

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

September 5, 1997

Supervisor Harold C. Brown
Marin County Board of Supervisors
3501 Civic Center Drive, Suite 315
San Rafael, California 94903

**Re: Your Request for Advice
Our File No. A-97-367**

Dear Mr. Brown:

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

FACTS

You are the County Supervisor for the 2nd District in Marin County, last elected in March of 1996. You have established an officeholder account, and you are planning a fundraiser for that account in September 1997.

QUESTIONS AND CONCLUSIONS

1. As a member of the Marin County Board of Supervisors, may you hold a joint fundraiser for your "officeholder account" with a "community organization"?

Yes. Nothing in the Act prevents an officeholder from co-hosting a joint fundraiser with a non-profit organization. (*Marenco* Advice Letter, No. A-96-373; *Goodin* Advice Letter, No. A-94-290; copies enclosed.) Therefore an officeholder may collect funds at a fundraising event held jointly with a nonprofit organization, where the invitation states who is hosting the fundraiser (i.e., Office holder Account for Harold Brown and The Community Organization) and how much each is receiving from the fundraiser (i.e., \$5.00 for the officeholder account of Harold Brown and \$5.00 for the community organization).

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

However, the contribution limitations contained in Section 85301 apply to contributions made "to any candidate or the candidate's controlled committee." (Section 85301.) Section 85305 contains time restrictions on when a candidate may accept contributions. Contributions a candidate solicits for himself or herself, or for the candidate's controlled committee, will be subject to the limits set forth in Sections 85301 and 85305.

If a candidate solicits funds for a nonprofit organization, the limitations in Section 85301 and 85305 will not apply unless the organization is actually the candidate's controlled committee. The Commission has interpreted the definition of "controlled committee" broadly to include any significant participation in the actions of a committee by a candidate, his or her agent, or representatives or any other committee he or she controls. (*Higdon* Advice Letter, No. I-94-189.) Regulation 18217 provides an alternative definition of controlled committee applicable to organizations that are tax exempt under Section 501 of the Internal Revenue Code. A copy of Regulation 18217 is enclosed to assist you in determining the application of the regulation to you in conducting joint fundraisers with a nonprofit organization.

2. *May you deposit checks for the joint fundraiser into your officeholder account and then pay the community organization their share of the profits?*

No. When holding a joint fundraiser each party (i.e., Officeholder Account for Harold Brown, and The Community Organization) must receive a separate check. Thus, if each ticket costs \$10 and the parties are splitting the proceeds evenly, the contributor must write a check for \$5 to each of the parties.

3. *If you have received funds in excess of your \$10,000 officeholder account limit, what action can you take to avoid violation of the Act?*

Section 85313(b) states, in part, that you may not solicit or accept contributions of more than \$250 from any person during the calendar year. Thus, you are prohibited from seeking officeholder contributions in excess of the individual contribution limit of \$250 and from accepting such contributions. However, the term "accept" in Section 85313(b) also has application in Section 85313(a), which establishes a \$10,000 aggregate limit on contributions to officeholder accounts.

If you hold a fundraiser or similar event for your officeholder account and receive individual contributions that, when aggregated, exceed \$10,000, you may return those contributions.² Please note however that you may "only" return those contributions that you have not "accepted." You will have accepted a monetary contribution if you cash, negotiate, or


² If you receive contributions for your officeholder account totaling more than \$10,000 please follow the basic guidelines in Regulation 18531. This regulation would allow you to return any monetary contributions not accepted within 14 days of receipt. (Regulation 18531(b); copy enclosed.)

deposit the contribution. (Regulation 18215.2.)³ Therefore, you will only be in violation of Section 85313(a) if you have "accepted" contributions that, when aggregated, exceed \$10,000.⁴ (Section 85313(a).)

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Douglas White
Graduate Assistant, Legal Division

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³ Please note that this is an emergency regulation recently adopted by the Commission.

⁴ Please note that the Commission is considering adopting a regulation implementing Section 85313 and this advice may be superseded in whole or in part.