



California Fair Political Practices Commission

November 20, 1991

Sarah Reynoso
FCPC Staff Counsel
Martin Luther King, Jr.
Civic Center Building
2180 Milvia Street
Berkeley, CA 94704

Re: Your Request for Informal Assistance
Our File No. I-91-401

Dear Ms. Reynoso:

This letter is in response to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹ The Commission's jurisdiction is limited to the provisions of the Act. Nothing in this letter should be construed to be an opinion concerning the City of Berkeley's campaign contribution ordinance.

You have not named a specific elected official on whose behalf you have requested this advice. Accordingly, we treat your letter as a request for informal assistance pursuant to the provisions of Regulation 18329.²

QUESTIONS

1. Do the provisions of the Act prohibit local candidates subject to valid contribution limits from transferring campaign contributions to other candidates subject to valid contribution limits?

¹ 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).)

2. Do the provisions of the Act prohibit local candidates subject to valid contribution limits from having multiple-candidate controlled committees?

CONCLUSIONS

1. The Act prohibits local candidates subject to valid contribution limits from transferring campaign contributions to other candidates subject to valid contribution limits.

2. The Act prohibits local candidates subject to valid contribution limits from having multiple-candidate controlled committees.

FACTS

The City of Berkeley's campaign ordinance limits campaign contributions to candidates for local municipal elections to \$250 per election for each contributor. As staff counsel for the City of Berkeley's Fair Campaign Practices Commission (FCPC), you seek our advice to determine whether Section 85304 of the Act prohibits local candidates subject to the city's campaign ordinance from having multiple-candidate controlled committees and from transferring campaign contributions to other candidates.

You contacted our office during the month of November, 1990, and you were provided oral advice to the effect that because the City of Berkeley had a local ordinance which limited campaign contributions to \$250 per election, Section 85304 prohibited local candidates from having multi-candidate controlled committees and from transferring campaign contributions to other candidates. You seek our advice to determine whether this advice continues to be in effect.

ANALYSIS

Prior to the enactment of Proposition 73 in 1988, joint candidate committees were permitted under the Act. However, with the adoption of Proposition 73, Section 85304 prohibited joint candidate committees. (Roberti Advice Letter, No. A-89-125.)

On September 25, 1990, a United States District Court issued an order in Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission (1990) 747 F.Supp. 580 ("SEIU") which became effective on January 18, 1991. The court's order invalidated several provisions of the Act added by Proposition 73 in June of 1988. The provisions which were invalidated by the court included the fiscal year contribution limitations of the Act and the transfer ban of Section 85304 as applied to those fiscal year limits.³ (Dorman Advice Letter, No.

³ Please be aware that the SEIU decision has been appealed. The outcome of that appeal may affect the advice provided in this letter.

I-91-253.) However, the court did not invalidate the transfer ban of the Act to the extent that it prohibits candidates from transferring campaign funds to any candidate who is subject to any valid contribution limits, including special election limits and those limits established by local jurisdictions. (Pessner Advice Letter, No. A-91-336.) Thus, where a valid local ordinance imposes limits on a candidate's receipt of contributions, the transfer ban applies and candidates may not use their funds to make contributions to other candidates who are subject to limits.

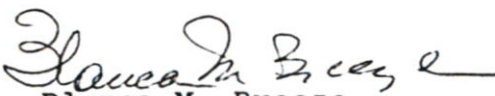
Staff is currently advising that multi-candidate controlled committees are not prohibited in jurisdictions where there are no contribution limits. (Bott Advice Letter, No. A-91-386.) However, where the transfer ban is in effect because the jurisdiction has valid contribution limits, joint accounts are not allowed. Thus, candidates subject to the limits imposed by the City of Berkeley campaign ordinance may not establish joint bank accounts, and may have only one controlled committee for that election.

Additionally, Section 85201 continues to require that all contributions or loans made to a candidate or to the candidate's controlled committee be deposited in a single campaign bank account established for each specific election for which the candidate has filed a statement of intent pursuant to Section 85200. The Commission has interpreted this to mean that a candidate for elective office may have only one campaign bank account and one controlled committee for each office he or she seeks. (Regulation 18521.) All contributions or loans made to the candidates or to their controlled committees for that election must be deposited in the campaign bank account. (Bott, supra.)

We trust this letter adequately responds to your inquiry. Should you have any further questions regarding this matter, do not hesitate to call me at (916) 322-5901.⁴

Sincerely,

Scott Hallabrin
Acting General Counsel


By: Blanca M. Breeze
Counsel, Legal Division

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⁴ Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.