



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

February 10, 2004

Russell H. Miller
Law Office of Russell H. Miller
20 Park Road, Suite E
Burlingame, CA 94010-4443

**Re: Your Request for Advice
Our File No. A-04-018**

Dear Mr. Miller:

This letter is in response to your request on behalf of Assemblymember Joe Simitian for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

Are funds transferred from Assemblymember Simitian's campaign committee for his current Assembly term to a committee for his 2004 campaign for the Senate subject to the 24-hour reporting requirements of sections 84203 and 85309(a)?

CONCLUSION

No. It has been the Commission's longstanding advice that transfers of funds between campaign committees controlled by a single candidate are not considered contributions under the Act. Such transfers do not trigger late contribution reports under section 84203 or the 24-hour election cycle reports required under section 85309(a).

FACTS

Assemblymember Simitian has two campaign committees, a committee for his current Assembly term, "The Simitian Public Service Fund," and a committee for his 2004 campaign for the Senate, "Simitian for State Senate."

Assemblymember Simitian is considering a LIFO/FIFO transfer of funds pursuant to Government Code section 85306(a).

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

ANALYSIS

The Act requires candidates and committees to file periodic reports disclosing contributions received and expenditures made. (Section 84200, et seq.) Section 84203 requires disclosure within 24 hours of "late contributions," defined in section 82036 as a contribution totaling \$1,000 or more received or made during the 16-day period prior to the election in which a candidate is running. In addition, section 85309(a), added to the Act by the passage of Proposition 34, requires candidates for elective state office to electronically disclose within 24 hours contributions of \$1,000 or more received during an election cycle, defined in section 85204 as the 90-day period prior to an election.²

It has been the Commission's longstanding advice that funds transferred between a candidate's own election committees are not considered "contributions" and do not trigger disclosure under section 84203. (*Whitney* Advice Letter, No. A-83-212; *Reno* Advice Letter, No. A-00-038.)

Proposition 34, passed by the voters in the November 2000 general election, imposed contribution limits on candidates for elective state office. (Sections 85300-85321.) Section 85306(a) allows a candidate to transfer funds from one controlled committee to another of his or her controlled committees for elective state office. The funds must be attributed to contributors of the committee making the transfer using a "last in, first out" or "first in, first out" accounting method. During consideration of regulation 18536, which further specifies the requirements for contributor attribution as well as disclosure and recordkeeping requirements for transferred funds, the Commission decided that funds transferred under section 85306(a) will not trigger reporting under section 84203 or 85309(a). (*Minutes of the October 11, 2001, Commission meeting.*)

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

Sincerely,

Luisa Menchaca
General Counsel



By: Carla Wardlow
Division Chief
Technical Assistance Division

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² Section 85309(a) is applicable to candidates for elective state office who are required to electronically file campaign statements pursuant to section 84605.