



## FAIR POLITICAL PRACTICES COMMISSION

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February 22, 2010

David Bauer  
2150 River Plaza Drive # 150  
Sacramento, California 95833

**RE: Your Request for Informal Assistance  
Our File No. I-09-279**

Dear Mr. Bauer:

This letter responds to your request for advice of behalf of the Sue Horne for Assembly committee regarding the campaign reporting provisions of the Political Reform Act (the "Act").<sup>1</sup> This letter is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Because you seek general information, we are treating this request as one for informal assistance.<sup>2</sup>

### QUESTION

May Ms. Horne issue a personal promissory note to a vendor, secured by her personal residence, and then report the note as a contribution to her committee and a corresponding payment to the vendor in order to terminate her committee with no debt?

### CONCLUSION

No. If Ms. Horne issues a personal note to the vendor for a campaign debt, she will have made a contribution to the committee, but until the debt to the vendor is extinguished, the committee debt will remain.

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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 the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed).

**FACTS**

You are the treasurer of Sue Horne for Assembly. Sue Horne was a candidate for Assembly in 2008 and was defeated in the primary election. Her committee has net debts of several thousand dollars owned to a single vendor and has been unsuccessful in raising funds to retire them. May she issue a personal note to the vendor, secured by equity in her personal residence, then report that as a contribution from herself to the committee and also as a corresponding payment by the committee to the vendor in order to terminate the committee with no outstanding debt?

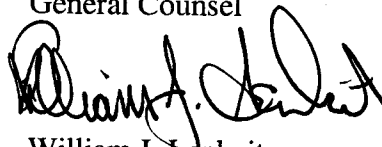
**ANALYSIS**

The Act defines "contribution" as "a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment . . ." By issuing a personal note to the vendor, Ms. Horne will be making a contribution to the campaign by assuming that debt. (See *Miller* Advice Letter, No. A-97-309.) However, this payment will not relieve the committee of its debt, since no payments are being made to the vendor. Therefore, the committee may not terminate showing no debt.

In addition, under the one bank account rule, any payments made to the vendor from the candidate to extinguish the debt must be made through the campaign bank account. (Section 85201.)<sup>3</sup>

Sincerely,

Scott Hallabrin  
General Counsel



By: William J. Lenkeit  
Senior Counsel, Legal Division

WJL:jgl

Enclosure

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<sup>3</sup> Also, please see Section 85307 and Regulation 18530.7 regarding when an extension of credit becomes a contribution to the committee in reference to the vendor debt.