

CITY OF OAKLAND



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January 4, 1999
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AL # 99-1

Eve Grossman
Public Policy Manager
Oakland Chamber of Commerce
475-14th Street
Oakland, CA 94612-1903

Re: Interpretation of "Primarily Formed to Support or
Oppose Oakland Candidates"

Dear Ms. Grossman:

In correspondence from our office to you dated July 28, 1998, we advised you on the applicability of the Oakland Campaign Reform Act (the "Act") to the Chamber's state PAC. We advised you of the following:

1. If the PAC were not candidate controlled and it did not make independent expenditures on Oakland candidates, the contribution limits of the Oakland Campaign Reform Act would not apply to the PAC.
2. The Oakland Campaign Reform Act provides that if a PAC makes independent expenditures on Oakland candidates, it is subject to the contribution limits of \$250 per candidate per election if it qualifies as a broad based political committee or \$100 per candidate per election if it does not qualify as a broad based political committee. These contribution limitations apply only to PACs that are formed primarily to support or oppose a candidate or candidates for City office or to PACs that in practice primarily support or oppose a candidate or candidates for City office. Also if a PAC were candidate controlled, it would be subject to the candidate's contribution limits.

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You have asked for further clarification of our advice and have advised us that the Oakland Chamber of Commerce PAC was formed to support a range of candidates for local and state offices, including but not primarily City Offices.

QUESTION

You have asked if the Oakland Chamber of Commerce PAC carries out its intent and does in fact contribute to other races so that contributions for Oakland City Offices are not prominent, does the contribution limit apply?

SHORT ANSWER

If the amount of the Oakland Chamber of Commerce PAC's independent expenditures to support or oppose candidates for Oakland Office equals 50% or more of its total expenditures for all candidates and measures, then contributions received by the Oakland Chamber of Commerce PAC would be governed by the Act.

ANALYSIS

As we advised in our July 28, 1998, letter to you, the purpose of the Oakland Campaign Reform Act is to control campaign contributions and spending in Oakland elections. Political Action Committees (PAC)s are treated as either persons or broad based political committees under the Act and their contributions per candidate per election are governed by their classification as either a broad based political committee or a person. The Act is not intended to govern campaign activities occurring outside of Oakland.

If a PAC does not make independent expenditures in Oakland elections and it is not candidate controlled, it may receive an unlimited amount of campaign contributions from donors. However, if a PAC chooses to make independent expenditures in Oakland elections, then contributions to the PAC are limited to either \$100 per person per election or \$250 per person per election depending on whether the PAC qualifies as a person or as a broad based political committee. (Oakland Municipal Code § 3.12.230.) This rule does not apply to all committees but to committees that were primarily formed to support or oppose a candidate or candidates for City office or that in practice primarily support

or oppose a candidate or candidates for City office. We understand that in California state campaign parlance, general purpose committees, not committees primarily formed to support or oppose candidates or measures are informally called PACs. However, PACs can in practice primarily support or oppose a candidate or candidates for City office through their independent expenditures.

It is our opinion that even if a committee is not formed to primarily support a candidate or candidates for Oakland office, the effect in practice can be the same. Therefore, any PAC that makes 50% or more of its independent expenditures on candidates for City office is subject to the Act's contribution limits for contributions that the PAC receives. Contribution limits are per election, so for example, in the 1998 mayoral election, the primary election contributions were calculated from 1/1/95 to 6/30/98 and the general election contributions were calculated from 7/1/98 to 12/31/98. If at any time, a PAC's independent expenditures for candidates for City office totaled 50% or more of the PAC's total independent expenditures, the PAC would be limited in its acceptance of contributions to the Act's contribution limits. The contribution limits of the Act will not be applicable to the Oakland Chamber of Commerce PAC if the Oakland Chamber of Commerce PAC limits its expenditures on candidates for City office to less than 50%.

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SUMMARY

If I can be of further assistance to you, please do not hesitate to contact me at (510) 238-3702.

Very truly yours,

JAYNE W. WILLIAMS
City Attorney

By:
Joyce M. Hicks
Assistant City Attorney

cc: Mayor Jerry Brown
Oakland City Councilmembers
Oakland City Clerk
Public Ethics Commission

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bcc: Jayne Williams
Patrick Tang