



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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August 10, 2022

Peter Bagatelos
Bagatelos Law Firm
St. Francis Circle Professional Center
380 West Portal Avenue, Suite F
San Francisco, CA 94127

Re: Your Request for Advice
Our File No. A-22-081

Dear Mr. Bagatelos:

This letter responds to your request for advice on behalf of Joe Alioto Veronese, candidate for District Attorney in the City and County of San Francisco, regarding the campaign provisions of the Political Reform Act (the “Act”).¹

Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTIONS

1. As there are two separate elections currently scheduled for the office of San Francisco District Attorney (DA) – a special election to be held in November 2022 finishing out the current DA term, and the regular general election to be held in November 2023² for the next DA term – may Mr. Veronese use two separate campaign committees simultaneously to promote his candidacy for both elections?
2. If yes, may Mr. Veronese solicit contributions subject to the applicable contribution limits, such that each contributor may make the maximum contribution to both committees?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² The City and County of San Francisco uses ranked-choice, or “instant runoff,” voting for specified local offices, including the office of District Attorney. (SF Charter, Sec. 13.102.) This eliminates the need for separate runoff elections, and results in a single general election held for these offices, as opposed to separate primary and general elections.

CONCLUSIONS

1. As Mr. Veronese must establish two separate campaign committees for each term of office that he is seeking, he is permitted to use both committees simultaneously to promote his candidacy for both elections. Pursuant to the Act, expenditures must be made from the account set up for a specific term of office. To the extent there are expenditures made which benefit both campaigns, these costs must be allocated between the committees using any reasonable method and documented in the committees' files.
2. San Francisco has its own local contribution limits. Accordingly, the limits specified under the Act are inapplicable and we are unable to provide assistance regarding the San Francisco's limits as they are outside of the Act.

FACTS AS PRESENTED BY REQUESTER

On January 11, 2022, Mr. Veronese opened a committee to run for San Francisco District Attorney at the regularly scheduled November 7, 2023 election. This is for the term of office running four years, beginning in January 2024.

Recently, on June 7, 2022, the voters of San Francisco voted to recall the then-DA, Chesa Boudin. The DA term which Mr. Boudin had been elected for ran from January 2020 to January 2024. Following the recall, the Mayor appointed an interim DA. At a special election to be held on November 8, 2022, voters will elect a candidate to finish out the remainder of the current term.

In addition to running in the regular DA election in 2023, Mr. Veronese would also like to run in the special election to be held this November. These elections pertain to two separate terms of office: the special election to be held November 8, 2022 covering through the term ending January 2024; and the regular election to be held November 7, 2023, for the January 2024 – January 2028 term of office.

Mr. Veronese would like to have the ability to craft different messages for his “Joe For DA 2022” and his “Joe For DA 2023” election campaigns. He plans on reaching out to voters on different media, including, but not limited to television and radio, social media, mail, internet, signs, and other available means. He intends that his messaging for each separate election will be fashioned for each election so that voters will understand their choices for each different election. Mr. Veronese's messaging by his two committees would be different and focused on the respective elections for which each committee has been formed.

ANALYSIS

Under the Act, a candidate or officeholder must establish one controlled committee with one bank account for each election. (Section 85201; Regulation 18521.) All contributions must be deposited into, and all expenditures must be made from, the appropriate campaign bank account. This is often referred to as the “one bank account” rule. Thus, a candidate may have multiple campaign committees open at the same time, each designated for a different term of office. Accordingly, there is nothing in the Act which would prohibit Mr. Veronese from using a special election committee and regular general election committee simultaneously as he seeks the office of San Francisco DA.

Next we address how expenditures must be apportioned between these committees. In the *Blanning* Advice Letter (A-94-113), we addressed an instance where a candidate was running in a special election in May and a subsequent primary election in June, concluding:

Campaign expenditures made by a candidate running in both a special election and a regular election for the same office are generally presumed to be in connection with the special election and must be paid from the special election account. However, where expenditures are clearly being made for both campaigns, the candidate may use any reasonable method to allocate expenditures between the two accounts. Records should be maintained which support the method of allocation.

Costs pertaining to rent, staff salaries, and consultant fees were listed as examples of costs which could be reasonably apportioned between both committees.

Mr. Veronese must determine, then, which committee is most appropriate to pay each cost associated with his campaigns for the various terms. The facts provided indicate that he wishes to pursue different messaging for each campaign, such that it should be readily identifiable which communications should be paid for from which committee. A mailer referencing the special election in November 2022 would necessarily be paid for from the special election committee,³ while fees for a political consultant advising on both the special election and regular election may be apportioned 50/50 if the consultant is splitting time evenly between the campaigns, or 75/25 perhaps, if focused primarily on the upcoming special election. Whatever apportionment is determined, each committee must maintain detailed records supporting the allocation of expenses.

Regarding the second question posed, San Francisco has its own local contribution limits. Accordingly, the limits specified under the Act are inapplicable (Section 85301(d)(1)) and we are unable to provide assistance regarding San Francisco’s limits as they are outside of the Act. We recommend you contact the San Francisco Ethics Commission for further guidance on this point.

³ Any applicable disclosures on communications must correctly identify the committee paying for the communication.

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

Sincerely,

Dave Bainbridge
General Counsel

A handwritten signature in blue ink, appearing to read "EM Boyd".

By: Erika M. Boyd
Senior Counsel, Legal Division

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