



FAIR POLITICAL PRACTICES COMMISSION

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May 10, 2002

David T. Vahedi
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Brentwood, CA 90049

**Re: Your Request for Advice
Our File No. A-02-062**

Dear Mr. Vahedi:

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

QUESTION

To what extent, if any, is the California Democratic Council ("C.D.C.") exempt from disclosure requirements of Government Code §§ 84305.5 and 84305.6?

CONCLUSION

Your account of the facts provides no basis for a conclusion that the C.D.C. is exempt from any of the disclosure requirements of §§ 84305.5 or 84305.6.

FACTS

Your office represents the California Democratic Council (C.D.C.),² which is chartered as an organization by the California Democratic Party (C.D.P.). The C.D.C. is contemplating publication of an election guide that would encourage voters to vote for candidates endorsed by the C.D.C., and to join local Democratic clubs. The C.D.C. would offset the cost of the mailer by seeking monetary support from various sources, including the candidates endorsed in the mailer. The C.D.C. would publish its mailer

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

² The C.D.C. web page indicates that "the C.D.C. is the California Democratic Party's official statewide organization of grassroots clubs."

independently of the C.D.P. In fact, it is possible that the C.D.C. and the C.D.P. may endorse two different Democratic candidates for the same office.

ANALYSIS

1. *Compliance with Section 84305.5*

Government Code § 84305.5(a) provides that no slate mailer organization may send a slate mailer unless the slate mailer contains disclosures specified in the six numbered paragraphs of subdivision (a). Subdivisions (b) and (c) of § 84305.5 do not state any exceptions to the disclosure requirements listed in subdivision (a). Thus, if C.D.C. is a "slate mailer organization" (defined at § 82048.4), it must comply with all of the disclosure requirements of § 84305.5. Under § 82048.4:

"(a) 'Slate mailer organization' means, except as provided in subdivision (b), any person who, directly or indirectly, does all of the following:

- (1) Is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers.
- (2) Receives or is promised payments totaling five hundred dollars (\$500) or more in a calendar year for the production of one or more slate mailers."

Section 82048.3 provides that a "slate mailer" is "a mass mailing which supports or opposes a total of four or more candidates or ballot measures." A "mass mailing" under the Act is "over two hundred substantially similar pieces of mail." (§ 82041.5).

In short, if the C.D.C. became involved in the production of a "mass mailing" that qualifies as a "slate mailer," it would become a "slate mailer organization" if, in addition, the C.D.C. exercises control over the selection of the candidates and/or measures featured on the mailer, and it receives or is promised payments totaling five hundred dollars or more in a calendar year for production of the slate mailer(s).

Subdivision 82048.5(b) provides a few limited exceptions to the definition of "slate mailer organization," as follows:

- "(b) Notwithstanding subdivision (a), a slate mailer organization shall not include any of the following:
- (1) A candidate or officeholder or a candidate's or officeholder's controlled committee.
 - (2) An official committee of any political party.
 - (3) A legislative caucus committee.
 - (4) A committee primarily formed to support or oppose a candidate, officeholder, or ballot measure."

You indicate that the C.D.C. is "chartered" as an organization by the C.D.P. But unless the C.D.C. is registered as an official committee of the party, or is one of the other kinds of committees identified in § 82048.5(b), the C.D.C. does not qualify for an exemption from classification as a "slate mailer organization." If and when the C.D.C. otherwise meets the criteria of § 82048.4 for a "slate mailer organization," it must comply with all of the disclosure provisions set forth in § 84305.5.


2. *Compliance with § 84305.6*

Section 84305.6 was added to the Act by Proposition 34 to remedy the confusion that arises when a slate mailer with the appearance of a political party communication contains endorsements that are different from the party's official endorsements. This statute, like § 84305.5, applies to "slate mailer organizations." The analysis here is the same as the analysis given above. If the C.D.C. engages in the activities described in § 82048.4(a), it must comply with the disclosure requirements of § 84305.6.

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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