



FAIR POLITICAL PRACTICES COMMISSION

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May 1, 1998

Fred Huebscher
President
California Democratic Alliance
2912 Old Bennett Ridge Road
Santa Rosa, California 95404

**Re: Your Request for Advice
Our File No. A-98-098**

Dear Mr. Huebscher:

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

QUESTION

Does section 84305.5(a)(2) require a joint slate mailer produced by two slate mailer organizations to have two disclaimers for each slate mailer organization or one joint disclaimer that lists the names of both slate mailer organizations?

CONCLUSION

Section 84305.5(a)(2) requires the disclaimer on a joint slate mailer to list the name of the slate mailer organization that paid the largest portion of expenditures attributable to the designing, printing, and posting of the mailer.

FACTS

California Democratic Alliance is a slate mailer organization (ID #59011). California Democratic Alliance intends to produce a joint slate mailer with Parents and Teachers For A Better California, which is also a slate mailer organization (ID #596016). Both organizations

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

will be supporting every candidate and ballot measure endorsed in the slate mailer. You intend to produce this joint slate mailer for the upcoming June 2, 1998, primary election. The size of the slate mailer will be 8 ½ x 11 folded in half. During a telephone conversation on April 24, 1998, you indicated that the slate mailer organizations will not be contributing equally toward the payment of the joint slate mailer.

ANALYSIS

The Act requires candidates and committees that send over 200 substantially similar pieces of mail to include the name and address of the sender on each mailing. (Sections 82041.5, 84305.) Section 84305.5 imposes additional requirements on slate mailer organizations that send slate mailers. A "slate mailer" means over 200 substantially similar pieces of mail that support or oppose four or more candidates or ballot measures. (Sections 82041.5, 82048.3.) A "slate mailer organization" is a person that receives \$500 or more per calendar year to produce slate mailers. (Section 82048.4.) A slate mailer must include the name and address of the slate mailer organization that produced the slate mailer. (Section 84305.5(a)(1).) In addition, the mailer must include a notice that provides:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.²

² Section 84305.5 was recently amended by Proposition 208. However, the provisions of Proposition 208 are presently subject to a preliminary injunction. (*California ProLife Council Political Action Committee v. Scully* (E.D. Cal. 1998) ---- F. Supp. ----, No. CIVS-96-1965 LKK/DAD, 1998 WL 7173.) The Proposition 208 version of section 84305.5(a)(2) requires a slate mailer to include the following notice:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. All candidates and ballot measures designated by \$\$\$ have paid for their listing in this mailer. A listing in this mailer does not necessarily imply endorsement of other candidates or measures listed in this mailer.

The notice must be printed as follows: at the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer; in at least 8-point roman boldface type; in a color or print that contrasts with the background so as to be easily legible; and in a printed or drawn box set apart from any other printed matter.³ (Section 84305.5(a)(2).)

You would like to know whether a slate mailer produced by two slate mailer organizations must include two disclaimers or a joint disclaimer listing both slate mailer organizations.

The Commission has not rendered formal advice regarding joint slate mailers. However, we have addressed a similar issue in the context of section 84305, which imposes sender identification requirements on candidates and committees that send mass mailings. Regulation 18435 interprets section 84305 and provides that the “sender” of a mass mailing is the candidate or committee that *pays for the largest portion* of expenditures attributable to the designing, printing, and posting of the mailing. (Regulation 18435(b).) Thus, when multiple candidates send a mailer, the candidate who paid the largest amount towards the production of the mailer is the one who is identified on the mailer. (*Sher Advice Letter*, No. A-96-036.)

We conclude that regulation 18435(b) may be used, by analogy, to determine the identification requirements applicable to joint slate mailers. One purpose behind section 84305.5 is to inform voters that a slate mailer was produced by an organization that is not an official political party organization. (*Los Angeles Taxpayers Alliance v. Fair Political Practices Comm.* (1993) 14 Cal.App.4th 1214, 1221.) This public policy is served by listing the name of one slate mailer organization on the slate mailer.

Accordingly, a joint slate mailer produced by two slate mailer organizations must include the name and address of the slate mailer organization that paid the largest portion of expenditures attributable to the designing, printing and posting of the mailer. Further, the disclaimer required by section 84305.5(a)(2) must list the slate mailer organization that paid the largest portion of expenditures attributable to the designing, printing and posting of the mailer.

Please note that prior to the passage of Proposition 208, the Legislature amended section 84305.5 to provide:

³ Proposition 208 amended section 84305.5 and required a notice to be printed as follows: at the top of each side or surface of a slate mailer or at the top of each side or surface of a postcard or other self-mailer; in at least 8-point roman boldface type; in a color or print that contrasts with the background so as to be easily legible; and in a printed or drawn box set apart from any other printed matter. (Section 84305.5(a)(2).)

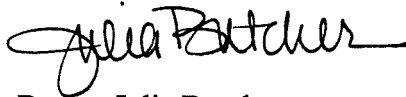
“Any candidate endorsement appearing in the slate mailer that differs from the official endorsement of the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible, the following notice: THIS IS NOT THE POSITION OF THE (political party which the mailer appears by representation or indicia to represent) PARTY.” (Section 84305.5(a)(6), see Chapter 893, Stats. 1996.)

During the period that the preliminary injunction is in effect, slate mailer organizations must comply with section 84305.5(a)(6).

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Julia Butcher
Staff Counsel, Legal Division

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