



FAIR POLITICAL PRACTICES COMMISSION

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April 29, 2011

Ms. Nancy L. Warren
Warren & Associates, L.L.C.
20 Galli Drive, Suite A
Novato, CA 94949-5731

**Re: Your Request for Advice
Our File No. A-11-060**

Dear Ms. Warren:

This letter is in response to your request for advice on behalf of Nora Campos for Assembly Committees regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

On February 28, 2011, the 2010 Committee received a refund check in the amount of \$441 from State Compensation Insurance Fund. The check was for a refund of insurance premiums paid by the 2010 Committee during 2010. You have asked how the refund should be handled and reported since the 2010 Committee was terminated on December 31, 2010.

CONCLUSION

In this circumstance, where the 2010 Committee received a small refund from a governmental agency, and funds from that committee were permitted to be carried over to the subsequent committee for the same Assembly office, you may deposit the refund check directly into the bank account of the 2012 Committee without being required to reopen the 2010 Committee.

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 the treasurer and accountant for Nora Campos for Assembly 2010, FPPC # 1318601 ("2010 Committee") and Nora Campos for Assembly 2012, FPPC #1333705 ("2012 Committee"). The 2010 Committee was terminated on December 31, 2010. All funds remaining were transferred pursuant to Section 85317 to the 2012 Committee at that time. On February 28, 2011, the 2010 Committee received a refund check in the amount of \$441 from State Compensation Insurance Fund. The check was for a refund of insurance premiums paid by the 2010 Committee during 2010.

According to Regulation 18404.1(i) the 2010 Committee must request permission to reopen in order to receive the refund check. However, you request permission to deposit the refund check directly into the bank account of the 2012 Committee without being required to reopen the 2010 Committee only for the purpose of receiving this small check. If you were to deposit the check into the bank account of the 2010 Committee, you would promptly transfer the funds into the 2012 Committee bank account pursuant to Section 85317. Allowing you to deposit the refund check directly with the 2012 Committee would save a great deal of time and expense and achieve the same outcome.

ANALYSIS

Candidates terminate their campaign committee pursuant to Section 84214 which provides as follows:

"Committees and candidates shall terminate their filing obligation pursuant to regulations adopted by the Commission which insure that a committee or candidate will have no activity which must be disclosed pursuant to this chapter subsequent to the termination . . ." (Section 84214.)

Regulation 18404(b) further provides that a recipient committee may terminate only if the committee:

"(1) Has ceased to receive contributions and make expenditures and does not anticipate receiving contributions or making expenditures in the future;

"(2) Has eliminated or has declared that it has no intention or ability to discharge all of its debts, loans received and other obligations;

"(3) Has no surplus funds; and

"(4) Has filed all required campaign statements disclosing all reportable transactions."

Under Regulation 18404.1(g), a committee that has terminated may submit a request to the Executive Director of the Fair Political Practices Commission to *reopen* for any of the following reasons:

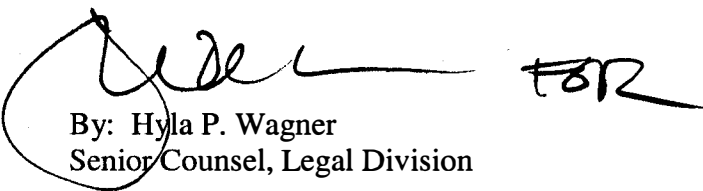
- “(1) To receive a refund or similar payment received after termination of the committee;
- “(2) To pay a fine as permitted under Section 89513(c);
- “(3) To pay expenses incurred in connection with an audit or investigation of the committee under this title;
- “(4) To pay litigation expenses as permitted under Sections 89513 and 89514, other than expenses subject to Section 85304 and Regulation 18530.4; or
- “(5) For any other good cause shown that would further the disclosure requirements or contribution limits of this title.”

The usual procedure when a state candidate's terminated committee receives a refund is to submit a request to the Executive Director pursuant to Regulation 18404.1, to reopen the committee to receive the refund. Here, however, the 2010 Committee received a small refund of \$441 from a governmental agency, the State Compensation Insurance Fund. In addition, any remaining funds in Assembly Member Campos' 2010 Committee were permitted to be transferred to her subsequent committee for the same Assembly office, the 2012 Committee, under the Act's carryover provisions in Section 85317.² In this circumstance, it is permissible to deposit the small refund from a government agency into Assembly Member Campos' 2012 Committee, rather than petitioning to reopen the 2010 Committee, reopening the committee, depositing the check there, and transferring the funds to the 2012 Committee. A copy of the refund check and any correspondence relating to the refund must be maintained with the committee's campaign records. For reporting purposes, the receipt of the refund should be reflected on the 2012 Committee's campaign reports as a miscellaneous increase to cash on Schedule I.

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

Sincerely,

John W. Wallace
Assistant General Counsel



By: Hyla P. Wagner
Senior Counsel, Legal Division

HPW:jgl

² With respect to carryover of contributions, Section 85317 provides: “Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.”