



## FAIR POLITICAL PRACTICES COMMISSION

November 4, 1997

Mary-Beth Moylan  
Olson Hagel Leidigh Waters & Fishburn, LLP  
555 Capitol Mall, Suite 1425  
Sacramento, California 95814-4602

**Re: Your Request for Advice  
Our File No. A-97-473**

Dear Ms. Moylan:

This letter is in response to your request for advice on behalf of the California Democratic Party ("CDP") regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

1. Are transfers from the DNC, the DCCC, the DSCC, and party committees from other states to the CDP subject to the \$5,000 and \$25,000 contribution limitations contained in Sections 85303 and 85310?
2. If the DNC, the DCCC, the DSCC, and party committees from other states raise funds within the contribution limits of Proposition 208, does the analysis of the transfer limitations change?

### CONCLUSIONS

1. Yes. Transfers from the DNC, the DCCC, the DSCC, and party committees from other states to the CDP are subject to the \$5,000 and \$25,000 contribution limitations contained in Sections 85303 and 85310.
2. No.

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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.

## FACTS

The California Democratic Party ("CDP") is a political party committee within the meaning of Section 85205 and is subject to the contribution limits of Sections 85303 and 85310. The CDP relies on transfers of funds by the Democratic National Committee ("DNC"), and its two related political arms, the Democratic Congressional Campaign Committee ("DCCC"), and the Democratic Senatorial Campaign Committee ("DSCC"). The CDP also receives transfers from political party committees of other states to support many of its programs, in both "on" and "off" election years. The national party committees and the committees from other states do not necessarily raise their funds within the limits set by Proposition 208.

You believe that "transfers" from the national political party committees and other state committees to the CDP should not be limited as there is no provision which specifically contemplates such a limitation in Proposition 208. Moreover, you argue the relationship between the CDP and its national and state counterparts is such that no candidate corruption is present or possible through intra-party transfers.

On September 18, 1997, the Commission adopted Regulation 18531.1 that interprets Section 85311. Regulation 18531.1(f) provides that the state central committee is affiliated with any California account of its national party committee that has filed a statement of organization under Section 82013(a). In response to Regulation 18531.1(f) you wrote on September 22, 1997, to clarify that: (1) The DNC, the DCCC and the DSCC do not have committees formed pursuant to Section 82013(a); and (2) the Democratic party committees in other states referred to in your request also are not and do not control committees formed pursuant to Section 82013(a).

## ANALYSIS

Section 85303 limits contributions from any person<sup>2</sup> to political party committees of the same political party to \$5,000 per calendar year. Section 85310 limits contributions to all state candidates and political parties to \$25,000 per two year period. Section 85205 defines "political party committees" as the state central committee and all county central committees.

Regulation 18215, interpreting the Act's definition of a "contribution" in Section 82015, provides that a payment is a contribution if it is received by or made at the behest of a state central committee of a political party. (Regulation 18215(a)(2)(C).) The CDP is the state central committee of the Democratic party. Pursuant to Regulation 18215(a)(2)(C), payments from the DNC, the DCCC, the DSCC, and party committees from other states received by or made at the

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<sup>2</sup> Person is defined as "an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert. (Section 82047.)

behest of the CDP are contributions, unless an exception under Regulation 18215 applies or if transfers among the committees are allowed under Section 85311 and Regulation 18531.1.

Regulation 18215 does not provide an applicable exception. (See *Sutton* Advice Letter, No. A-97-168.) Regulation 18531.1 does enable the DNC, but not the DCC, the DSCC, or other states' political parties, to make unlimited transfers to the CDP if the DNC has a committee formed pursuant to Section 82013(a).

Regulation 18531.1(f) states:

“The state central committee of a party is affiliated with its county central committees (see Government Code section 85205) and any California account of its national party committee that has filed a statement of organization under Government Code section 82013(a).<sup>3</sup> These committees have a combined limit on contributions made to them, as well as from them. (See Government Code section 85303.)”

Regulation 18531.1(g), in part, states:

“Affiliated entities that are “committees” as defined in Government Code section 82013(a) may transfer funds to each other without limit, but such transfers shall be reported as miscellaneous increases to cash by the transferee and expenditures by the transferor committee.”

Regulation 18531.1(f) affiliates the state central committee with any California account of its national party committee, the DNC, but does not affiliate the CDP with political arms of the national party committee (the DCCC or the DSCC) or other states' political parties. Therefore, if the DNC had a committee formed pursuant to Section 82013(a), the DNC could raise money in amounts of \$5,000 and transfer those funds in unlimited amounts to the CDP. Of course, in that event, no single person could contribute to the DNC's committee formed pursuant to Section 82013(a), the CDP, or to California county central committees in the aggregate amount of more than \$5,000 because they would be affiliated entities.

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<sup>3</sup> Section 82013(a) defines committees as any person or combination of persons who directly or indirectly receives contributions of \$1,000 or more in a calendar year.

However, you have stated that the DNC does not have a committee formed pursuant to Section 82013(a). Therefore, the DNC, the DCCC, the DSCC, and party committees from other states may contribute only \$5,000 per year to the CDP and may only contribute \$25,000 to all state candidates and the CDP in a two year period.<sup>4</sup>

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Marte Castaños  
Staff Counsel, Legal Division

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<sup>4</sup> "Two year period" means the period commencing with January 1 of an odd-numbered year and ending with December 31 of the next even-numbered year.