

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

March 12, 1997

John A. Miller
Director of Governmental Affairs
California Union of Safety Employees
2029 H Street
Sacramento, California 95814

**Re: Your Request for Advice
Our File No. A-97-059**

Dear Mr. Miller:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹

QUESTION

- 1) May CAUSE-PAC reissue a check in the amount of \$2,500 to Senator Bill Lockyer if the original check was torn in half during delivery or processing by the U.S. postal service and was issued before January 1, 1997?
- 2) What date should CAUSE-PAC report the contribution was made?

CONCLUSION

- 1) CAUSE-PAC may reissue a check in the amount of \$2,500 to Senator Bill Lockyer to replace the torn check if the Senator, his committee, his agent or an agent of his committee obtained possession and control of the torn check before January 1, 1997.
- 2) The date the contribution was made is the date the original check was mailed, delivered, or otherwise transmitted to Senator Bill Lockyer or his committee.

¹ Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

ANALYSIS

Emergency Regulation 18530.1(a) regarding the use of funds raised prior to January 1, 1997, provides as follows:

“Contributions deposited in a controlled committee prior to January 1, 1997, are not subject to the California Political Reform Act of 1996, if those funds are held in a controlled committee that was established pursuant to Section 84101 prior to January 1, 1997. . . .”²

Such funds are not subject to Proposition 208's contribution limits and are not subject to the other provisions of Proposition 208 until transferred into a new Proposition 208 committee formed after January 1, 1997.

The Act uses the term “contribution received” by a candidate or committee in the definition of the term contribution, the definition of a committee, and the section regarding cash and in-kind contributions (Sections 82015, 82013 and 84300, respectively). Further, Regulation 18421.1(c), regarding disclosure of the making and receipt of contributions, specifically defines when a monetary contribution is received as follows:

“A monetary contribution is “received” on the date that the candidate or committee, or the agent of the candidate or committee, *obtains possession or control of the check* or other negotiable instrument by which the contribution is made. All contributions received by a person acting as an agent of a candidate or committee shall be reported to and disclosed by the candidate or committee, or by the committee’s treasurer, no later than the closing date of the next campaign statement that the committee or candidate is required to file.” (Emphasis added.)

Consistent with the Act and Regulation 18421.1(c), contributions received by a candidate on or before December 31, 1996, are not subject to the contribution limits of Proposition 208.

You indicate in your request for advice that a \$2,500 check was issued by CAUSE-PAC before January 1, 1997, and was torn during delivery to Senator Lockyer. You would like to know whether CAUSE-PAC can reissue a new check in the same amount to replace the torn check. For purposes of Regulation 18421.1, Senator Lockyer received the contribution on the date the Senator obtained possession or control of the torn check. CAUSE-PAC may reissue a

² Emergency regulation 18530.1 will expire by operation of law 120 days after adoption. Regulation 18530.1 will expire on May 7, 1997. The Commission may adopt the regulation as a permanent regulation before the expiration date.

new check in the same amount to replace the torn check if Senator Lockyer, his committee, his agent, or an agent of his committee received the torn check before January 1, 1997. The Senator should have documentation showing receipt of the contribution before January 1, 1997. Documentation can include a record of a bank deposit, a postmarked envelope in which the contribution came, or a record of receipts maintained by the committee. (Leidigh Advice Letter, No. A-97-017.)

You would like to know what date CAUSE-PAC should report the \$2,500 contribution was made. For reporting purposes, Section 18421.1(a) specifically defines when a contribution is made:

“A monetary contribution is ‘made’ on the date that the contribution is mailed, delivered, or otherwise transmitted to the candidate or committee. Alternatively, the date of the check or other negotiable instrument by which the contribution is made may be used in lieu of the date on which the contribution is mailed, delivered, or otherwise transmitted, provided it is no later than the date the contribution is mailed, delivered, or otherwise transmitted.”

Accordingly, you may report the date the contribution was made as the date the original check was mailed, delivered, or otherwise transmitted to Senator Lockyer or his committee.

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Julia Butcher
Graduate Assistant, Legal Division

SGC:JB:ak