



FAIR POLITICAL PRACTICES COMMISSION

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August 11, 1999

Robert A. Wieckowski
Attorney at Law
38275 Fremont Boulevard
Fremont, California 94536

**Re: Your Request for Advice
Our File No. A-99-206**

Dear Mr. Wieckowski:

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

QUESTION

May you use the surplus campaign funds from your unsuccessful 1998 Fremont City Council race for payment of a political campaign management course for yourself and a third party?

CONCLUSION

The surplus campaign funds from your 1998 race may only be used for those purposes set forth in Section 89519; these purposes do not include payment of a political campaign management course for either you or anyone else.

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

FACTS

You have surplus campaign funds remaining from your unsuccessful race in 1998 for a position on the Fremont City Council. It is your intention to run again for this office in the year 2000. You and a third party (possibly a consultant or a local political activist) would like to use the surplus funds from the 1998 campaign to attend the 15th annual political campaign management institute offered through the university extension at UC Davis.

ANALYSIS

You state that you have campaign funds remaining from your unsuccessful city council race of 1998. Even though you state that you are intending to run again for this office in the year 2000, you do not state that you have redesignated the 1998 campaign funds for the 2000 race or transferred them to any other account.

Campaign funds that remain in a campaign account at the end of the postelection reporting period following the defeat of a candidate for elective office are designated surplus funds under Section 89519. The latest possible postelection reporting period relating to your 1998 race for city council would have been December 31, 1998. Therefore, because the campaign funds for that race still remain in your 1998 account, those funds are surplus under the Act.²

Section 89519 creates a limited list for which surplus campaign funds may be used. Among other things not relevant to your inquiry, surplus funds may be used for,

“(f) The payment for professional services reasonably required **by the committee** to assist in the performance of its administrative functions, including payment for attorney’s fees for litigation which arises directly out of a candidate’s or elected officer’s activities, duties, or status as a candidate or elected officer,”
(Emphasis added.)

You have asked whether you may use the surplus funds from your 1998 race to pay for yourself and another to attend a political campaign management course. Specifically, you would like to know if your status as an attorney would allow payment of the course to fall within the professional services category quoted above.

² At any time before campaign funds become surplus, a candidate may transfer the funds to a future campaign account. (*Willet Advice Letter*, No. A-96-103.)

No provision of Section 89519 explicitly would allow use of surplus funds for the political campaign management course. While the professional services category (Section 89519(f)) does not enumerate all of the particular kinds of activities that would fall within it, it **does** require that the professional services be reasonably required "by the committee." In your case, the "committee" would be your 1998 city council campaign committee. Since the 1998 election has already occurred, a political campaign management course would have no relevance to the "performance of [the committee's] administrative functions." Under no circumstances could a campaign management course be "reasonably required" by a committee that will no longer engage in campaign activities for the 1998 race.³ Accordingly, neither you (as either the candidate or as an attorney) nor any third person may use the surplus campaign funds from your 1998 race to attend the political campaign management course.

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Lisa L. Ditora
Staff Counsel, Legal Division

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³ The literature you forwarded with your request for advice indicates that it is directed to candidates and committees **pursuing** election. For instance, the literature contains the following comments: "[d]iscover the essential elements of running a professional campaign, ..."; and "[t]he program includes general presentations on the critical elements of every campaign: organization, strategy and tactics, ..." This kind of instruction has no meaning for a committee that cannot conduct further campaigning for a race that has already been completed. Even though you may use your 1998 committee for the 2000 election, you must **first** dispose of all surplus funds. Since Section 89519 only allows use of surplus funds for the committee that created them, the funds cannot be used for your 2000 race even if you should decide to use the same committee for that race.