



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

May 4, 2009

C. April Boling
7185 Navajo Road, Suite P
San Diego, California 92119

Re: Your Request for Informal Assistance
Our File No. I-09-098

Dear Ms. Boling:

This letter responds to your request for advice regarding the major donor reporting provisions of the Political Reform Act (the "Act").¹ Because you seek general guidance and have not provided the name of the person whose duties are in question, we are providing informal assistance, rather than formal advice. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(b)(2) and (c)(3).)

QUESTION

Does a major donor who contributed \$10,000 to a committee in the City of Chula Vista (the "City") on April 1, 2009, have a filing obligation in the City if the City is holding a special election on May 5, 2009, and the major donor's contribution did not relate to the measure on the ballot in the special election?

CONCLUSION

Yes. Having contributed \$10,000 to a city committee, the donor became a major donor committee and, under Regulation 18247.5(b), a "city general purpose" committee, subject to all of the filing requirements of such committees. These include pre-election reports, whether or not the donor made contributions in connection with a particular election. .

¹ 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.

FACTS

You are a professional treasurer and are requesting advice on behalf of a client regarding the application of Regulation 18247.5 to this client as a major donor. On April 1, 2009, your client contributed \$10,000 to a committee in the City that is a primarily formed ballot measure committee. The committee is circulating petitions to place a measure on an unidentified future ballot. On May 5, 2009, the City will hold a special election on a ballot measure. None of your client's contributions have been or would be made in connection with the special election. Your client would also like to make a contribution in excess of \$10,000 in another jurisdiction.

ANALYSIS

Formation and Characterization of Committees

Section 82013 identifies three ways that a person qualifies as a committee. Section 82013(c) defines one type of committee as any person or combination of persons who makes contributions totaling \$ 10,000 or more. This type of committee is commonly referred to as a major donor committee.

Section 82027.5(a) provides that all major donor committees are "general purpose committees" and defines "general purpose committee" in terms of whether the committee is a state, county, or city general purpose committee. Under Section 82027.5(d), a committee to support or oppose candidates or measures voted on in only one city is a "city general purpose committee."

Reporting Obligations of City General Purpose Committees

Regulation 18247.5 interprets Section 82027.5 by providing that a committee files its campaign statements in a state, county, or city if more than 50 percent of the committee's activities are in that jurisdiction. In addition, Section 84200(g)(2) requires that a city general purpose committee that makes contributions or expenditures totaling \$500 or more during the period covered by the statement must file pre-election statements. Section 84215(e) requires that such statements are to be filed with the clerk of the city.²

For purposes of calculating the 50 percent, Regulation 18247.5(c) sets forth different rules for recipient committees and major donor committees. As a general rule, major donor committees count contributions or expenditures made during the current calendar year at the end of June and December, prior to their semi-annual filings. (Regulation 18247.5(c)(2).) However, in this case the City is holding a special election on May 5, 2009. Up to the closing date of the pre-election reports due for the special election, the only contribution your client has made has been in the City. Here, the characterization of a committee as a state, county, or local committee by calculating percentages of its contributions is made as of the close of a potentially relevant filing period. Accordingly, your client is required to file pre-election campaign statements with the City for the special election. Even if a second contribution has the effect of changing the

² For a major donor committee, the pre-election statements are filed on Form 461 "Independent Expenditure and Major Donor Committee Campaign Statement."

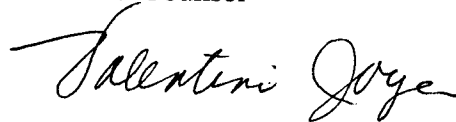
character of the committee to a county or state committee, the donor must continue to file reports in the City until the end of the calendar year

Under Section 84215(g), a committee required to file campaign statements under Section 84200.5 in places designated in subdivision (e) of Section 84215 must continue to file statements in those places until the end of the calendar year. This requirement is reinforced by Regulation 18427.5(d), which states that "if, after filing reports with a local filing officer, a city committee becomes a county or state committee, the committee must continue filing reports with the original city through the end of the calendar year." Accordingly, once your client qualified as a city general purpose committee and became subject to the filing requirements of such a committee, he or she must continue to file statements in the City until the end of the calendar year.

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

Sincerely,

Scott Hallabrin
General Counsel

A handwritten signature in cursive script that reads "Valentini Joyce". The signature is written in dark ink and is positioned below the typed name.

By: Valentina Joyce
Counsel, Legal Division