



FAIR POLITICAL PRACTICES COMMISSION

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July 7, 2004

Vickie Thornell
Mojave Water Agency
22450 Headquarters Drive
Apple Valley, CA 92307

Re: Your Request for Advice
Our File No. A-04-095

Dear Ms. Thornell:

This letter is in response to your request on behalf the Mojave Water Agency for advice regarding the provisions of the Political Reform Act (the "Act").¹

QUESTION

Would the posting of a map of the Mojave Water Agency depicting the agency's boundaries and each elected director violate the mass mailing provisions of the Act?

CONCLUSION

No. Because the map is not being mailed to anyone, the provisions of the mass mailing prohibition do not prevent creation of the map.

FACTS

The Mojave Water Agency wishes to produce a map depicting the agency's boundaries, which includes the photos of your directors and the division to which each director is elected to represent. This map would also include the square mileage for each division and the total population. The map would be posted in your board meeting room and would also be displayed when you attend community events and seminars at which you have a display booth. The map would not be included in any type of mailing.

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

ANALYSIS

Section 89001 of the Act provides that “[n]o newsletter or other mass mailing shall be sent at public expense.” Under Commission regulations 18435 and 18901, a mass mailing is defined as more than 200 substantially similar tangible items delivered in a calendar month, by any means, to recipients at their residence, place of employment, business, or post office box. Regulation 18901(a) states:

“(a) Except as provided in subdivision (b), a mailing is prohibited by section 89001 if all of the following criteria are met:

(1) Any item sent is delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box. For purposes of this subdivision (a)(1), the item delivered to the recipient must be a tangible item, such as a videotape, record, or button, or a written document.

(2) The item sent either:

(A) Features an elected officer affiliated with the agency which produces or sends the mailing, or

(B) Includes the name, office, photograph, or other reference to an elected officer affiliated with the agency which produces or sends the mailing, and is prepared or sent in cooperation, consultation, coordination, or concert with the elected officer.

(3)(A) Any of the costs of distribution is paid for with public moneys; or

(B) Costs of design, production, and printing exceeding \$50.00 are paid with public moneys, and the design, production, or printing is done with the intent of sending the item other than as permitted by this regulation.

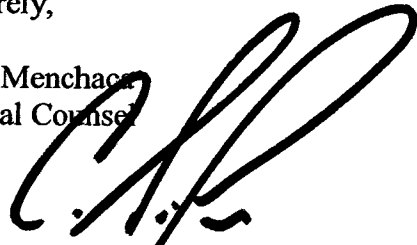
(4) More than two hundred substantially similar items are sent, in a single calendar month, excluding any item sent in response to an unsolicited request and any item described in subdivision (b).”

In order for the mass mailing provisions to apply, all four of the criteria listed above must be met. In your situation, there is not an “item sent” pursuant to regulation 18901(a)(1). Therefore, the creation of the map is not prohibited by the mass mailing regulation.

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

Sincerely,

Luisa Menchaca
General Counsel

A handwritten signature in black ink, appearing to read 'C. Scott Tocher', written over the typed name of the sender.

By: C. Scott Tocher
Counsel, Legal Division

CST:jg
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