

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

August 26, 1997

W.H. "Harry" Armstrong
Mayor Pro Tem
City of Clovis
655 West Stuart
Clovis, California 93612

**Re: Your Request for Informal Assistance
Our File No. I-97-356**

Dear Mr. Armstrong:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹ Please bear in mind that nothing in this letter should be construed as evaluation of any conduct which may already have taken place. Further, this letter is based on the facts as they have been presented to us. The Commission does not act as the finder of fact in providing advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTION

May the expenses for travel, lodging, meals, dues, registration fees and other costs related to your positions as the Chairman of the Fresno County Democratic Central Committee and as a member of the Executive Board of the California Democratic Party be paid from your Mayor Pro Tem officeholder account?²

CONCLUSION

Expenditures from officeholder accounts formed pursuant to Section 85313(a) must be used for expenses related to assisting, serving, or communicating with constituents, or carrying out the official duties of the elected officer. Expenditures from officeholder accounts may not be made in connection with any campaign for elective office or ballot measure. To the extent that the travel and travel related expenses, dues, registration fees, and other costs arising from your

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

² Your letter specifies that you wish to use your Mayor Pro Tem officeholder account for the purposes set forth in your letter. This response is based on that understanding.

activities as the Chairman of the Fresno County Democratic Central Committee and as a member of the Executive Board of the California Democratic Party are related to assisting, serving, or communicating with your constituents or carrying out your official duties as the Mayor Pro Tem of the City of Clovis, you may use officeholder account funds to pay those expenses.

ANALYSIS

Section 85313(a) provides:

“Each elected officer may be permitted to establish one segregated officeholder expense fund for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer, provided aggregate contributions to such a fund do not exceed ten thousand dollars (\$10,000) within any calendar year and that the expenditures are not made in connection with any campaign for elective office or ballot measure.”

Therefore, expenditures from officeholder accounts formed pursuant to this section, must be used for expenses related to assisting, serving, or communicating with constituents, **or** carrying out the official duties of the elected officer.

As you may be aware, Section 85313(a) is a relatively new provision of the Act, spawned by Proposition 208 which became effective January 1, 1997. The Commission has not yet had the opportunity to consider the adoption of any regulations that may help interpret this section, and thus, we are construing this section on a case-by-case basis according to the specific facts of each particular matter. In this regard, we recently issued the *Bauer* Advice Letter, No. I-97-040, which sets forth some general guidelines to assist officeholders in determining what activities would constitute “assisting, serving, or communicating with constituents” and “carrying out the official duties of the elected officer.” I have included a copy of the *Bauer* Advice Letter for your review.

With respect to the specific facts of your matter, it does not appear that, pursuant to the *Bauer* guidelines, your involvement in the Fresno County Democratic Central Committee or the California Democratic Party would constitute “carrying out the official duties of an elected officer.”³ Your participation in these groups **may** qualify as “assisting, serving, or communicating with constituents” **if** you can establish that your activities (and, consequently, the expenses related to them) are **related** to that purpose (and are not made in connection with any campaign for elective office or ballot measure). You have not provided us with the details of your activities as Chairman of the County Democratic Central Committee or as a member of the

³ We do acknowledge, however, that as Mayor Pro Tem of the City of Clovis, you are an elected officer under Section 82020.

Executive Board of the California Democratic Party, so we cannot determine if those activities will qualify as "assisting ... or communicating with constituents." Therefore, we cannot provide you with a definitive answer as whether you may use officeholder account funds to pay or reimburse expenses resulting from these activities.⁴

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Lisa L. Ditora
Staff Counsel, Legal Division

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⁴ Because of the lack of detail in your letter, we are providing you with informal assistance only as required by Regulation 18329. Informal assistance provides no immunity to the requestor. (See Regulation 18329(c).)