



## FAIR POLITICAL PRACTICES COMMISSION

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September 26, 2002

C. April Boling, CPA  
7185 Navajo Road, Suite L  
San Diego, CA 92119

**Re: Your Request for Advice  
Our File No. A-02-262**

Dear Ms. Boling:

This letter is in response to your request for advice on behalf of the San Diego County Republican Central Committee regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

Do expenditures that constitute "member communications" under section 85312 by a political party committee nonetheless trigger a pre-election filing requirement?

### CONCLUSION

Yes.

### FACTS

You are treasurer of the San Diego County Republican Central Committee. Since June 30, this committee has made no contributions to candidates or ballot measures, nor has it made any independent expenditures on behalf of a candidate or ballot measure. It has, however, spent significant funds on a member communication program.

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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

Payments for communications supporting or opposing a candidate or ballot measure typically are reportable “contributions” or “expenditures” under the Political Reform Act (the “Act”).<sup>2</sup> (§§ 82015 and 82025.)<sup>3</sup> Section 85312, enacted by Proposition 34 and later amended by Senate Bill 34, provides an exception to this general rule for “member communications.”<sup>4</sup>

As amended, § 85312 provides:

“For purposes of this title, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate or a ballot measure are not contributions or expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, and newspaper advertisements. However, payments made by a political party for communications to its members who are registered with that party which would otherwise qualify as contributions or expenditures shall be reported in accordance with Article 2 (commencing with Section 84200) of Chapter 4, and Chapter 4.6 (commencing with Section 84600), of this title.”<sup>5</sup>  
(Emphasis added.)(Footnote added.)

Absent section 85312, the payments you describe would qualify as contributions or expenditures. According to the last sentence of the statute, because those payments would qualify as such, they must be reported according to the provisions of sections 84200 et seq. and 84600 et seq. Sections 84200.5 and 84200.7, subdivision (b), require a preelection report be filed for the November election, assuming the payment(s) for the member communication(s) total \$500 or more during the reporting period. Assuming that threshold is met, the party must report those payments in accordance with the provisions above even though they otherwise are payments for “member communications.”

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<sup>2</sup> All references are to the Government Code.

<sup>3</sup> Sections 82015 and 82025 provide the definitions for contribution and expenditure, respectively. These sections are further interpreted by regulations 18215(a)(1) and 18225(a)(1).

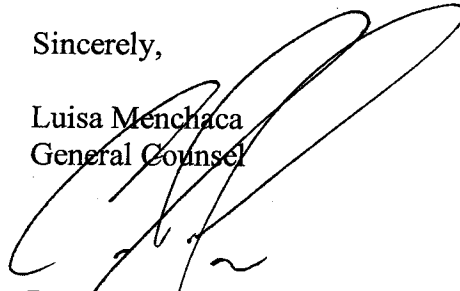
<sup>4</sup> “Member communications” refers to communications to members, employees, and shareholders of an organization or families of those persons and is the colloquial name given to the provisions of section 85312.

<sup>5</sup> “‘Political party committee’ means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.” (Section 85205.)

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

Sincerely,

Luisa Menchaca  
General Counsel

A large, stylized handwritten signature in black ink, appearing to read 'C. Scott Tocher', is written over the typed name and title of the sender.

By: C. Scott Tocher  
Counsel, Legal Division

CST:jg  
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