



## FAIR POLITICAL PRACTICES COMMISSION

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November 15, 2001

Russell H. Miller, General Counsel  
The Lincoln Club of Northern California  
345 Forest Avenue  
Palo Alto, CA 94301

**Re: Your Request for Advice  
Our File No. A-01-168**

Dear Mr. Miller:

This letter is in response to your request for advice on behalf of the Lincoln Club of Northern California Political Action Committee ("PAC") regarding the contribution limit provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

For purposes of supporting candidates for statewide elective office prior to November 6, 2002, are contributions to the Lincoln Club of Northern California PAC limited to \$5,000 per person per calendar year?

### CONCLUSION

Yes. Section 83 of Proposition 34 has no impact on section 85303(a), which governs contribution limits to PACs or general purpose committees.

### FACTS

The Lincoln Club of Northern California Political Action Committee is a registered recipient committee. The PAC has supported candidates for California statewide, legislative and local office. The PAC intends to continue to make contributions to these three groups of candidates in the future. The PAC is not a small contributor committee.

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<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

## ANALYSIS

Section 83 of Proposition 34 was amended by SB 34 on September 4, 2001. The amended version of Section 83 provides:

“This act shall become operative on January 1, 2001. However, Article 3 (commencing with Section 85300), except subdivisions (a) and (c) of Section 85309, Section 85319, Article 4 (commencing with Section 85400), and Article 6 (commencing with Section 85600), of Chapter 5 of Title 9 of the Government Code shall apply to candidates for statewide elective office beginning on and after November 6, 2002.”

This section, an uncodified section of Proposition 34, includes the provisions related to contribution limits (Article 3), except subdivisions (a) and (c) of section 85309, and section 85319. Section 83 further excludes the entirety of Article 4, which deals with voluntary expenditure ceilings, and Article 6, which addresses the Ballot Pamphlet designations related to a candidate's acceptance or rejection of the voluntary expenditure ceilings set forth in Article 4.

Except for these sections, pursuant to section 83, the provisions of chapter 5 related to limitations on contributions, shall only apply to candidates for statewide elective office “beginning on and after November 6, 2002.” Since the 2002 election will be held on November 5, this means that a good portion of chapter 5 of the Act is inapplicable to candidates for statewide elective office and to contributors to those candidates for the November 5, 2002 election.

However, here are two primary reasons that section 83 does not affect section 85303(a) in such a way as to lift the \$5,000 limit for contributions to committees, even if the committee's funds are contributed to candidates for statewide elective office prior to November 6, 2002.

First, there is nothing in section 83 to suggest that the contribution limit to committees is affected in any way by the delayed implementation of the majority of chapter 5 to statewide candidates. You reason, as stated in your letter: “Starting from the premise that Section 83 was designed to lift all Chapter 5 requirements for *candidates* for statewide elective office until November 6, 2002, it also follows that Chapter 5 requirements should be lifted for all *donors* to candidates for statewide elective office until November 6, 2002.” This reasoning is sound, and the Commission in its deliberations over regulations interpreting sections 85306 and 85316 (Regulations 18536 and 18531.6) has interpreted section 83 to mean that the contribution limits are lifted for contributors to candidates for statewide elective office contributing to campaigns for elections to be held prior to November 6, 2002. This would also apply to your

committee, in that it could directly contribute without limitation to those pre-November 6, 2002, candidates for statewide elective office.

However, section 83 provides no statutory authority to support your conclusion that there should be no limits on the amount a person may contribute to a committee subject to the contribution limit of section 85303(a), even if those funds are to be contributed to candidates for statewide elective office prior to November 6, 2002. Section 83 makes no mention of committees, and provides no specific exclusion for committees from the January 1, 2001, effective date for section 85303(a).

The second reason that section 83 does not affect section 85303(a) in such a way as to lift the \$5,000 limit for contributions to committees, if the committee funds are contributed to candidates for statewide elective office prior to November 6, 2002, requires an examination of the various contribution limit statutes involved.

Section 83 exempts candidates for statewide elective office from most of chapter 5 of the Act until November 6, 2002. Included in chapter 5 are sections 85301 and 85302, which govern contribution limits from persons and from small contributor committees, respectively. Section 85301 provides:

“(a) A person, other than a small contributor committee or political party committee, may not make to any candidate for elective state office other than a candidate for statewide elective office, and *a candidate for elective state office other than a candidate for statewide elective office may not accept* from a person, any contribution totaling more than three thousand dollars (\$3,000) per election.

“(b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, may not make to any candidate for statewide elective office, and except a candidate for Governor, *a candidate for statewide elective office may not accept* from a person other than a small contributor committee or a political party committee, any contribution totaling more than five thousand dollars (\$5,000) per election.

“(c) A person, other than a small contributor committee or political party committee, may not make to any candidate for Governor, *and a candidate for governor may not accept* from any person other than a small contributor committee or political party committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.

“(d) The provisions of this section do not apply to a candidate’s contributions to his or her personal funds to his or her own campaign.” (emphasis added.)

Section 85301 states that “a person” may not make *and a candidate may not accept* contributions. Likewise, section 85302 provides:

“(a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and *a candidate for elective state office, other than a candidate for statewide elective office may not accept* from a small contributor committee, any contribution totaling more than six thousand dollars (\$6,000) per election.

“(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, *a candidate for statewide elective office may not accept* from a small contributor committee, any contribution totaling more than ten thousand dollars (\$10,000) per election.

“(c) A small contributor committee may not make to any candidate for Governor, and *a candidate for governor may not accept* from a small contributor committee, any contribution totaling more than twenty thousand dollars (\$20,000) per election.” (emphasis added.)

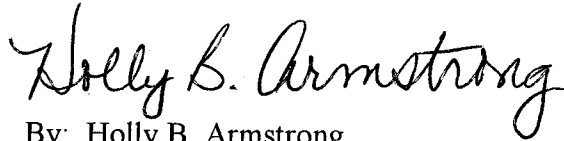
Therefore, both sections 85301 and 85302 provide that the candidate may not accept the contribution from the person or committee. Section 83 lifts that prohibition for candidates for statewide elective office until November 6, 2002. However, in contrast to sections 85301 and 85302, in which the latter prohibition is directed to the *candidate* and is expressly lifted by section 83 for candidates for statewide elective office until November 6, 2002, section 85303(a)’s prohibition is directed to *the committee*, not to the candidate. Section 83 lifted no prohibitions for committees in accepting contributions. Therefore, the prohibitions of section 85303(a) remain in full force and effect.

However, as noted above, as long as the committee receives individual contributions within the \$5,000 limits, the committee may make contributions to candidates for statewide elective office in unlimited amounts until November 6, 2002.

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

Sincerely,

Luisa Menchaca  
General Counsel

A handwritten signature in black ink that reads "Holly B. Armstrong". The signature is written in a cursive style with a large, prominent initial "H".

By: Holly B. Armstrong  
Staff Counsel, Legal Division

HBA:jg  
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