



FAIR POLITICAL PRACTICES COMMISSION

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June 6, 2003

James V. Lacy
Wewer & Lacy, LLP
30011 Ivy Glenn Drive, Suite 223
Laguna Niguel, CA 92677

**Re: Your Request for Informal Assistance
Our File No. I-03-076**

Dear Mr. Lacy:

This letter is in response to your request for advice on the campaign provisions of the Political Reform Act (the "Act").¹ Since you describe only in general terms your proposed activities as treasurer and counsel to the committee, we provide you with informal assistance.²

QUESTION

If you are retained as treasurer and legal counsel to another candidate's statewide committee, will you be a "candidate" who "controls" the committee, simply because you are a local officeholder?

CONCLUSION

No.

FACTS

You have been asked to submit a proposal to serve as a professional treasurer for a statewide candidate's campaign in 2006. You would have no significant influence on the actions or affairs of the campaign, other than to serve as the committee's treasurer and to provide associated legal advice on compliance with the Act. You expect to be compensated for your services, which would be similar to the services provided by other law

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

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Regulation 18329(c), copy enclosed.)

firms that offer professional treasurer services to statewide campaigns. You were elected to the Dana Point City Council last November, but your work on the city council is unrelated to the services you offer other persons as a professional treasurer and lawyer.

ANALYSIS

“Controlled committee” is defined at § 82016, as follows:

“(a) ‘Controlled committee’ means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205, is not a controlled committee.”

As an elected city official, you are a “candidate” under the Act. (§ 82007.) But to meet the definition of “controlled committee,” it is not enough that a “candidate” is somehow associated with a committee. Thus, to the extent that your question asks whether the committee becomes a “controlled committee” simply by virtue of employing you as treasurer and attorney, the answer is “no.” A candidate must also “control” the committee. As defined by § 82016, “control” includes not only complete or unilateral control over the actions or decisions of the committee, but the exercise of a “significant influence” in the committee’s actions or decisions.

We have advised in the past that a candidate is presumed to exert a significant influence on a committee whenever the candidate is a voting member of a committee’s leadership body. (*Ferguson* Advice Letter, No. A-86-044.) On the other hand, we have also noted that when a candidate is an “honorary” member of a committee’s governing body, one who may appear on the committee’s letterhead, but who does not vote, make decisions about committee funds, or otherwise influence the actions of the committee, the candidate is not considered to “control” or to exert a “significant influence” on the committee. (*Madden* Advice Letter, No. A-85-197; *Trimbur* Advice Letter, No. A-00-067; *Erenbaum* Advice Letter, No. I-01-242.) In short, practical operational realities, rather than job title, determine whether a committee is “controlled” within the meaning of § 82016.

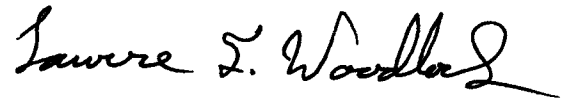
You have not described in any detail the services you expect to provide to the statewide committee, but you have stated that you would not exercise a significant influence on the committee. So long as your services are in the nature of bookkeeping, money management, recordkeeping, and advising the committee on its filing obligations,

and do not include a role in formulating campaign strategy, your services would not result in designation of the committee as "controlled." Our advice at this point is necessarily general, however. If you are retained by the statewide committee and are in doubt as to the legal significance of specific services you will perform, we suggest that you contact us with the particulars so that we can offer you more specific advice.

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

Enclosure
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