



FAIR POLITICAL PRACTICES COMMISSION

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October 31, 2002

Janet Crain, Treasurer
Izzy Martin for Supervisor Committee
18391 Sisil Lane
Penn Valley, CA 95946

**Re: Your Request for Advice
Our File No. A-02-275**

Dear Ms. Crain:

This letter is in response to your request for advice on behalf of the Izzy Martin for Supervisor Committee regarding the provisions of the Political Reform Act (the "Act").¹

QUESTION

May the committee accept cash for items sold at auction?

CONCLUSION

Yes, provided that for any one buyer, any amount spent that exceeds the fair market value of the item or items purchased--and so is a contribution from the buyer--does not equal \$100 or more in cash.

FACTS

You request advice on the legality of accepting cash for items sold at auction.

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

ANALYSIS

The definition of "contribution" excludes a payment for which full and adequate consideration is received. (Section 82015; regulation 18215.) Items donated are contributions as defined in section 82015 and regulation 18215. Proceeds from the sale of these items are not contributions if the approximate fair market value has been paid. The Commission has advised that when a person purchases goods or services from a candidate or committee and pays the fair market value, the person has not made a contribution. If the person pays more than the fair market value, the amount over the fair market value is a contribution. (*Miller Advice Letter, No. I-97-143; Bagatelos Advice Letter, No. I-95-248; Zerbe Advice Letter, No. I-95-146; Moniz Advice Letter, No. A-88-028; Sepulveda Advice Letter, No. I-89-428.*)²

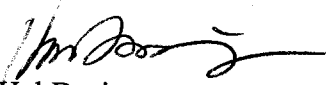
Section 84300(a) provides, in part, that "[n]o contribution of one hundred dollars (\$100) or more shall be made or received in cash." This prohibition applies only to contributions. In the auction scenario, it applies only to that portion of auction proceeds which exceed the fair market value of the item auctioned. If a buyer pays in excess of fair market value for one or more items purchased at an auction held by the committee, the committee may accept cash from the buyer only if the amount over fair market value is less than one hundred dollars (\$100).

If, for example, a book with a fair market value of fifty dollars (\$50) is sold at auction for \$50 in cash, the buyer has not made a contribution. If the same book sells for \$100 in cash, the buyer has made a contribution in cash of \$50 (the difference between the sale price and the fair market value), which the committee may accept because it is not \$100 or more. If the same book sells for \$150 in cash, \$100 would be a cash contribution, and the committee may not accept it without violating section 84300.

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

Sincerely,

Luisa Menchaca
General Counsel

By: 
Hal Dasinger
Political Reform Consultant

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² This advice is not applicable to fundraiser tickets. The full purchase price of a fundraiser ticket is a contribution. (Section 82015; *Kuehl Advice Letter, No. I-96-173.*)