



FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807
(916) 322-5660 • Fax (916) 322-0886

August 27, 2002

Denise Headrick
Post Office Box 222
Martinez, CA 94553

**Re: Your Request for Advice
Our File No. A-02-197**

Dear Ms. Headrick:

This letter is in response to your request for advice on behalf of the Public Employees Union, Local One regarding campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

How long after receiving a contribution in excess of \$200 in a calendar year may a committee file for small contributor status?

CONCLUSION

If the committee meets the other requirements of a "small contributor committee" and transfers those amounts that exceed the \$200 per person limit to another committee, or otherwise "cleanses" the committee funds, then they may immediately file for small contributor status. If the committee does not return the excess, then as long as the contribution of greater than \$200 is included in the committee's campaign funds, the committee may not file for small contributor status.

FACTS

You have asked whether a committee that receives a contribution in excess of \$200 in a calendar year can ever file for small contributor status. On August 21, 2002, you provided additional facts regarding the Public Employees Union, Local One ("Local One"). It is an existing committee that is considering becoming a small contributor committee. The last time that Local One received a contribution over \$200 was

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

approximately five months ago and you can trace any contributions over \$200 back to their contributor.

ANALYSIS

Section 85203 states:

“‘Small contributor committee’ means any committee that meets all of the following criteria:

“(a) The committee has been in existence for at least six months.

“(b) The committee receives contributions from 100 or more persons.

“(c) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year.

“(d) The committee makes contributions to five or more candidates.”

Under regulation 18503(a)(3), one of the requirements of a “small contributor committee” is that:

“The committee’s campaign funds do not include any contributions that exceed \$200 per person per calendar year, including campaign funds received before January 1, 2001.”

Both section 85203 and regulation 18503 set forth a clear and unequivocal prohibition against a “small contributor committee” including in its funds any contribution amount(s) over \$200 from any individual contributor(s). This is, in fact, the primary definitional requirement of a “small contributor committee” under the Act. Accordingly, we have previously advised that a “small contributor committee” may not at any point accept any contributions in excess of \$200 per person. (*Ford* Advice Letter, No. A-01-226; *Bauer* Advice Letter No. A-01-042.)

Present campaign funds may be cleansed to meet this requirement by transferring those amounts that exceed the \$200 per person limit to another committee. (*Bauer* Advice Letter, *supra*.) Regulation 18503(a)(3) was specifically amended to allow committees that no longer have the funds in excess of the \$200 maximum within its coffers to qualify. (Commission Meeting Minutes, January 12, 2001, page 7.) When the regulation was approved for final adoption, the Commission specified that it wanted to create a mechanism where committees could be “cleansed” of past contributions in excess of \$200. Chairman Getman specified that “the regulations would not dictate how the

cleansing occurs, but that it could occur by giving contributions back, or by setting up a new committee.” (Commission Meeting Minutes, March 9, 2001, page 14.)

“Cleansing” must be consistent with the overall purpose of the regulation and was created by the Commission to allow committees with prior funds to qualify as “small contributor committees.” (Commission Meeting Minutes, January 12, 2001, page 7 and March 9, 2001, page 14; see also Staff Memorandum, February 27, 2001, “Permanent Adoption of Regulation 18503; Small Contributor Committees Repeal Existing Regulations 18502 and 18502.1.”) However, to be consistent with the overall scheme of Proposition 34, “cleansing” is to be used only when a small contributor committee is initially formed.²


In essence, a small contributor committee, once formed, cannot accept contributions over \$200. But, if the committee has previous contributions over \$200 per person per calendar year and now wants to qualify as a “small contributor committee,” as in this case, then it must dispose of the excess amount(s). To continue to qualify, the committee cannot accept future contributions over \$200 per person per calendar year. If the committee does accept a contribution over \$200, then they would lose their small contributor committee status.

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

Sincerely,

Luisa Menchaca
General Counsel

By:


Galena West
Counsel, Legal Division

GW:jg

I:\AdviceLtrs\A-02-197

² “Formation” could mean either by creation of a new committee or an old committee amending its statement of organization to reflect its new status (regulation 18503(b)).