



## FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

October 30, 2003

Julie Ruiz Raber, Councilmember  
Carson City Council  
1843 E. Abbottson Street  
Carson, CA 90746

**Re: Your Request for Informal Assistance  
Our File No. I-03-222a**

Dear Ms. Raber:

This letter is in response to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> In your request, you ask that we confirm advice provided to you by Douglas Haubert of Aleshire, Wynder & Sylva. We do not confirm advice provided by private counsel. Your request also requires us to analyze conduct that has already occurred. However, since it pertains to a possible amendment to a campaign statement, we can only render informal assistance pursuant to enclosed regulation 18329(c).<sup>2</sup>

### QUESTION

Are you required to amend your campaign statement to report volunteer personal services provided by an attorney to your candidate's committee to watch the ballot counting after the election held on March 4, 2003?

### CONCLUSION

No. Volunteer personal services are not considered a contribution regardless of the occupation of the individual providing the services. Therefore, your committee is not required to report them.

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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.

<sup>2</sup> 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 Regs. Section 18329(c)(3).)

## FACTS

You are a member of the Carson City Council, elected on March 4, 2003. A volunteer was encouraged by a consultant friend to observe the ballot count on your behalf after the election. This volunteer did not receive compensation from the committee, his employer, or any other person.

We responded to your request for informal advice in a letter dated, October 16, 2003, our file number I-03-222. After receipt of this letter, Mr. Douglas Haubert called our office on your behalf to request a revision of this letter. He stated that the volunteer personal services were provided after the election, not on the day of the election as was indicated in the first letter. This factual change does not alter the conclusion.

## ANALYSIS

Section 84211 requires committees to report contributions received, expenditures made, accrued expenses, and miscellaneous increases to cash. Whether the attorney's time is reportable depends on whether his services were a contribution to the committee. Section 82015 defines a contribution, in part, as:

“...a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.”

Regulation 18215(a) defines a payment “made for political purposes,” in relevant part, if it is:

- “(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or
- (2) Received by or made at the behest of the following or any agent thereof:
  - (A) A candidate;....”

The term “made at the behest of” is defined in regulation 18225.7, in relevant part, as:

“...made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of.”

We have said that when a law firm provides pro bono **legal services** to a candidate and, in so doing, pays a salary or other compensation to employees of the law firm for working on the case, the salary or other compensation paid by the law firm are **contributions** to the candidate. (*Sellers Advice Letter*, No. I-00-138.)

Regulation 18423 provides a limited exception to this general rule, for purposes of reporting **contributions**. That regulation allows payment of salary or other compensation by an employer to an employee to go unreported as a **contribution** where the employee spends 10 percent or less of his or her compensated time in a month rendering services for political purposes.

Section 82105(g) provides an exception to the definition of contribution providing that the term "contribution" does not include:

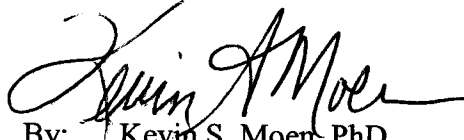
"...volunteer personal services or payments made by an individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her."

Therefore, if the individual who observed the ballot counting process did so voluntarily and did not expect any payment for his undertaking, then the exception to the definition of a contribution applies and the committee is not required amend its statement to report his time as a contribution.

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

Sincerely,

Luisa Menchaca  
General Counsel



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

Enclosure  
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