



FAIR POLITICAL PRACTICES COMMISSION

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June 19, 2007

Assemblymember Todd Spitzer
State Capitol, Room 5126
Sacramento, California 95814

**Re: Your Request for Advice
Our File No. A-07-098**

Dear Assemblymember Spitzer:

This letter is in response to your request for advice regarding the “personal use of campaign funds” provisions of the Political Reform Act (the “Act”).¹

QUESTIONS

1. Section 89517.5 requires a candidate or elected officer that uses campaign funds to pay for the installation and maintenance of a security system for their personal residence to report the expenditure of campaign funds to the Commission. The report shall disclose the date that the candidate or elected officer informed the law enforcement agency of a threat resulting from his or her conduct of official business, the name and phone number of the law enforcement agency, and a brief description of the threat. You have asked if the Commission maintains the disclosure required by Section 89517.5 as a confidential document.

2. In addition, you asked how the expenditure would be disclosed on your campaign statement.

CONCLUSIONS

1. Section 89517.5 contains no express confidentiality provision. Moreover, under Section 81008, every report and statement filed under the Act, including that

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

required by Section 89517.5, is a public record open for public inspection and reproduction.

2. For each payment of \$100 or more made during the period, report the *name and street address, city, state, and zip code* of the payee or creditor, and the amount paid during the reporting period.

FACTS

Due to your receipt of increased inappropriate correspondences and personal threats related to your service as a state legislator, you have received authorization from the Chief Sergeant-at-Arms of the Assembly to expend your campaign funds for a security system. You intend to use these funds, not to exceed \$5,000, to install a security system in your personal residence in your district.

ANALYSIS

Personal Use Law

The general rule of the personal use law is that any expenditure of campaign funds must be, at a minimum, reasonably related to a political, legislative, or governmental purpose. (Section 89512.) However, the personal use law provides a specific standard applicable to security systems in Section 89517.5 as follows:

“[C]ampaign funds may be used to pay ... for the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars (\$5,000) in campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. The candidate or elected officer shall reimburse the campaign fund account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.”

Thus, campaign funds may be used for this expenditure provided:

1. You have received threats to your physical safety.
2. The threats arise from your activities, duties, or status as a candidate or elected officer.
3. The threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported.
4. You report the expenditure of campaign funds made pursuant to this section to the Commission. The report to the Commission must include the date that you informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat.
5. No more than \$5,000 in campaign funds is to be used, cumulatively.
6. And finally, you must reimburse the campaign bank account for the costs of the security system upon sale of the property where the security equipment is installed, based on the fair market value of the security equipment at the time the property is sold.

According to the materials you submitted, these requirements appear to be satisfied.

Confidentiality

Section 81008(a) provides:

“Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.”

There is no basis in the Act to maintain the disclosure required under Section 89517.5 as confidential.

Campaign Disclosure

Section 84211(k) provides:

“For each person to whom an expenditure of one hundred dollars (\$100) or more has been made during the period covered by the campaign statement, all of the following:

“(1) His or her full name.

“(2) His or her street address.

“(3) The amount of each expenditure.

“(4) A brief description of the consideration for which each expenditure was made.

“(5) In the case of an expenditure which is a contribution to a candidate, elected officer, or committee or an independent expenditure to support or oppose a candidate or measure, in addition to the information required in paragraphs (1) to (4) above, the date of the contribution or independent expenditure, the cumulative amount of contributions made to a candidate, elected officer, or committee, or the cumulative amount of independent expenditures made relative to a candidate or measure; the full name of the candidate, and the office and district for which he or she seeks nomination or election, or the number or letter of the measure; and the jurisdiction in which the measure or candidate is voted upon.

“(6) The information required in paragraphs (1) to (4), inclusive, for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500) or more during the period covered by the campaign statement.

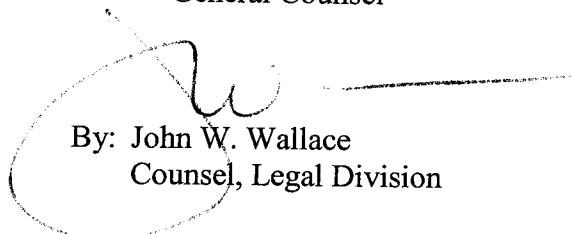
“For purposes of subdivisions (i), (j), and (k) only, the terms “expenditure” or “expenditures” mean any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.”

The Commission has no power to exempt any person, including any candidate or committee, from any of the requirements imposed by the provisions of this chapter. (Section 84400.) Accordingly, the disclosure required for an expenditure of campaign funds on a security system for your home cannot be withheld as confidential.

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

Sincerely,

Scott Hallabrin
General Counsel



By: John W. Wallace
Counsel, Legal Division

JWW:jgl