if that lobbyist or lobbyist employer finances, engages, or is authorized to engage in lobbying the governmental agency of the officeholder.”

We would need additional facts from you to determine the appropriateness of any solicitation of a lobbyist by a candidate or officeholder.

2. To avoid violating Proposition 208, would it be sufficient to place a disclaimer on fundraising invitations stating, "If you are registered to lobby the office or agency for which this officeholder or candidate currently holds or is seeking election, please disregard this solicitation?"

No. Pursuant to Section 85704, candidates, officeholders and their committee staff have a duty to diligently review fundraising, mailing and contact lists to avoid soliciting lobbyists. While the use of a disclaimer such as you described would be some evidence that a fundraising mailing was not intended to reach lobbyists, it does not relieve a candidate and his or her campaign staff of the duty to thoroughly review fundraising and contact lists to avoid soliciting lobbyists. (See *Ackerman* Advice Letter, No. A-97-065; and *Bovée* Advice Letter, No. A-97-172.)

3. In instances where the contract lobbyist is registered to lobby the particular office or agency for which a candidate or officeholder holds or is running, may the candidate or officeholder send an invitation directly to the lobbyist's clients?

This issue will be discussed in detail at the Commission meeting scheduled for June 5, 1997, at the State Capitol, Room 447, beginning at 9:00 a.m. The Commission will consider adoption of Regulations 18239 and 18626. I enclose a packet of information regarding both regulations. Each packet contains the regulation notice, the draft regulation, and the staff memorandum outlining the issues to be discussed at the Commission meeting.

4. In cases where companies or organizations use in-house lobbyists, may a candidate or officeholder solicit funds from persons in that organization who are not registered lobbyists such as non-registered government affairs personnel?

This issue will also be discussed at the June 5, 1997, Commission meeting. Please refer to the enclosed packets of information.

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 that reads "Allison". The signature is written in a cursive style with a large, looping initial "A".

By: Deborah Allison  
Staff Counsel, Legal Division

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Enclosures