



FAIR POLITICAL PRACTICES COMMISSION

November 4, 1997

Robert Price
Price Paige & Stewart
677 Scott Avenue
Clovis, California 93612

**Re: Your Request for Informal Assistance
Our File No. I-97-436**

Dear Mr. Price:

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.)

QUESTIONS

1. May you deposit contributions of \$100 or more into a campaign account if you do not have and are unable to obtain information required under Section 84211?
2. May individuals contribute up to \$250 to the Committee to Re-Elect Stan Oken in order to reduce pre-1997 election debt of that committee as well as contribute to a separate committee, Friends to Elect Stan Oken, for purposes of retiring a loan outstanding to Stan Oken?
3. If debt remains attributable to both of Mr. Oken's committees, how must contributions received at a fundraiser to reduce that debt be allocated?
4. May individuals who paid \$250 per couple to attend a fundraising event in January 1997 (held for the purpose of retiring debt from the November 1996 election), attend another fundraiser costing \$150 per couple to attend.

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

5. If an individual sends a check to cover the cost of tickets to a fundraiser for three couples, in this instance \$450, and is planning on donating the tickets to other couples, is this a contribution over the limits?

6. Are contributions received from a company, as well as from a principal or shareholder of the company, combined for determining the contribution limits of Proposition 208? If the contribution is combined, is it possible to split the contribution such that Mr. Oken's committee(s) could receive \$250 from both the company and the individual?

FACTS

You are the Treasurer of the Committee to Re-Elect Stan Oken. This committee has pre-1997 election debt to retire. Additionally, there exists a separate committee known as "Friends to Elect Stan Oken." This committee was established for purposes of Mr. Oken's first election; this committee owes Mr. Oken \$30,000 as a result of a loan of personal funds made by Mr. Oken to the committee.

The primary method for collecting revenues for the two committees is to conduct fundraisers. A fundraiser was held in the early part of 1997 to help pay debt from the November 1996 election. Individuals attending this fundraiser paid \$250 per couple for admission. You now intend to hold another fundraiser which will cost \$150 per couple to attend; some of the same individuals who attended the previous fundraiser plan to attend the upcoming fundraiser.

CONCLUSIONS AND ANALYSIS

Your letter is not clear as to whether you intend the above-described fundraisers to apply to efforts to reduce the debt of Mr. Oken's two committees jointly or separately. Additionally, it is not clear that the debt of each committee relates to a single election. Because the operative provision of Proposition 208 which governs the soliciting of contributions to retire debt of elections held prior to January 1, 1997 (Section 85305(c)), regulates contributions on a "per election" basis, we cannot definitively answer certain of your questions which reference debt "of a committee" and not of a specific election. You also do not make clear, but we assume that given your statement of facts, you do not intend the fundraisers to raise money for a post-January 1, 1997, election. Given the ambiguity of the facts in your letter and the assumptions we must make in responding to it, we cannot provide you with a formal advice response. Instead, we are treating your letter as a request for informal assistance and will provide you general statements of the law in the area of debt reduction.²

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

Question No. 1

Section 85700 prohibits the deposit of contributions into a campaign account unless information containing the name, address, occupation, and the employer of the contributor is on file in the records of the recipient of the contribution. Therefore, if you are unable to obtain this information, the contribution may not be deposited in the campaign account.

Question No. 2

You do not state if the \$250 contributions were made before or after January 1, 1997. Based on your statement of facts, we will assume that the \$250 contributions relate to the fundraiser held in early 1997.³

A candidate who has debt from more than one prior election may raise funds under the Act's contribution limits for each prior election. Section 85305(c) states that the contribution limits applicable to retiring debts incurred with respect to any election held before January 1, 1997, apply separately to each election. (*Boveé* Advice Letter, No. A-97-172; *Baugh* Advice Letter, No. A-97-113; *Venable* Advice Letter, No. A-96-344; *Gould* Advice Letter, No. 96-336.)

Therefore, to the extent that the two committees you reference in your letter represent two separate elections for Mr. Oken, you may solicit and receive debt reduction contributions up to the limits per individual for **each** committee.

Question No. 3

Contributions received at a fundraiser intended to reduce the outstanding debt owed by both of Mr. Oken's committees (again, assuming each of these committees represent the campaign of a single election) should be designated for the appropriate committee. For instance, \$250 designated for "Friends to Elect Stan Oken" and \$250 designated for "Committee to Re-Elect Stan Oken." (See *Ackerman* Advice Letter, No. A-97-065.) Please be advised, however, that the Commission may soon consider a regulation concerning designation of contributions and contribution checks and the advice contained herein may change.

Question No. 4

The rules regarding solicitation and receipt of debt reduction contributions for pre-January 1, 1997, elections have been described previously in the response to Question No. 2. Individuals who attended your fundraiser in early 1997 (and paid \$250 to attend) may attend an

³ For your information, 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. (*Miller* Advice Letter, No. A-97-350; *Ramirez* Advice Letter, No. A-97-262; *Ramirez* Advice Letter, No. I-97-079a; *Sutton* Advice Letter, No. I-97-079; and *Johnson* Advice Letter, No. A-96-316a.)

additional fundraiser as long as the price to attend the additional fundraiser does not place an individual over the limits for each election to which the admission price was allocated or designated.⁴

Question No. 5

If an individual purchases \$450 worth of tickets to your fundraiser and "donates" those tickets to other persons, the purchasing individual will be considered the contributor for purposes of the event. If the fundraiser is being held for the purpose of retiring debt from a pre-January 1, 1997, election, the contribution limit per individual is either \$100 or \$250 depending on the size of Mr. Oken's district. (See Section 85301.) The "doubling" of the contribution limits allowed for candidates agreeing to voluntary expenditure ceilings (Sections 85401 and 85402) does not apply to contributions made to retire pre-Proposition 208 debt. (Section 85305(c); *Gould* Advice Letter, No. A-96-336.) Accordingly, an individual who purchases \$450 worth of tickets to a debt reduction fundraiser for a pre-January 1, 1997, election, will have contributed in excess of the limits specified under Proposition 208.

Question No. 6

Pursuant to Section 85311,

"All payments made by a person established, financed, maintained, or controlled by any business entity, labor organization, association, political party, or any other person or group of such persons shall be considered to be made by a single person."

In assisting with the interpretation of Section 85311 with respect to the determination of when entities will be affiliated for purposes of contribution limits, the Commission recently adopted Regulation 18531.1 (copy enclosed). As you will see from reviewing the regulation, the answer to any question regarding affiliation, including your question, will depend entirely upon an analysis of a specific fact pattern. However, generally, Regulation 18531.1 has two provisions that might apply to a company which may exist as either a partnership or corporation. First, subdivision (d)(1) of the regulation would apply to contributions made by corporations; subdivision (d)(1) provides,

"(d) If one or more of the following indicia of establishing, financing, maintaining or controlling exists, the entities involved

⁴ You mention that the ticket cost of the early 1997 fundraiser was \$250 per couple. Under Section 85308, contributions by a husband and wife are not aggregated. Therefore, depending on who was designated as the contributor for this event, either member of the couple (assuming they are husband and wife) may give additional amounts as described above. Enclosed for your review is a copy of Regulation 18533 which describes in further detail the procedures and attribution applicable to contributions made from joint checking accounts.

will be presumed for purposes of this title to be affiliated.

(1) If during the twelve-month period prior to making a campaign contribution to a candidate, a person possesses either of the following with respect to another entity:

(A) Ownership of an interest of more than 50 percent in voting rights, shares or securities of the entity or of a person having control over such entity; or

(B) The authority, power, or ability to direct or control the activities of the entity or a person having control over such entity.”

Additionally, subdivision (e) of the regulation, applying to partnerships states,

“(e) The contributions of any entity, such as a partnership, whose contribution decisions are controlled by one individual, shall be aggregated with contributions made by that individual. [NOTE: If two or more individuals control these decisions, no aggregation with any one individual’s contributions will occur.]”

Contributions made by corporations or partnerships, and their respective members, which fall within the ambit of the above two subdivisions would be aggregated for purposes of the limitations of Proposition 208. Once a contribution is deemed to have been made by affiliated entities as defined in Regulation 18531.1, no procedure exists to “split” the contribution as you have suggested in your letter.

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

SGC:LLD:jlw