



## FAIR POLITICAL PRACTICES COMMISSION

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March 8, 2004

Stephen J. Kaufman  
Smith Kaufman, LLP  
777 So. Figueroa Street, Suite 4050  
Los Angeles, CA 90017-5864

**Re: Your Request for Advice  
Our File No. A-04-055**

Dear Mr. Kaufman:

This letter is in response to your request on behalf of Senator Kevin Murray for advice regarding the use of campaign funds provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

Is a wedding service performed by a state legislator considered a political, legislative or governmental purpose, and if so, are expenses incurred by the state legislator in performing those duties a permissible controlled campaign committee expense? If this is a permissible expenditure, are there any limitations on the expenditure of funds for this purpose with respect to travel and lodging expenses?

### CONCLUSION

The use of campaign funds to cover a state senator and his spouse's travel to Jamaica, and food and lodging there, in order to perform a marriage ceremony for a Senate staff member does not meet the standard of being directly related to a political, legislative or governmental purpose under sections 89512 and 89513(a) of the Act, and therefore is not a permissible use of campaign funds. Some limitations on the use of campaign funds for travel are discussed below for future reference.

### FACTS

Senator Kevin Murray is a state Senator and maintains a controlled committee, the Elect Kevin Murray Committee, which has been organized for his campaign for state

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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.

Treasurer in 2006. As a current state legislator, Senator Murray is authorized to perform marriage services under state law. Senator Murray has been asked to officiate at a wedding service for a state Senate committee staff person, which is scheduled to take place in Jamaica during the month of April. In order to perform the ceremony, Senator Murray would be required to fly to Jamaica, and would need food, lodging and local transportation while he was there. Senator Murray also contemplates bringing his spouse along on the trip. Senator Murray would like to know if these travel-related expenses may be paid for using his controlled campaign committee's funds.

### ANALYSIS

The Political Reform Act's provisions concerning the permissible uses of campaign funds are found in sections 89510-89522, copies enclosed. Under these provisions, campaign funds are regarded as totally separate and distinct from a candidate or officeholder's personal funds. The Act's campaign funds provisions are designed to ensure that campaign funds are used for electioneering and officeholder purposes, and are not expended for the candidate or officeholder's personal purposes.

The Act provides that all contributions deposited into a campaign account are "held in trust for expenses associated with the election of the candidate or for expenses associated with holding office." (Section 89510.) Generally speaking, an expenditure related to seeking or holding office is permissible under the Act if it is "reasonably related" to a political, legislative or governmental purpose. (Section 89512.) Certain uses of campaign funds, including travel, that are considered to confer a "substantial personal benefit"<sup>2</sup> on the candidate must meet a higher standard and be "directly related to a political, legislative, or governmental purpose." (Section 89512.)

With respect to the use of campaign funds for travel, section 89513 states:

"(a) Campaign funds shall not be used to pay or reimburse the candidate, the elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee, or employees or staff of the committee or the elected officer's governmental agency for travel expenses and necessary accommodations except when these expenditures are *directly related* to a political, legislative, or governmental purpose.

(1) For the purposes of this section, payments or reimbursements for travel and necessary accommodations shall be considered as directly related to a political, legislative, or governmental purpose if the payments would meet standards similar to the standards of the Internal Revenue

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<sup>2</sup> "Substantial personal benefit" is defined to mean "an expenditure of campaign funds which results in a direct personal benefit with a value of more than two hundred dollars (\$200) to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of campaign funds held by a committee." (Section 89511(b)(3).)

Service pursuant to Sections 162 and 274 of the Internal Revenue Code for deductions of travel expenses under the federal income tax law.”  
(Emphasis added.)

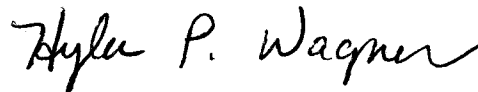
Internal Revenue Code section 162(a)(2) sets forth general rules which permit the deduction of all ordinary and necessary expenses while traveling away from home in the pursuit of a trade or business.<sup>3</sup> Under the Act, these rules have been applied to permit the use of campaign funds for only the portions of a trip when political, legislative, or governmental “business” is conducted. To the extent that any day is not a business day (such as days on which there are no meetings or formal activities), campaign funds may not be used.

Although legislators may possess the legal authority to officiate at weddings, the state Senator’s proposed travel to Jamaica to perform a wedding for a Senate staff person does not meet the standard of being “directly related” to a political, legislative or governmental purpose. Therefore, it is not a permissible use of campaign funds under sections 89512 and 89513(a) of the Act.

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

Sincerely,

Luisa Menchaca  
General Counsel



By: Hyla P. Wagner  
Senior Counsel, Legal Division

Enclosures

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<sup>3</sup> In pertinent part, Internal Revenue Code section 162(a) states that:

“(a) In general. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including--

(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;  
(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business....”