



## FAIR POLITICAL PRACTICES COMMISSION

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April 13, 2001

Jacque Richardson, Treasurer  
MIKELS FOR STATE SENATE  
2470 Stearns Street, Suite 301  
Simi Valley, CA 93063

**Re: Your Request for Advice  
Our File No. A-01-008**

Dear Ms. Richardson:

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

### QUESTIONS

1. Can the Commission waive electronic filing requirements for a campaign committee that remains open only to raise funds to repay its outstanding debts?
2. Can a committee's outstanding debts from a prior election be transferred as debt to another committee, for a different office, which is controlled by the same candidate?

### CONCLUSIONS

1. No. Electronic filing requirements are imposed by statutes which grant the Commission no discretion to waive the reporting obligations of individual committees.
2. No. The transfer of debt for payment by another committee would violate key record keeping provisions of the Act.

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<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

## FACTS

You are the campaign treasurer for Judy Mikels, who ran unsuccessfully for the California Senate in the 19<sup>th</sup> District. You complied with the Act's electronic filing provisions for reportable campaign activities leading up to the primary election held on March 7, 2000. At that time the electronic filing requirements were new. As the compliance deadline approached there were few approved vendors of on-line filing services, and only one that your campaign could afford – Direct File.

Although the election is now over, you do not wish to terminate the campaign and close the committee because the campaign has outstanding debts, in the form of loans, totaling \$54,000. The committee does not have the money on hand to pay those debts, and you do not think it will be able to raise sufficient funds within the foreseeable future. As long as you keep the committee open in the hope of repaying its debts, the committee retains its online filing obligations, and is required to pay Direct File \$200 per month to file the committee's semi-annual reports.

## ANALYSIS

### *Question 1*

In 1997, the Legislature passed SB 49, the Online Disclosure Act, mandating that the Secretary of State develop and implement an online electronic disclosure program for certain candidate and committee campaign statements filed in connection with the 2000 state primary election, and also for certain lobbying reports. The Online Disclosure Act provided threshold amounts for receipt and/or expenditure of funds by committees which, if met, triggered the requirement that campaign statements be filed electronically as well as in the more traditional "hard copy" form.

The Political Reform Act was accordingly amended and provides, in Section 84604(a)(1), that any candidate, officeholder or committee required to file statements in connection with a state elective office (such as the state Senate) appearing on the 2000 statewide primary ballot is required to file their campaign statements online; "... provided that the total cumulative reportable amount of contributions received, expenditures made, loans made, or loans received is \$100,000 or more." These totals were to be cumulated from January 1, 1999 through June 30, 2000.

We presume from your questions, and the statement of facts that accompanied your advice request, that the Mikels Senate campaign was one of those campaigns that triggered the electronic filing requirements summarized above. Neither Section 84604, nor any of the other statutory provisions that implement the Online Disclosure Act (Sections 84600 – 84610) provide the Commission with any discretion to excuse campaigns or committees from the requirements of online filing. The Commission cannot, therefore, relieve the Mikels campaign of any online filing obligations imposed by the Act.

*Question 2*

On at least two occasions in the past, we have advised that “[a] candidate may not transfer debt incurred while running for one office to a committee established to run for another office.” (*Herman* Advice Letter, No. A-91-238; *Woolstrum* Advice Letter, No. A-90-188.) This rule was devised, in part, to further the record keeping interests fostered by the so-called “one bank account rule” of Section 85201, which was added to the Act in 1988 by Proposition 73, and was not repealed by Proposition 34. This provision requires that every campaign contribution or expenditure be run through the campaign’s bank account, thereby limiting the number and variety of records that must be searched to identify and track the campaign’s financial activities. (See also Regulation 18525(b).)

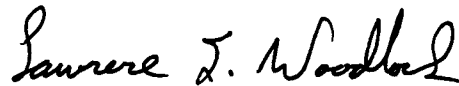
A campaign committee is not required to remain open indefinitely just because it is unable to pay its outstanding debts. The committee may be closed when it “has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations.” (Regulation 18404(b)(2).) The purpose of Section 85201 and its associated regulations is to insure that expenditures and payments of a committee are visible from the committee’s records. This purpose takes on additional importance now that state candidates once again are subject to contribution limits and voluntary expenditure ceilings. The statute’s purpose would be defeated if it were possible for a committee to close with outstanding debts later discharged by a different committee.

The Commission will be examining issues relating to campaign debt as it implements Proposition 34 later this year. Unless and until the Commission rules otherwise, however, our prior advice on this issue must stand.

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

Sincerely,

Luisa Menchaca  
General Counsel



By: Lawrence T. Woodlock  
Senior Counsel, Legal Division

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