



California Fair Political Practices Commission

April 7, 1989

Peter A. Bagatelos
Bagatelos & Fadem
The International Building
601 California Street
Suite 1801
San Francisco, CA 94108

Re: Your Request for Informal Assistance
Our File No. I-88-475

Dear Mr. Bagatelos:

You have requested advice regarding the responsibilities of a candidate-controlled committee under the Political Reform Act (the "Act") as amended by Propositions 68 and 73.^{1/} Since your request is one for general information, we are treating your request as one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/} This letter confirms the tentative advice given to you by Ms. Carla Wardlow of our Technical Assistance and Analysis Division.

^{1/} Proposition 68, the Legislative Campaigns; Spending and Contribution Limits; Partial Public Funding; Initiative Statute, and Proposition 73, the Campaign Funding; Contribution Limits; Prohibition of Public Funding Initiative Statute, were statewide ballot measures adopted by the voters in the June 1988 primary election. The provisions of Proposition 68 not in conflict with Proposition 73, and the provisions of Proposition 73, amend the Political Reform Act (the "Act"), which is comprised of Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice (Section 83114; Regulation 18329(c)(3).)

QUESTION

Is a committee, which is controlled by a candidate or officeholder and which supports one or more ballot measures, subject to the restrictions imposed by Propositions 68 and 73 on committees established to support candidates for elective office?

CONCLUSION

A committee which is controlled by a candidate or officeholder and which supports one or more ballot measures, is not subject to the contribution limitations imposed by Government Code Sections 85301, 85302, 85303 and 85305. However other provisions affecting committees such as Government Code Section 84106, would apply to a candidate-controlled ballot measure committee.

ANALYSIS

Section 85301 imposes limits on contributions by a person to a candidate for elective office. Section 85302 limits contributions by a person to a political committee or political party for the purpose of making contributions to candidates for elective office. Subsections (a) and (b) of Section 85303 limit contributions from a political committee to a candidate for elective office. However, subsection (c) of Section 85303 clarifies that there are no limitations on contributions from a person to a political committee if the contributions are used for a purpose other than making contributions directly to candidates for elective office.

Thus the statutes enacted by Proposition 73 impose restrictions on direct or indirect contributions to candidates seeking elective office. Contributions for a purpose other than making contributions to candidates seeking elective office are not restricted. Contributions to ballot measure committees, even if the committee is controlled by a candidate or officeholder, are not limited. Therefore, contributions received by a ballot measure committee will not be aggregated with contributions received by the candidate's other controlled committees established for the purpose of seeking elective office.

Section 85304 prohibits the transfer of funds between a candidate's controlled committees. This ensures that contributions to a ballot measure committee will not be commingled with contributions received by a candidate for the purpose of seeking elective office.

Peter A. Bagatelos
April 7, 1989
Page 3

Section 84106, as added by Proposition 68, has been determined to be not in conflict with Proposition 73 and severable from the other provisions of Proposition 68. (In re Bell (1988) 11 FPPC Ops. 1.) It requires that the name of a committee include or be accompanied by the name of any individual, entity or other person controlling the committee. (Section 84106.) Therefore, a ballot measure committee controlled by a candidate or officeholder would be required to include the name of the candidate or officeholder in its name. Your assertion is correct that the controlled committee would not be required to meet the sponsored committee requirements of the Act.

I trust this letter provides you with the assistance you requested. If you have any questions, please call me at (916) 322-5901.

Very truly yours,

Diane M. Griffiths
General Counsel

Jeevan S. Ahuja
By: Jeevan S. Ahuja *by Ked*
Counsel, Legal Division

DMG:JA:ld

BARRY FADEM
PETER A. BAGATELOS
WES VAN WINKLE

LAW OFFICES OF
FPPC BAGATELOS & FADEM
THE INTERNATIONAL BUILDING
601 CALIFORNIA STREET
SUITE 1801
SAN FRANCISCO, CALIFORNIA 94108
Dec 22 4 09 PM '88

TELEPHONE
(415) 982-7100
FAX
(415) 982-1085

December 20, 1988

Carla Wardlow
Fair Political Practices Commission
Technical Assistance Division
428 J Street, Suite 800
Sacramento, CA 95814

Dear Carla:

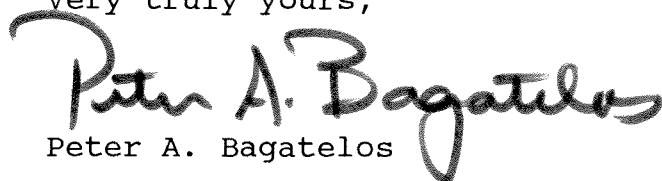
This will confirm our telephone conversation of December 19, 1988. I asked whether a committee, which is controlled by a candidate or officeholder and which supports one or more ballot measures, is subject to the various Proposition 68 and 73 restrictions affecting controlled committees established to support candidates for elective office.

You advised me that a candidate or officeholder which controls a ballot measure committee does not have to aggregate the contributions made to the ballot measure committee with contributions received by other candidate-oriented committees the candidate or officeholder controls. Under Proposition 73, all controlled committees of the candidate which support candidates for elective office are subject to various contribution limitations. You reasoned that since the purpose of the ballot measure committee is to support ballot measures, and not candidates for elective office, the limitations of Proposition 73 would not apply. This is also consistent with the Supreme Court decision in Citizens Against Rent Control vs. Berkeley, and other court cases, which have held that limitations on contributions to ballot measure committees are unconstitutional. You indicated that this interpretation applies as long as the ballot measure committee does not spend any money directly or indirectly in support of candidates for office in California.

You also indicated that since the ballot measure committee is a controlled committee, it would have to include the name of the candidate in the name of the committee under Proposition 68. As a controlled committee, then such a committee would not be subject to the sponsored committee requirements of the Political Reform Act.

Thank you very much for your assistance.

Very truly yours,


Peter A. Bagatelos

PAB:mrl



California Fair Political Practices Commission

December 23, 1988

Peter A. Bagatelos
Bagatelos & Fadem
The International Building
601 California Street, Suite 1801
San Francisco, CA 94108

Re: 88-475

Dear Mr. Bagatelos:

Your letter requesting advice under the Political Reform Act was received on December 22, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeevan Ahuja, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
Diane M. Griffiths
General Counsel

DMG:plh