



Rescinded by
Weisner Ltr. I-03-279

FAIR POLITICAL PRACTICES COMMISSION

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November 25, 2002

Dominick V. Spatafora
Director of Government Affairs
California Psychological Association
1022 G Street
Sacramento, CA 95814

**Re: Your Request for Informal Assistance
Our File No. I-02-298**

Dear Mr. Spatafora:

This is in response to your letter requesting advice on behalf of the California Psychological Association's Political Action Committee (the PAC) regarding the use of funds under the Political Reform Act (the "Act").¹ Because the facts you have presented are not sufficient to render formal advice, we are treating your letter as a request for informal assistance pursuant to regulation 18329(c).²

FACTS

You recently found an envelope containing \$750 in cash and two checks that totaled \$450; you stated by phone on November 7, 2002, that one check was for \$250 and the other for \$200. After some investigation, you determined that the funds were received for a raffle the PAC held as a fundraiser in 2001. In our phone conversation, you stated that no one individual paid \$100 or more in cash. The checks represented payments received by member organizations for purchase of raffle tickets by individual members; again, you stated that no one individual bought \$100 or more of raffle tickets.

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

² The Commission does not act as a finder of fact. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regulations section 18329(c)(3), copy enclosed.)

QUESTION AND CONCLUSION

You have asked how you may use the funds and, in particular, if you may donate them to the California Psychological Association's foundation. If no one person, in fact, paid \$100 or more, the PAC may keep the cash and checks, or the PAC may donate the funds to its charitable foundation. However, if any one person did, in fact, pay \$100 or more for a raffle ticket, because you do not know the identity of the contributor, you must transfer the money to the Secretary of State for deposit into the state's General Fund. As always, the treasurer should keep a record of how the funds were obtained. In either case, you must amend your committee's campaign statement covering the period during which the funds were received to reflect receipt of the contributions.

ANALYSIS

We have defined payments received for raffle tickets as contributions. (See *DePinna* Advice Letter, No. A-87-138.) Section 84211 requires a committee to report the name, address, occupation, and employer of each individual who contributes \$100 or more in a calendar year. Regulation 18401 requires the committee's treasurer to maintain the name and address of each contributor of \$25 or more so that the treasurer is able to contact any contributor whose contributions aggregate \$100 or more in a calendar year for occupational and employer information. Nevertheless, we have advised that there are situations wherein a committee is not required to have the name and address of all contributors of less than \$100, such as the selling of raffle tickets or "passing the hat" at a fundraising event. (See *Colegrove* Advice Letter, No. A-88-364.)

Therefore, if the cash and checks do not include \$100 or more from any single contributor, the committee may keep the money. The treasurer should document how the funds were received. However, if \$100 or more was, in fact, received anonymously from a single contributor, the funds must be promptly paid to the Secretary of State for deposit into the state's General Fund. (Section 84304.)

You also ask whether the funds in question may be donated to the California Psychological Association Foundation, a charitable organization under Internal Revenue Code section 501(c)(3). Assuming that no one source contributed \$100 or more, the funds in question may be used to make charitable donations. (Section 89515.)

A campaign contribution received must be reported unless it:

"...is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported."
(Section 84211(q).)

A monetary contribution is considered:

"...'received' on the date that the candidate or committee,

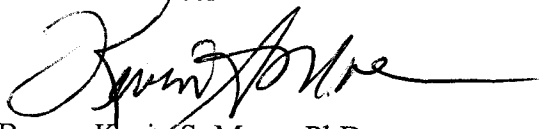
or the agent of the candidate or committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made." (Regulation 18421.1(c).)

Since the checks and cash were received and not returned by the end of the reporting period during which the funds were received, they must be reported on the committee's campaign statement. It does not appear from the facts you presented that this required reporting occurred. Therefore, you must amend that statement to reflect receipt of the contributions.

If you have additional questions, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel


By: Kevin S. Moen, PhD
Political Reform Consultant II