



FAIR POLITICAL PRACTICES COMMISSION

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March 16, 2004

William Y. Sheh
Reich, Adell, Crost & Cvitan
3550 Wilshire Boulevard, Suite 2000
Los Angeles, CA 90010

**Re: Your Request for Advice
Our File No. A-04-048**

Dear Mr. Sheh:

This letter is in response to your request on behalf of Laborers Local 300 Small Contributor Committee ("Committee") for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

When the Committee's sponsoring organization pays for the costs of preparation, mailing and electronic filing of the Committee's campaign finance statement, legal expenses associated with audits of the Committee by the Franchise Tax Board, and other administrative expenses, should these payments be reported by the Committee as nonmonetary contributions received on Form 460, Schedule C, with a "memo entry" noting that these are administrative expenses paid by the sponsor?

CONCLUSION

Ongoing legal and accounting fees incurred in running a sponsored committee are considered part of the administrative overhead of the sponsored committee under regulation 18215(c)(16). Therefore, the Committee may report legal and accounting fees paid by its sponsor as a memo entry on Form 460, Schedule C (nonmonetary contributions).

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

FACTS

Your firm represents the Laborers Local 300 Small Contributor Committee, a general purpose recipient committee sponsored by Laborers International Union of North America, Local Union 300, AFL-CIO.

The union pays the costs of preparation, mailing and electronic filing of the Committee's campaign finance statements. It also pays for legal expenses when your firm assists the Committee with Franchise Tax Board audits or seeks written advice on behalf of the Committee from the Commission.

ANALYSIS

Under the Act, a "contribution" is a payment made for political purposes unless full and adequate consideration is received. (Section 82015(a).)² "Nonmonetary" contributions include goods and services provided free of charge to a candidate or committee, and goods and services provided at a discount from the fair market value to a candidate or committee (unless the same discount is given in the regular course of business to members of the public). (Section 82015(c); regulation 18215(b)(3).) Nonmonetary contributions may also include payments by a third party for goods and services provided to a candidate or committee.

In 1997, the Commission adopted a regulatory exception to the definition of "contribution" for the administrative overhead of sponsored committees. The administrative overhead exception states that the term "contribution" does not include:

"A payment by a sponsoring organization for the establishment and administration of a sponsored committee, provided such payments are reported. Any monetary payment made under this subdivision to the sponsored committee shall be made by separate instrument. A 'sponsoring organization' may be any person (see Gov't Code § 82047) except a candidate or other individual (see Gov't Code § 82048.7). 'Establishment and administration' means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee." (Regulation 18215(c)(16).)

² Section 82044 defines the term "payment" to include the rendering of "money, property, services or anything else of value, whether tangible or intangible."

Under regulation 18215(c)(16), payments by a sponsoring organization for the routine legal and accounting fees incurred in administering a sponsored committee are not considered contributions, but must still be reported. We have previously advised in *Lynch* Advice Letter, No. I-98-323, that a sponsored committee should report the payments from its sponsoring organization on its Form 460, Schedule C (nonmonetary contributions). The payment for the legal and accounting fees may be noted as a memo entry³ on Schedule C and excluded from the total.

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 *cw*
Political Reform Consultant II
Technical Assistance Division

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³ A memo entry provides supplemental or explanatory information about an itemized transaction on a reporting schedule. The dollar amount of a memo entry is not included in the total figure for the schedule.