

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

July 30, 1997

Cathleen Miller  
Treasurer  
Assembly Budget Committee  
721 So. Brea Canyon Rd. #7  
Diamond Bar, California 91789

**Re: Your Request for Advice  
Our File No. A-97-350**

Dear Ms. Miller:

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

### QUESTIONS

1. What contribution limits apply to retire debt for a special election held before January 1, 1997?
2. Do contributions to retire debt from an election held prior to January 1, 1997, apply to a person's \$25,000 aggregate biennial limit on contributions to state candidates?
3. If a contributor had previously given the maximum amount permissible under former Section 85305, which was applicable to special elections, may the contributor now give an additional \$250?
4. Do contributions to retire debt from an election held prior to January 1, 1997, count against the candidate's limit which he or she may accept from non-individuals?
5. Have the expiration of Regulation 18530.7, the Commission's withdrawal of the *Davidson* Advice Letter, No. A-97-103, or any other action taken by the Commission affected the application of the advice in the *Baugh* Advice Letter, No. A-97-113, to the Miller for Assembly Committee which has debt from a recall election held prior to January 1, 1997?

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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.

## CONCLUSIONS

1. The contribution limits found in Sections 85301, 85302, 85304, 85309 apply.
2. Contributions to retire debt from an election held prior to January 1, 1997, do not apply to a person's \$25,000 aggregate biennial limit on contributions to state candidates.
3. A person who contributed at or more than the limit to a candidate prior to January 1, 1997, may contribute again up to the contribution limits mentioned in conclusion #1.
4. Contributions to retire debt from an election held prior to January 1, 1997, do count against the candidate's limit which he or she may accept from non-individuals as stated in conclusion #1. However, the ratio of contributions received by a candidate before January 1, 1997 (individual versus non-individual), will not be considered in applying the limit of Section 85309 to debt retirement.
5. No. Mr. Miller may raise contributions in unlimited amounts for the retirement of debt resulting from a recall election provided that the total amount raised does not exceed the debt of the Miller for Assembly Committee.

## FACTS

You are the treasurer for three committees controlled by Assembly member Miller. Each of these committees have debt. The first two committees, Committee to Elect Gary Miller and Committee to Elect Gary Miller SD29, are committees established for two special elections held before January 1, 1997, in which Mr. Miller was a candidate. Both of these committees have debt left from their respective elections. Before January 1, 1997, contributions to retire these debts were limited to the amounts specified in former Government Code Section 85305 which applied to special elections only.

Miller for Assembly is a committee established for the 1995 recall election in the 60th Assembly District, which resulted in the recall of the incumbent and the election of Mr. Miller. That committee acquired debt in connection with that election. The *Baugh* Advice Letter, No. A-97-113, stated that individuals and political committees could contribute in unlimited amounts to retire debt acquired during a recall election up to the amount of the debt.

## ANALYSIS

Proposition 208, enacted by the voters on November 5, 1996, became effective on January 1, 1997. Proposition 208 established contribution limits and voluntary spending limits. (Sections 85301, 85400.) In addition, Proposition 208 limited the time period in each election cycle in which contributions to candidates may be made. (Section 85305.) Mr. Miller has two committees with debt from special elections held prior to January 1, 1997. You would like to know what contribution limits apply to this debt.

The *Ramirez* Advice Letter, No. A-97-262 (copy enclosed), concluded that Sections 85301, 85302, 85304, and 85309, apply to the retirement of debt for an election held prior to January 1, 1997. *Ramirez* also states that Section 85310's \$25,000 aggregate limit does *not* apply to contributions to retire debt for an election held prior to January 1, 1997. This interpretation of Section 85305 governs after May 7, 1997.<sup>2</sup> (*Bauer* Advice Letter, No. A-97-273.)<sup>3</sup>

Please note that *Ramirez* does comment on *how* Sections 85301 and 85309 apply in the context of debt retirement for an election held prior to January 1, 1997. With regard to Section 85301, we have consistently held that a person who contributed at or more than the applicable Proposition 208 limit to a candidate prior to January 1, 1997, may contribute again up to the Proposition 208 limit to pay down the candidate's debt after January 1, 1997. (*Johnson* Advice Letter, No. A-96-316a; *Sutton* Advice Letter, No. I-97-079; and *Ramirez* Advice Letter, No. I-97-079a.) Therefore, a person who gave the maximum amount as specified in the former Section 85305 may now give the limit as specified in Section 85301.<sup>4</sup> Similarly, the ratio of contributions received by a candidate before January 1, 1997 (individual versus non-individual), will not be considered in applying the limit of Section 85309 to debt retirement for an election held prior to January 1, 1997. (*Ramirez* Advice Letter, No. A-97-262.)

Last, you ask whether Mr. Miller may raise money in unlimited amounts for debt from a recall election. Mr. Miller may raise contributions in unlimited amounts to pay off debt resulting from the 1995 recall election provided that the total amount raised does not exceed the aggregate debt resulting from that election. (*Baugh* Advice Letter, *supra*) There is no limit since a recall election is currently considered to be a ballot measure under the Act and candidates running in a recall election are not subject to the contribution limitations in Article 3. (*Baugh* Advice Letter, *supra*; *Cohen* Advice Letter, No. I-96-364; *Roberti* Advice Letter, No. A-89-358.)<sup>5</sup>

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<sup>2</sup> The debt reduction rules found in the now expired Emergency Regulation 18530.7 were in effect from January 1, 1997, to May 7, 1997. (*Bauer* Advice Letter, *supra*.)

<sup>3</sup> *Ramirez* also concluded that the same rules apply to retiring debt for pre-1997 elections during the blackout period of Section 85305 as apply outside the blackout period of Section 85305.

<sup>4</sup> In jurisdictions of more than 100,000 residents, the contribution limit is \$250 per contributor. (Section 85301(b).)

<sup>5</sup> While the Commission did refuse to extend the reasoning of these letters to a similar factual situation found in the *Davidson* Advice Letter, No. I-97-103, involving individuals appearing on the ballot for the Los Angeles City Charter Reform Commission measure, the Commission did not address whether staff's current interpretation regarding ballot measures themselves should be changed. The Commission did, however, state that they would like to reconsider the advice regarding ballot measures at a later date. An interested persons meeting will be held in the first week of August regarding this issue.

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 "Marte Castaños", with a long, sweeping horizontal stroke at the end.

By: Marte Castaños  
Staff Counsel, Legal Division

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