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December 20, 2017

**VIA ELECTRONIC MAIL**

Chair Jodi Remke and Commissioners  
Audero, Hayward, and Hatch  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

**RE: Comment Letter in Support of Item 37 – Amendment to 2 CCR §18535**

Dear Chair Remke and Commissioners:

I write in support of the Commission's proposed amendment to FPPC Regulation 18535 which will clarify that the state candidate contribution limit imposed by Gov. Code section 85305 does not apply to contributions from a state candidate to another state candidate's legal defense fund or controlled ballot measure committee.

Gov. Code section 85304 allows a candidate for state office or state elected official to establish a legal defense fund for purposes of defraying attorney's fees and other related legal costs incurred for the candidate's or official's legal defense if the candidate or official is subject to a civil, criminal or administrative proceeding arising out of an election campaign or the performance of official duties. Legal defense funds may only be used to defray attorney fees and other related legal costs. Section 85304(b) provides an exemption to the contribution limits to state candidate controlled legal defense funds:

A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

Although Section 85304(b) provides a clear exception to the contribution limits contained in Article 3 of Chapter 5 – including the limit on contributions between state candidates provided by Section 85305 – the Commission has historically advised that the Section 85305 limit applies to contributions made from one state candidate to another state candidate's legal defense fund. However, the Commission's interpretation is based on its view that Section 85305 is an expenditure restriction and not a contribution limit, an approach that was rejected by the Commission in In re Rios, O-17-001.

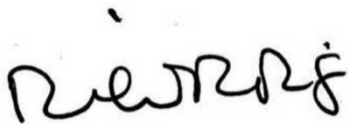
Regarding the application of Section 85305 to contributions from a state candidate to another state candidate's controlled ballot measure committee, the

Court's decision in Citizens to Save California v. Fair Political Practices Commission (2006) 145 Cal.App.4th 736 makes it clear that the contribution limit provided in Section 85305 cannot be imposed. The Citizens court expressly rejected a similar attempt by the Commission to impose contribution limits on candidate controlled ballot measure committees because "Proposition 34 was designed to limit contributions to a candidate's election or reelection campaign committee, not other committees." (Citizens, supra, at 752.)

For these reasons, we support the Commission's proposed amendments to Regulation 18535 to clarify that Gov. Code section 85305 does not impose a limit on contributions from one state candidate to another state candidate's legal defense fund or controlled ballot measure committee.

Very truly yours,

**OLSON HAGEL & FISHBURN LLP**

A handwritten signature in black ink, appearing to read "R. Rios", written in a cursive style.

RICHARD R. RIOS