



## FAIR POLITICAL PRACTICES COMMISSION

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September 17, 2009

Daniel Miller, Filing Officer  
County of Marin  
P.O. Box E  
San Rafael, CA 94913

**Re: Your Request for Advice  
Our File No. A-09-189**

Dear Mr. Miller:

This letter is in response to your request on behalf of Marin County for advice regarding the campaign filing officer duty provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

1. Must a filing officer question a committee that reports a substantial sum in unitemized contributions during a review of campaign statements?
2. Can the filing officer, or a member of the public, have access to a committee's contribution records to ensure compliance with the Act?
3. Must a filing officer provide public access to its written communications with candidates and committees? May your office post such communiqués on your website and/or your agency's internal public access program?

### CONCLUSIONS

1. No, the Act does not require filing officers to question a committee that reports receiving a substantial sum in unitemized contributions.
2. The Act does not require a committee to provide its contribution records to a filing officer or a member of the public.

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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.

3. Written communications between a filing officer and a candidate or committee are not public records under Section 81008. However, such correspondence may be subject to the Public Records Act.

## FACTS

You are the filing officer in Marin County whose duty is to review campaign statements. You have posed questions concerning your filing officer responsibilities with respect to campaign statements filed by committees which are reporting a large amount of unitemized contributions. You provided a sample of a recent filing reporting \$20,328 in unitemized contributions by the Marin Professional Firefighters PAC.

## ANALYSIS

### *Duty to File*

Candidates and committees are required to file campaign statements disclosing contributions received and expenditures made (Section 84200 et seq.). The Act requires that campaign statements for local committees be filed with the local filing officer (Section 84215).

### *Contents of Campaign Statements*

The Act requires committees to report the total amount of contributions received. However, the law provides that sources that have given a cumulative amount of less than \$100 in a calendar year are not identified. Itemization of the name, address, and, if applicable, the occupation and employer of contributors is required when a person contributes \$100 or more in a calendar year (Section 84211). Therefore, if a committee receives contributions from a number of sources and each source contributes less than \$100 in the calendar year, the campaign report will not identify such persons. In fact, the campaign reports provide a specific line item that only requires the total of all unitemized contributions.

It may be of interest to note that it is not uncommon to see large amounts of unitemized contributions reported on campaign reports. This often occurs when organizations receive a large number contributions through membership dues or payroll deductions but the amount donated by each source does not exceed \$100 in the calendar year.

### *Duties of the Filing Officer*

As filing officer for Marin County elections, campaign statements for candidates and committees active in your jurisdiction are filed with your office. The Act requires that you review those campaign statements to determine whether they conform on their face with the requirements of the Act. The Act does not require that you verify the accuracy of the entries provided by the filers. In fact, Regulation 18110(b)(1)(A) specifically states that the filing officer is not required to "Seek or obtain information to verify entries on a campaign statement."

Therefore, as a general rule, you are not required to question a committee's disclosure of large amounts of unitemized contributions. Please note there may be extenuating circumstances in which it may be clear on its face that a candidate or committee is avoiding disclosure of contributors. If that should occur, you should call the FPPC for advice.

### *Public Records*

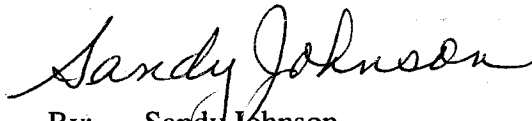
Every report and statement filed pursuant to the Act is a public record (Section 81008). While the Act requires candidates and committees to maintain detailed accounts, records, bills and receipts, nothing in the Act requires that the committee provide such records to assist a filing officer to perform reviewing duties or to a member of the public. (Section 84104.) If a committee is subject to audit or enforcement investigation, it must make these records available to auditors. Additionally, while the Act requires that the filing officer supply the necessary forms and manuals to filers as well as notify filers of their filing obligations it does not require that those correspondences be treated as public records. However, other provisions of law outside of our jurisdiction, most notably the Public Records Act, may govern these issues. (Section 6250, et seq.) Therefore, you may want to consider reviewing those provisions.

Additionally, the Act does not restrict or prohibit a filing officer from posting written communications he or she sends in the course of performing filing officer duties. However, we cannot advise whether other laws or policies outside the Act may place restrictions.

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

Sincerely,

Scott Hallabrin  
General Counsel



By: Sandy Johnson  
Political Reform Consultant  
Technical Assistance Division

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