



FAIR POLITICAL PRACTICES COMMISSION

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April 5, 2005

Jennie Unger Eddy
Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP
591 Redwood Highway, #4000
Mill Valley, CA 94941-3039

**Re: Your Request for Informal Assistance
Our File No. I-05-049**

Dear Ms. Eddy:

This letter is in response to your request on behalf of the California Chamber of Commerce Political Action Committee, for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹ Because we lack specific information identifying the particulars of factual transactions, we offer informal advice². Informal assistance does not confer the immunity provided by a Commission opinion or formal written advice. (Section 83114, regulation 18329 copy attached.)

QUESTION

If the California Chamber of Commerce Political Action Committee creates an affiliated small contributor committee, would the two organizations be considered separate entities when determining their state assembly campaign committee contribution limits?

CONCLUSION

No. If the California Chamber of Commerce Political Action Committee creates an affiliated small contributor committee, the two organizations would be treated as one entity when determining their state assembly campaign committee contribution limits.

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

² Our informal assistance is based on the facts you provide. The Fair Political Practices Commission ("Commission") does not act as a finder of fact when it provides informal assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Nothing in this letter should be construed to advise on past conduct.

FACTS

The California Chamber of Commerce Political Action Committee ("CCCPAC") wishes to contribute \$3,300 to an assembly candidate committee in a specific election. The CCCPAC is contemplating creating an affiliated small contributor committee ("SCC")³.

ANALYSIS

Section 85311 describes the aggregation of contributions to state candidates by affiliated entities:

- (a) For purposes of the contribution limits of this chapter, the following terms have the following meanings:
 - (1) "Entity" means any person, other than an individual.
 - (2) "Majority owned" means an ownership of more than 50 percent.
- (b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.
- (c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- (d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

Assuming that the CCCPAC and the SCC you are inquiring about will be controlled by a majority of the same persons, the CCCPAC and SCC will be considered affiliated entities. Therefore, the contributions made by two entities will be aggregated for purposes of contribution limits to state legislative candidates. (Regulation 18428.) The adjusted contribution limit in effect for assembly candidates for an election occurring during the period January 1, 2005, through December 31, 2006, is \$6,700 per small contributor committee. (Section, 85302(a), regulation 18545(a)(4).) Therefore, the SCC could not contribute more than \$3,400 if the CCCPAC contributes \$3,300 to the same state assembly campaign committee for a specific election.

³ We note that you indicate that on March 2, 2005, you were provided telephone advice. The Commission does not confirm telephone advice.

Because you have given us very little factual information about the formation of this SCC, our analysis here is very general and confined only to the facts provided to us by you. Be advised that there are stringent guidelines pertaining to the formation of SCCs and their contribution limits. If other issues should arise not specifically discussed in this letter please do not hesitate to contact the Commission for further assistance.

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

Sincerely,

Luisa Menchaca
General Counsel



By: Sukhdip K. Brar
Intern, Legal Division

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