



FAIR POLITICAL PRACTICES COMMISSION

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June 14, 2000

Mari E. Lee
Treasurer, OakPAC
Oakland Metropolitan Chamber of Commerce
6633 Thornhill Drive
Oakland, California 94611

**Re: Your Request for Advice
Our File No. I-00-123**

Dear Ms. Lee:

This letter responds to your request for advice about the provisions of the Political Reform Act (the "Act").¹

I. QUESTIONS

As applied to a state general purpose recipient committee, do any of the following provisions of the City of Oakland's campaign finance ordinance conflict with, or otherwise prevent compliance with the Act?

- a) A limitation on contributions to "any person" making independent expenditures supporting or opposing a candidate for city office.
- b) A limitation on expenditure of officeholder account funds for advertisements supporting or opposing the nomination or election of a candidate for city, county, regional, state or federal office.
- c) A ban on transfers from the officeholder account of an elected city officeholder to any other candidate committee.

¹ Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18109 - 18996, of the California Code of Regulations.

II. CONCLUSION

None of the provisions about which you inquire conflict with, or prevent any person from complying with the Act.

III. FACTS

You are the treasurer for OakPAC, Oakland Metropolitan Chamber of Commerce, ID# 983545. OakPAC is a state general recipient committee. It has made independent expenditures to support six Oakland City Council incumbents (two billboards).

In 1993, the City of Oakland passed a local campaign ordinance containing the following provision:

“Any person who makes independent expenditures supporting or opposing a candidate for City office shall not accept any contribution in excess of the amounts set forth in Sections 3.12.050 A and B.” (Article V, §3.12.230.)

Sections 3.12.050 A and B limit contributions to \$100.

An amended ordinance contains the following provision:

“B. Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose... Such allowable expenditures shall include, but are not limited to the following categories:

* * *

“12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or elections of a candidate for City, county, regional, state or federal elective Office.

* * *

“D. No funds may be transferred from the officeholder account of an elected City Officeholder to any other candidate committee.” (Article III, §3.12.150.)

IV. ANALYSIS

The Commission may advise only about the Act. (Section 83114.) While the interpretation of local ordinances is thus generally beyond the scope of Commission advice (see *Kunkel* Advice Letter, No. I-89-598; *Zundel* Advice Letter, No. I-94-111), the Act does contain several provisions regarding the *interaction* of such ordinances with the Act. (Sections 81009.5 and 81013.) This advice necessarily must be limited to the application of those sections. (*Gawron* Advice Letter, No. I-89-550.) Accordingly, we may not provide general comments about the viability, enforceability, or constitutionality of the Oakland's ordinance. (*Ketner* Advice Letter, No. I-93-464; *Zundel* Advice Letter, *supra*.)

Section 81013 of the Act provides, in relevant part,

“Nothing in this title prevents ... any ... local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title.”²

The provisions of the Oakland ordinance about which you inquire do not appear to prevent OakPAC from complying with any of its obligations under the Act, and thus do not run afoul of Section 81013. Moreover, the Act does not currently have any operational contribution or expenditure limitations (except for those applicable in special elections, see Section 85305) with which these provisions of the ordinance might conflict.

Section 81009.5 does impose a limitation on a local jurisdiction's ability to impose *filing* requirements which are additional to or different from the Act's requirement.³ However, by its own express terms, Section 81009.5(b) applies only to local laws which impose additional or different *filing* requirements. The provisions of the Oakland ordinance about which you inquire do not impose filing requirements, and Section 81009.5's limitation is not applicable.

² Section 85101, a remnant of Proposition 73, a state ballot measure which imposed contribution limits which were later invalidated by the federal courts, also provides, “Nothing in this chapter shall prohibit a local governmental agency from imposing lower campaign contribution limitations for candidates for elective office in its jurisdiction.”

³ Subdivision (b) of Section 81009.5 provides,
“(b) Notwithstanding Section 81013, no local government agency shall enact any ordinance imposing filing requirements additional to or different from those set forth in Chapter 4 (commencing with Section 84100) for elections held in its jurisdiction unless the additional or different filing requirements apply only to the candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.”

We have issued similar advice before. In 1987, we addressed a proposed local contribution limit that would apply to all committees participating in elections in a city, even committees that also participated in elections in other jurisdictions. (*Eckis* Advice Letter, No. I-87-202.) We advised that neither Section 81013 nor Section 81009.5 “restricts the ability of a city to impose contribution limitations on committees participating in the elections of more than one jurisdiction.”

Thus, we conclude that the provisions of the Oakland ordinance about which you inquire do not conflict with the Act, or prevent OakPAC from complying with its obligations under the Act. (See Section 81013.) We stress again that this advice addresses only this very specific issue, and should not be construed as an interpretation of, or an opinion about, any other aspect of the Oakland ordinance.

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

Sincerely,

Luisa Menchaca
Assistant General Counsel



By: John Vergelli
Staff Counsel, Legal Division

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