



## FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807

(916) 322-5660 • Fax (916) 322-0886

May 4, 1999

Judy Hoffman  
First Assembly of God of Ventura  
346 North Kimball Road  
Ventura, California 93004

**Re: Your Request for Advice  
Our File No. I-99-090**

Dear Ms. Hoffman:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup> Please bear in mind that nothing in this letter should be construed as evaluation of any conduct which may already have taken place. Further, this letter is based on the facts as they have been presented to us. The Commission does not act as the finder of fact in providing advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

Because the questions you raise implicate legal issues not completely within the purview of the Act, we are only able to provide you with informal, general assistance regarding the creation of political committees and the resulting disclosure required under the Act. Please be advised that informal assistance does not confer upon the requestor the immunity of Section 83114 and Regulation 18329 (copies enclosed).

### QUESTIONS

1. May the First Assembly of God of Ventura ("the church") campaign on its own behalf or must it form a committee to transact the business of the campaign?
2. May the church use its own funds to pay for campaign expenses?

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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.

## CONCLUSIONS

1. Nothing in the Act prohibits the church from campaigning on its own behalf or creating a political committee to do so.
2. Nothing in the Act prohibits use of church funds for campaign expenses.

## FACTS

The church, a nonprofit corporation, owns approximately 26 acres of unimproved real property in Ventura County, California. The church would like to develop the property to build a new church and a sports complex.

Recently, the residents of Ventura County passed an initiative entitled "Save Our Agricultural Resources ("SOAR") which restricts the development of agricultural real property in the county. Pursuant to SOAR, one seeking to develop agricultural property must first receive the approval of the voters. The procedures established by SOAR will apply to the efforts of the church to develop its 26 acres. Consequently, the church wishes to sponsor an initiative seeking voter approval of the development of its 26 acres.<sup>2</sup>

## ANALYSIS

After posing some specific questions regarding the church's ability to solicit contributions and campaign in favor of an initiative you ask, "[i]s there any printed material that can be sent to us regarding the rules governing a nonprofit corporation campaigning on its own behalf?" You will find enclosed with this letter a collection of manuals and forms authored by Commission staff that discuss in detail the mechanics of creating campaign committees and the reporting obligations attendant to such committees. These materials contain the information you need to comply with the Act should the church choose to become a campaign committee or should it choose to establish a separate committee for purposes of supporting the development initiative. In responding to your specific questions, we will provide only general comments concerning political activities engaged in by organizations. We will leave for your review the information contained in the enclosed materials regarding disclosure and reporting requirements so as to avoid repetition.

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<sup>2</sup> Your letter does not explicitly detail the process whereby voter approval is obtained under SOAR. We assume because you state that the church "will soon be gathering signatures to qualify a land initiative for the November ballot" that the initiative process is the appropriate vehicle to accomplish the church's purpose and that the thrust of the church's questions concern the solicitation of contributions and the use of church monies for support of such an initiative.

*Question No. 1: May the church campaign on its own behalf or must it form a committee?*

Initially, you should be aware that the Commission provides advice only with respect to the Act. Thus, to the extent your question seeks advice as to whether the church's tax or nonprofit status will be affected by its campaign activities, you should seek the advice of a private lawyer who can counsel you on these matters.

Under the Act, any person<sup>3</sup> who directly or indirectly receives contributions totaling \$1000 or more in a calendar year is a political committee. (Section 82013(a).)<sup>4</sup> Once a person (which under the Act's definition of this term would include the church) becomes a committee, the disclosure and reporting requirements of the Act are triggered. The enclosed Manual D (and supporting addendum) sets forth the nature and timing for this disclosure and reporting.<sup>5</sup>

If the church does not wish to become the political committee to support the development initiative (or cannot for other legal reasons), the church may create a separate committee for that purpose. (See Regulation 18217(c)(5).) Again, Manual D and the other enclosed information will assist you in accomplishing that task. If there is any particular procedure that is not clear to you upon your review of the enclosed materials, please do not hesitate to contact our technical assistance division at (916) 322-5660 for further instruction.

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<sup>3</sup> The term "person" is defined in Section 82047 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."

<sup>4</sup> A presumption exists under Regulation 18215(b)(1) that allows a person to escape committee status for the first \$1000 it receives or spends. However, after that point and for a period of up to four years, if an additional \$1000 is received or spent in any calendar year, the person will become a committee.

<sup>5</sup> There exist two features of the Act that may be of particular interest to you in deciding how the church should proceed. First is the requirement that any organization receiving contributions from a single source of \$100 or more must report the name and address of the contributor, among other things. (Section 84211(f).) Second is the Act's definition of contribution: Regulation 18215(b)(1) defines as a political contribution any payment made to an organization when, at the time of making the payment, the donor knows or has reason to know that the payment, or funds with which the payment will be commingled, will be used to make contributions or expenditures. This definition means that if the church chooses to act as its own political committee, church members could be deemed political contributors (and possibly disclosed as such if the allocated amount reaches reporting thresholds) if they give money to the church for any reason and know or have reason to know that the church is using church money to campaign. As mentioned in footnote 4, *supra*, the initial \$1000 in contributions or expenditures made from church funds would not qualify the church as a committee on the grounds that, prior to that time, church members had "no reason to know" church funds were being used for political purposes.

*Question No. 2: May the church use its own funds to pay for campaign expenses?*

Assuming there exists no impediment under other laws applicable to the church, nothing under the Act would prohibit the church from using its own funds to make campaign expenses. Again, however, if the church makes political expenditures of \$1000 or more in a calendar year, the church will be a committee under the Act. (Section 82031(b).)

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

Sincerely,

Steven G. Churchwell  
General Counsel

A handwritten signature in cursive script that reads "Lisa L. Ditora" followed by a horizontal line.

By: Lisa L. Ditora  
Staff Counsel, Legal Division

SGC:LLD:tls  
Enclosures