



## FAIR POLITICAL PRACTICES COMMISSION

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January 18, 2002

Michael S. Mitchell, CPA  
10722 Arrow Route, Suite 802  
Rancho Cucamonga, CA 91730

**Re: Your Request for Informal Assistance  
Our File No. A-01-210**

Dear Mr. Mitchell:

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

### QUESTIONS

1. Are contributions which are to be aggregated with contributions made by Mr. Dutton under section 85311 subject to the contribution limits of section 85301?
2. Which contributions made by the entities in which Mr. Dutton has an interest are aggregated under Section 85311?

### CONCLUSIONS

1. The exception to the contribution limits provided in section 85301(d) does not apply to contributions from an entity's funds to a candidate's campaign. Therefore, the contribution limits of section 85301 apply to these contributions.
2. The aggregation rules of section 85311 apply to contributions made by entities whose contributions are directed and controlled by Mr. Dutton. If, in fact, Mr. Dutton directs and controls the contributions of Dutton & Associates, Inc., Dutton & Associates, Consolidated Property Management Company, Foothill City Center, LTD, or Urban Advisors, Inc., the contributions of these entities will be aggregated together and with any

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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.

contributions made by Mr. Dutton from his personal funds under the aggregation rules of section 85311.

### FACTS

You are the treasurer of the Bob Dutton for Assembly Committee (ID#1233818) which was formed on March 2, 2001. Bob Dutton intends to run for the California Assembly representing the current 63rd California Assembly District and his committee has been soliciting campaign contributions to be used in that effort.

Bob Dutton is the owner or partial owner of certain business entities, as follows:

- Dutton & Associates, Inc. is a corporation which is 100% owned by Bob Dutton. It is a real estate management and brokerage company. Bob Dutton directs and controls management of this company.
- Dutton & Associates is a partnership which is owned 50% by Bob Dutton and 50% by his father, Ted Dutton. It is a real estate investment partnership. Bob and Ted Dutton both direct and control the management of this partnership.
- Consolidated Property Management Company is a corporation doing business as Security Management Company and is owned one-third by Bob Dutton, one-third by Jacob Turner and one-third by Leo Legasse. It is a real estate management and brokerage company. Bob Dutton directs and controls the management of this company.
- Foothill City Center, LTD is a California limited partnership that owns the office building known as City Center which is located at 10681 Foothill Boulevard in Rancho Cucamonga, California. Dutton & Associates (a partnership) is the managing general partner with a 10% interest in the profits of the partnership. Jacob Turner is a general partner with a 0.2% interest and is also a limited partner with a 61.923% interest. Ted Dutton is also a limited partner with a 0.788% interest. Bob Dutton directs and controls the management of this partnership through his direction and control of the managing general partner.
- Urban Advisors, Inc. is a corporation, which is owned 18.18% by Bob Dutton and 81.82% by his father, Ted Dutton. It is directed and controlled by Ted Dutton.

### ANALYSIS

**Personal Contributions:** Section 85301 (copy enclosed) provides contribution limits applicable to candidates for elective state office.<sup>2</sup> "Elective state office" includes the office of a "Member of the Legislature." Therefore, as a candidate for Assembly, Mr. Dutton is subject to the contribution limits of the Act.

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<sup>2</sup> Sections 85302 and 85303 of the Act provide additional contribution limits.

As you have pointed out in your letter, section 85301(d) states:

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

Please note that section 85301(d) is specifically limited to a candidate’s contributions of his or her *personal funds* to his or her own campaign. Each of the entities you have described is either a corporation or a partnership, rather than an individual. Therefore, we cannot conclude that the funds of the entities you have identified are the personal funds of Mr. Dutton for purposes of section 85301. As a result, the exception to the contribution limits provided in section 85301(d) does not apply to contributions from the entity’s funds and section 85301’s contribution limits apply to these entities.

**Aggregation:** Whether contributions made by particular persons are aggregated is determined by the aggregation rules of section 85311. For purposes of the contribution limits of chapter 5, this section provides:

“...(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.”

“Entity” means any person, other than an individual. (Section 85311(a).)  
“Majority owned” means an ownership of more than 50 percent. (*Ibid.*) The businesses you have identified are entities for purposes of this section.

You have indicated that Dutton & Associates, Inc., Dutton & Associates, Consolidated Property Management Company, and Foothill City Center, LTD are directed and controlled by Mr. Dutton. Under section 85311(b), if Mr. Dutton actually directs and controls contributions of these entities, the contributions of each entity will be aggregated together and aggregated with any contributions made by Mr. Dutton from his personal funds. Although Mr. Dutton neither majority owns nor directs and controls

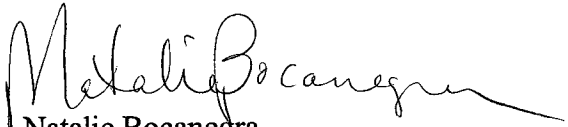
Urban Advisors, Inc.,<sup>3</sup> if he in fact directs and controls contributions of this entity, such contributions will be aggregated in the same manner.<sup>4</sup>

You have not provided information regarding any other entities directed and controlled or majority-owned by Mr. Dutton. For purposes of this letter, we assume that Mr. Dutton has no such relationships with any other entities.

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

Sincerely,

Luisa Menchaca  
General Counsel

By:   
Natalie Bocanegra  
Staff Counsel, Legal Division

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<sup>3</sup> Your facts indicate that Mr. Dutton's father, Ted Dutton, directs and controls Urban Advisors, Inc.

<sup>4</sup> Please note that this letter does not address the issue of Mr. Dutton's duties under section 84308 which would apply if he were an "officer" as defined by that section.