



## FAIR POLITICAL PRACTICES COMMISSION

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April 5, 1999

Alan Boege  
1892 N. Cypress Street  
La Habra Heights, California 90631

**Re: . Your Request for Advice  
Our File No. I-99-065**

Dear Mr. Boege:

You have requested advice concerning the campaign provisions of the Political Reform Act.<sup>1</sup> Because your question is a general inquiry, we are treating your letter as a request for informal assistance.<sup>2</sup> Please bear in mind that nothing in this letter should be construed as an evaluation of any past conduct. (Regulation 18329(c)(4).)

### QUESTIONS

1. If you send mailers which expose profligate spending or other irregularities, incompetence, or malfeasance in your local government and your aggregate expenses exceed \$1,000, will it trigger a reporting requirement?
2. If you find other interested parties in your community to join with you in the effort and your combined expenses exceed \$1,000, will it trigger a reporting requirement?
3. If you assist other groups to effect government reform, would your participation in their activities result in a reporting requirement if their combined expenses exceed \$1,000?

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<sup>1</sup> Government Code Sections 81000-91015. Commission regulations appear at Title 2, California Code of Regulations Section 18000, *et seq.*

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

## CONCLUSIONS

1. and 2. The costs related to producing and sending a mailer may be reportable if the mailer contains express advocacy.

3. If your participation is merely volunteering your personal services, then you would incur no reporting obligations. However, any out-of-pocket expenses incurred by you for political purposes may be reportable if the combined expenses equal to or exceed \$1,000.

## ANALYSIS

The Act requires that candidates, officeholders, and committees file periodic campaign disclosure statements. (Government Code Section 84100, et seq.) Government Code Section 82013 defines "committee" as follows:

"Committee" means any person or combination of persons<sup>3</sup> who directly or indirectly does any of the following:

- (a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year.
- (b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or
- (c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees."

Thus, a person only becomes a "committee" by receiving or making "contributions," or making "independent expenditures." Section 82015 and Regulation 18215 define "contribution" as:

"[A] payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes."

A payment is made for political purposes if it is:

- "(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a

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<sup>3</sup> The term "person" includes any group of persons acting in concert. (Section 82047.)

candidate or candidates, or the qualification or passage of any measure; or

(2) Received by or made at the behest of:

- (A) A candidate;
- (B) A controlled committee;
- (C) An official committee of a political party...; or
- (D) An organization formed or existing primarily for political purposes ...."

Regulation 18215.

In addition, Section 82015 and Regulation 18215 state that the term "contribution" does not include volunteer personal services.

The costs of a mailing which contains express advocacy would be considered a contribution to the affected candidate or committee unless it is clear that the mailing was not produced at the candidate's or committee's behest. Regulation 18225.7 defines the term "made at the behest of." (Copy enclosed.) If the mailing was not produced at the behest of a candidate or committee, it would be considered an "independent expenditure." An "independent expenditure" is defined as an expenditure made in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or measure but which is not made to or at the behest of the affected candidate or committee. (Section 82031.)

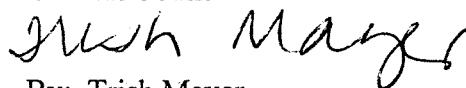
Regulation 18225(b)(2) defines "express advocacy." It provides in pertinent part: "A communication 'expressly advocates' the nomination, election or defeat of a candidate or the qualification, passage or defeat of a measure...if it contains express words of advocacy...so that the communication, taken as a whole, unambiguously urges a particular result in an election."

Thus, if the payments you or your group make are for a mailer which contains express advocacy, or are otherwise made for a political purpose, i.e., if they are for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure, you and/or your group may incur a reporting obligation.

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Trish Mayer  
Political Reform Consultant

Enclosure