



## FAIR POLITICAL PRACTICES COMMISSION

December 5, 1997

Daniel Nutley  
Treasurer, Friends of George Barber Committee  
Post Office Box 411  
Stockton, California 95201

**Re: Your Request for Advice  
Our File No. A-97-486**

Dear Mr. Nutley:

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

### QUESTIONS

1. May the Friends of George Barber Committee pay for expenses related to fundraising for Supervisor Barber's officeholder account?

2. May the Friends of George Barber Committee, the officeholder's pre-1997 campaign committee, hold a "birthday party" fundraiser and accept contributions for the Supervisor's officeholder account?

### CONCLUSIONS

1. Yes, the supervisor's campaign committee may pay for such fundraising expenses. Please note that the payment must be reported as an in-kind contribution to the officeholder account.

2. No, the supervisor's campaign committee may not accept contributions for the supervisor's officeholder account. You must establish a separate officeholder committee prior to holding the fundraiser.

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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 Friends of George Barber Committee was the pre-1997 campaign committee for San Joaquin County Supervisor George Barber. You are the treasurer for the committee. Each year the committee holds a fundraiser to raise money for both campaign and officeholder activities. The annual fundraiser is characterized as a birthday party for the supervisor.

Since the passage of Proposition 208, the supervisor has not engaged in fundraising activities. You would like to hold the "birthday party" fundraiser to raise funds for an officeholder account for the supervisor. The supervisor does not currently have an officeholder account. Tickets for the fundraiser will be \$35 per person. Historically, about 250 people actually attend the dinner. You anticipate there will be a net profit on the dinner of \$4,000 to \$5,000 which will be used to cover officeholder expenses for the balance of the year. No gifts are given to the supervisor and no personal benefit accrues to the supervisor as a result of the fundraiser. You would prepare an invitation similar to the invitation for the party from 1995 (a copy of the 1995 invitation was provided for our review).

## ANALYSIS

### **Fundraising Expenses for Officeholder Account**

An official with a pre-January 1997 campaign account may use those funds for any purpose permitted by sections 89510-89518, inclusive. (Regulation 18530.1, *Johnson Advice Letter*, No. A-96-316a.) These funds will become subject to provisions of Proposition 208 upon the occurrence of either one of two events: (1) the funds are transferred to or held in a committee formed after January 1, 1997; and the funds are designated for an election to be held after January 1, 1997, or (2) the funds are transferred, or held in, an officeholder account formed after January 1, 1997, pursuant to section 85313. (Regulation 18530.1(a), copy enclosed.)

Section 85313 which was added to the Act by Proposition 208 provides as follows:

“(a) Each elected officer may be permitted to establish one segregated officeholder expense fund for expenses related to assisting, serving, or communication 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.”

Pursuant to section 85313, an official may establish an officeholder account for expenses related to assisting, serving, or communicating with constituents, or for expenses related to carrying out the official duties of the elected officer. (Section 85313(a).) The officeholder account is not precluded from accepting contributions during any given period, but is limited to

raising \$10,000 in aggregate contributions per calendar year. Individual contributions to the officeholder account are limited to \$250 per person per year. (Section 85313(b).) An officeholder may transfer campaign funds raised prior to January 1, 1997, into an officeholder account established pursuant to section 85313, but the transfer is limited to \$10,000 per calendar year. (Regulation 18531.3.)

Expenditures of a campaign committee must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. (Section 89512.) Expenses associated with an officeholder account fundraiser are reasonably related to a governmental purpose. Accordingly, a campaign committee may use campaign funds to pay for expenses related to an officeholder account fundraiser. For reporting purposes, the recipient officeholder account committee must report receipt of such funds as an in-kind contribution.<sup>2</sup>

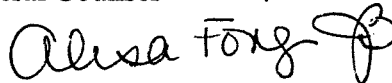
### **Separate Bank Account**

The supervisor's campaign committee may not engage in any fundraising activity during the period specified in section 85305. Although campaign funds may be used for fundraising expenses for an officeholder account, you must set up a separate officeholder account to accept contributions to that account since contributions to a campaign committee are time restricted by section 85305. (See Regulation 18531.4, copy enclosed.) In addition, you must establish a controlled committee for the account and include the words "Officeholder Account" in the committee name. (Regulation 18531.4(b).)

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Alisa Fong  
Graduate Assistant, Legal Division

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<sup>2</sup> Since the funds are not to be transferred to the officeholder account and they are not third party expenditures, we conclude that the candidate's campaign committee expenditures do not count toward the \$10,000 aggregate cap. (Regulation 18531.3.)