



## FAIR POLITICAL PRACTICES COMMISSION

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December 7, 2007

Nancy L. Warren  
Vice President – Legislative Affairs  
California Political Treasurers Association  
555 S. Flower Street, Suite 4210  
Los Angeles, California 90071

Re: Your Request for Informal Assistance  
**Our File No. I-07-152**

Dear Ms. Warren:

This letter is in response to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> Because you have not inquired about a specific matter related to a candidate or committee we offer you informal assistance.<sup>2</sup> (Regulation 18329(c).)

### FACTS

You are the Vice President for Legislative Affairs at the California Political Treasurer's Association. This is the organization of accountants, bookkeepers, and attorneys who serve as treasurers for state and local political committees throughout the state. You have posed a number of questions requesting clarification on recordkeeping and reporting responsibilities regarding a contributor's address, occupation and employer. We have examined your concerns and have provided general responses below.

### QUESTIONS AND ANALYSIS

1. As a general matter does a committee comply with the law if the committee relies solely on address, occupation, and employer information provided by a contributor?

Section 85700(a) requires a committee to return a contribution of \$100 or more within 60 days of receipt if the committee does not have on file in its records the name, address,

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<sup>1</sup>The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Informal assistance does not provide a requestor with immunity as formal advice does under Section 83114.

occupation, and employer of the contributor. In addition, Section 84211(f) requires the committee to report this information on its campaign statement for contributors of \$100 or more and Commission regulations require the committee to maintain specified records concerning this information. (See Regulation 18401(a)(2) and (a)(3) and Regulation 18570(d).)

Generally, for the purposes of all these requirements, a committee may rely on the address, occupation, and employer information provided by the contributor so long as it is not incomplete and the committee has no reason to believe the information is inaccurate. However, if information comes to the attention of the candidate or committee treasurer that would cause a reasonable person similarly situated to question the accuracy of the information, the candidate or committee treasurer has a duty to inquire and correct the inaccuracy in their records and on their campaign reports (for specific rules concerning the duties of candidates and treasurers to correct campaign reports see Regulation 18427(a)(5) and the Comment following the regulation). Also, depending on the situation, the committee may be required to return the contribution.

For example, if during the 60-day period following the receipt of a contribution of \$100 or more a committee receives information that leads it to believe the contributor's occupation information is not accurate and the committee cannot obtain the accurate information, Section 85700(a) requires the committee to return the contribution by the end of the 60 days. Moreover, if a committee makes the same discovery after the 60-day period has elapsed, we think it is logical that the committee be required to immediately attempt to obtain the accurate information and correct its records. If the committee is unable to do so within a reasonable time based upon the circumstances, the committee should promptly return the contribution to the contributor. In addition, the committee must follow the requirements set forth in Section 84211(f) and Regulation 18427(a)(5) in reporting the contribution.

2. May a committee accept "consultant," "retired," "student," "philanthropist," "homemaker," "community activist," "business person," "entrepreneur," "investor," "real estate investor," "volunteer," "none," and "n/a" as occupations?

Black's Law Dictionary defines "occupation" as "[a]n activity or pursuit in which a person is engaged; especially a person's usual or principal work or business." "Consultant" and "real estate investor" are acceptable responses to occupation when the information is provided by the contributor and the committee has no reason to believe the information is inaccurate. "Philanthropist," "business person," "entrepreneur," and "investor" are not acceptable responses because these terms are vague and do not effectively identify a person's occupation. "Volunteer," "homemaker," "student," "retired," "none" and "n/a" are acceptable responses if the contributor has no occupation and the committee has no reason to believe the information is inaccurate. If someone is employed as a "community activist" that is an acceptable response for an occupation.

3. If a contributor indicates that he or she is "self-employed" may a committee use this description on its report?

Section 84211 requires campaign reports to include, for reportable contributions, the name of any self-employed contributor's business. Therefore, the term "self-employed" as a description for "employer" may be used to report this information so long as the description also indicates the name of the contributor's business or, if no name, indicates that fact. For example, if a contributor named John Doe is a sole proprietor of an accounting firm, it would be described on the report as "self-employed - John Doe, C.P.A." If, on the other hand, John Doe is self-employed and has no formal name for his business, the business would properly be described as "self-employed - no business name" or "self-employed - John Doe."

4. If a contributor uses an acronym or abbreviation for his or her employer may a committee use this response on its report?

An acronym in the place of a full name of an employer may not be used by a committee on its report because Section 84211 requires that the full name be reported.

5. If a contributor does not provide his or her occupation or employer, may the committee rely on information obtained through an internet search or an on-line database maintained by a professional organization, the Secretary of State's office or a local ethics commission when the information obtained through the on-line research is basically contemporaneous with the contribution? (For example, the occupation/employer information found on the Secretary of State's on-line database relates to a contribution received by another committee during the same two-month period as the committee that received the contribution in question.)

While it would be best to contact the contributor and ask for the employer and occupation information directly, Section 85700 does not require the information to be obtained firsthand from the contributor. Section 85700, subdivision (a), requires that a candidate or committee have the required information on file at the time of receiving the contribution or within 60 days thereafter. Therefore, so long as accurate information required to be disclosed under Section 84211 is on file at the time of receiving the contribution or within 60 days thereafter, no particular method for obtaining the information is required by Section 85700. (*Fishburn Advice Letter* No. A-04-110.) Therefore, a committee may use online databases to find needed contributor information. However, if the information is found to be inaccurate, the committee is not exempted from the requirement to return contributions under Section 85700.

6. If a contributor indicates that he or she is a "commissioner" or "board member" of a state or local government commission on which being a commissioner or board member is a volunteer position, or that he or she is a member of a city council in a jurisdiction in which this is not a full time job, may the committee use this information? If a contributor lists his or her occupation as a "board member" or "volunteer" for a nonprofit organization, may the committee use this information?

The Act is concerned with accurate information on the source of campaign contributions. If the contributor has no other employer or occupation from which the contributor receives income, then an occupation as "board member" or "volunteer" for a nonprofit organization would be acceptable, as would "none." However, if the contributor has another position that serves as the contributor's primary source of income, that is the occupation and employer that should be used on the report.

7. If a contributor provides a post office box rather than a street address, may the committee use this information on its report?

The Act requires that a contributor provide a street address. Post office boxes are not permitted. (See Regulation 18421.2.)

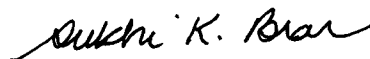
8. May a committee use a business contributor's "dba" if that is the name printed on the contribution check and the public is more likely to recognize the dba name than another name?

A committee should report the contributor's full legal name and if the contributor has a "dba" the committee should report the contributor's full name followed by the contributor's dba name.

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

Sincerely,

Scott Hallabrin  
General Counsel



By: Sukhi K. Brar  
Counsel, Legal Division

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