



FAIR POLITICAL PRACTICES COMMISSION

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February 25, 2015

Honorable Richard D. Roth
Senator, 31st District
State Capitol, Room 4034
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-15-019

Dear Senator Roth:

This letter responds to your request for advice regarding campaign provisions of the Political Reform Act (the "Act").¹

QUESTION

For purposes of reporting behested payments, is a public official "featured" by virtue of appearing on the letterhead of a non-profit organization?

CONCLUSION

No. The letterhead exception states in that in certain circumstances, an official is not "featured" even though his name is listed on the letterhead.

FACTS

You are a State Senator who also serves as a board member or trustee for three separate non-profit entities. Your name appears on the letterhead for the Riverside Police Foundation and the Air Force Judge Advocate General's School Foundation, Inc. (both 501(c)(3) non-profit entities). You also serve as a member of the board of directors for the Riverside Municipal Airport Airshow Committee. There are no names listed on this letterhead.

The Riverside Police Foundation lists seven names on its letterhead, of which you are the only public official. The Air Force Advocate General's School Foundation, Inc. lists 28 names

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.

on its letterhead. None of the listed names (including yours) indicate whether the person serves as a public official and only states the person's affiliation with the Air Force (rank and whether the person is retired, for example).

You do not solicit funds for any of these organizations.

ANALYSIS

Payments made principally for legislative, governmental, or charitable purposes of \$5,000 or more (in the aggregate from the same source) in the same calendar year must be reported within 30 days when made at the behest of an elected officer. (Section 82015(b)(2)(B)(iii).) Regulation 18215.3(a) states that a payment is made at the behest of an elected officer when it is "made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express, prior consent of the elected officer." If an elected official is seen as soliciting a payment through his or her affiliation with an organization (on the board of directors, for example), the payment may need to be reported as behested by the official.

Regulation 18215.3 creates a limited exception to requirements under Section 82015(b)(2)(B)(iii) for payments made in response to a nonprofit organization's fundraising letter even if the official's name is on the letter. The exception provides that the resulting payment is not made at the behest of an elected officer when the solicitation does not "feature" the elected officer. (Regulation 18215.3(b).) A solicitation "features" an elected officer when it "includes the elected officer's photograph or signature, or singles out the elected officer by the manner of display of his or her name or office in the layout of the document, such as by headlines, captions, type size, typeface, or type color," or when the "roster or letterhead listing the governing body contains a *majority* of elected officers." (Regulation 18215.3(b), emphasis added.)

The Riverside Municipal Airport Airshow Committee does not list board or committee members on its letterhead. You are therefore not "featured" on this letterhead. Far from being among a majority of public officials, you are the only public official of the seven individuals listed on the letterhead for the Riverside Police Foundation and you are therefore not "featured." The Air Force Judge Advocate General's School Foundation, Inc. lists all members and trustees in its letterhead, but does not delineate whether the members are public officials. Only if a majority of the members and trustees are state or local public officials, would you be considered to be "featured" for purposes of reporting behested payments. Otherwise, no reporting is required.

Consequently, the payments received in response to any solicitations the groups above send out on their letterheads will not qualify as payments behested by you because you are not featured on the letterheads.

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

Sincerely,

John W. Wallace
Assistant General Counsel



By: Heather M. Rowan
Senior Counsel, Legal Division

HMR:jgl