

Robert M. Stern  
Attorney at Law  
18057 Coastline Dr., #6  
Malibu, CA 90265  
(310) 573-1889  
[rstern2009@gmail.com](mailto:rstern2009@gmail.com)

November 8, 2011

Re: Item No. 26

Dear Fair Political Practice Commission Members:

I am very sympathetic over the loss of funds by numerous campaign committees in California. These funds range from an estimated \$5 million for funds held by Senator Diane Feinstein's committee to a few thousand dollars by some party committees. It is alleged, not yet proven, that campaign treasurer Kinde Durkee took these funds and used them for other purposes, perhaps personal. Kudos to the FPPC enforcement staff for uncovering these misappropriations.

However, some people have indicated that they believe that the campaign committees should be permitted to raise funds from contributors who have already given the maximum contributions allowed under the Political Reform Act.

And it appears that the FPPC staff may be recommending that if the money was not deposited into the campaign account that the candidate may raise additional funds from maxed out contributors.

Consider this hypo. A candidate holds a fundraiser and personally invites people to attend. She collects the money from the contributors and turns the money over to Durkee, who doesn't deposit the money in the campaign's account. The candidate phones the contributor the next day and thanks him for his maximum contribution. In such a case (or in any instance where the candidate knows that the contributor made a contribution), the limits should not be waived.

Contrast that scenario to a situation where the treasurer solicits the contribution, never tells the candidate, never reports it on the campaign statement and uses the money personally. In that circumstance, the candidate should be allowed to raise additional funds from a contributor who has maxed out her contribution.

Contributions limits to legislative candidates are \$3,900 an election. This is already substantially higher than the federal contribution limits of \$2,500 per election. The federal limits apply to candidates for President, U.S. Senate and House of Representatives.

The major purpose of limits on contribution is to reduce the appearance of corruption. Someone who gives a large contribution is trying to get access to the public official; an hour with a public official who has control over decisions that may result in millions of dollars of benefits is worth a lot of money.

From past studies, about 90% of money raised by candidates (and particularly by incumbents) comes from special interests or persons who want something from government. The mom and pop contributor is not giving large contributions, but labor unions, corporations, PACS and other interest groups regard a \$3,900 contribution as a good investment.

When the original contribution was given to the public officials who have lost their money, the contributors got exactly what they wanted: gratitude and access to the official. The appearance of corruption was then and there. To permit that same contributor to give its money again allows the special interest to double its contribution and double its access

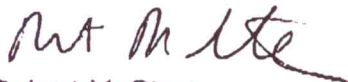
In addition, the main persons who are going to benefit from waiving the contribution limits are incumbents, the last people who need help in raising campaign funds. Challengers are just starting to collect funds for their June races next year while incumbents have been hoarding their funds as a way to discourage people from running against them.

Incumbents also raise campaign money in non-election years. (Over 90% of funds collected in non-election years goes to incumbents.) Money given in non-election years is given for only one purpose: government access. In many instances, contributors don't know whether the recipient is running for re-election or is facing a tough re-election fight. But the contributor really doesn't care because the incumbent is grateful for the money.

Many legislative incumbents don't even spend their funds on traditional campaign expenses since most legislative officeholders don't face meaningful opposition. Instead they spend money on trips, office holder expenses and other legal but not campaign related expenses.

For all these reasons, the Commission should only consider a very narrow exception to the contribution limits: where the candidate never knew the money was contributed and where the money never ended up in the candidate's account.

Best wishes,



Robert M. Stern