

July 30, 1997

Carla Singer
The Committee to Elect Judge Carla Singer

**Re: Your Request for Advice
Our File No. A-97-271**

Dear Judge Singer:

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

QUESTION

May you make a loan from your campaign committee to the Committee to Oppose the Recall of Judge Nancy Stock?

CONCLUSION

Yes. You may make a loan from your campaign committee to the Committee to Oppose the Recall of Judge Nancy Stock.

FACTS

You were elected to the Orange County Superior Court in the November 1996 election for Office No. 22. Your campaign committee account is debt-free and has approximately \$4,000 in a non-interest bearing account.

Judge Nancy Stock is the target of a recall. She has organized the Committee to Oppose the Recall of Judge Nancy Stock. You would like to loan \$3,000 from your campaign committee to the Committee to Oppose the Recall of Judge Nancy Stock.

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

ANALYSIS

Section 84216 defines a "loan" as a contribution unless it is clear that it is not made for political purposes. Pursuant to Section 85307(a), "a loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to all contribution limitations."

The funds in your campaign account were raised prior to the January 1, 1997, effective date of Proposition 208. Since you have retained your campaign account with pre-Proposition 208 funds, the funds held by your committee may be used for any purposes permitted in Government Code Sections 89510 through 89518. (Regulation 18530.1(b), copy enclosed.)

Regulation 18530.1(b) also states in pertinent part that:

" . . . Such funds may not be used for political fundraising activity in violation of Government Code Section 85305. Such funds may not be transferred to other candidates or their controlled committees in violation of Government Code Section 85306."

Section 85306 imposes an inter-candidate transfer ban:

"No candidate and no committee controlled by a candidate or officeholder, other than a political party committee, shall make any contribution to any other *candidate running for office* or his or her controlled committee. This section shall not prohibit a candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective office." (Emphasis added.)

The transfer ban applies to a contribution to a "candidate running for office." A recall is considered a "measure" under Section 82043 of the Act,² and the target of the recall is not a "candidate." (*Roberti* Advice Letter, No. A-89-358, *Cohen* Advice Letter, No. I-96-364, copies enclosed.) Therefore, the transfer ban does not apply to a loan from your committee to Judge Stock's ballot measure committee formed to oppose her recall.³

² In the near future, the Commission will be examining the issue of whether a recall will continue to be considered a ballot measure. Therefore, some of the advice in this letter may change depending upon the Commission's determination.

³ This letter distinguishes the advice in the *Rosenfield* Advice Letter, No. A-97-251(a), because the target of a recall is not a "candidate running for office" as used in Section 85306.

At your suggestion, I spoke to Mr. Guy Ormes, Deputy District Attorney, on July 23, 1997. He confirmed that the Orange County Campaign Reform Ordinance does not apply to judges. (Section 1-6-4: definitions of "county candidate" and "elective county officer" do not include judges.)

Therefore, the Act's provisions regarding recall measures apply. The use of your campaign funds is governed by the personal use laws in effect prior to the passage of Proposition 208 and Section 89513(g) permits a candidate to loan campaign funds to a committee unless prohibited by law. (*Rundell* Advice Letter, No. I-94-252). Under the Act, your campaign committee may make a loan to the Committee to Oppose the Recall of Judge Stock.

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

Sincerely,

Steven G. Churchwell
General Counsel

By: Jill Stecher
Staff Counsel, Legal Division

SGC:JS;jlw

Enclosures