

July 26, 2010

Oliver Luby  
338.5 Highland Ave.  
San Francisco, CA 94110

Re: Your Request for Informal Assistance  
**Our File No. I-10-105**

Dear Mr. Luby:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> Because your question is general in nature, we are treating your request as one for informal assistance.<sup>2</sup>

### **QUESTION**

In light of Section C3.699-11, part 3, of the San Francisco Charter, where must City and County of San Francisco Slate Mailer Organizations file campaign reports?

### **CONCLUSION**

Under the Act, City and County of San Francisco Slate Mail Organizations must file with the county clerk, which for the City and County of San Francisco is the Registrar of Voters of the City and County of San Francisco and the San Francisco Department of Elections. While the Act permits a local jurisdiction to designate a different filing location or filing clerk for persons within the jurisdiction, you have indicated that despite its Charter the City and County of San Francisco instructs City and County of San Francisco Slate Mailer Organizations to file with Registrar of Voters of the City and County of San Francisco and the San Francisco Department of Elections pursuant to the Act. Because the authority to designate a filing location or filing clerk for persons solely within a local jurisdiction rests entirely in the local jurisdiction, the Commission must defer to the City and County of San Francisco in interpreting its Charter.

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<sup>1</sup> 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 18110 through 18997 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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114, Regulation 18329(c)(3).)

## FACTS

You are currently an employee of the San Francisco Ethics Commission. However, you are submitting your request for informal assistance in your private capacity as a professional looking to expand your expertise. In your position with the San Francisco Ethics Commission you are required to regularly advise individuals regarding the proper location for file campaign reports. In addition, you intend to continue to work in the field of campaign reporting upon leaving the San Francisco Ethics Commission. In the near future, you expect that you will be providing advice regarding campaign reporting in your private capacity.

Of particular concern, you seek advice regarding the proper filing location for San Francisco City/County Slate Mailer Organizations. You state that the San Francisco Ethics Commission and the San Francisco Department of Elections advise San Francisco City/County Slate Mailer Organizations to file slate mailer reports with the San Francisco Department of Elections. However, you also state that Section C3.699-11, part 3, of the San Francisco Charter states that the San Francisco Ethics Commission has the following duty:

“To act as the filing officer and to otherwise receive documents in any instance where the clerk of the board of supervisors, the registrar of voters and, with respect to members of the boards and commissions, department heads would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the [Act], as amended.”

## ANALYSIS

Addressing the filing locations for slate mailer organizations with activity limited to the City and County of San Francisco, Section 84218(c) requires the organization to file two copies of its campaign reports with the clerk of the county in which it is domiciled and, unless filed with the same clerk, another report “in the same manner as county general purpose committees pursuant to subdivision (d) of Section 84215.”<sup>3</sup>

Section 84215 provides, in pertinent part:

“(d) County elected officers, candidates for these offices, their controlled committees, committees formed or existing primarily to support or oppose candidates or local measures to be voted upon in any number of jurisdictions within one county, other than those specified in subdivision (e), and county general purpose committees shall file the original and one copy with the elections official of the county.

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<sup>3</sup> Slate mailer organizations with activities limited to the City and County of San Francisco must file campaign reports as a *county* slate mailer organization pursuant to Section 84218(c). (See *Ramirez* Advice Letter, No. I-97-146, which finds that the City and County of San Francisco must be considered a county for purposes of the Act’s filing requirements.)

Notably, Sections 84218(c) and 84215(d) require county slate mailer organizations to file reports with the “clerk of the county” in which the organization is domiciled as well as the “elections official of the county.” While the plain language of these sections appears to differentiate county clerks and county elections officials, for purposes of the City and County of San Francisco, the statutory terms “clerk of the county” and the “elections official of the county” have been used interchangeably, and both have been interpreted as references to the Registrar of Voters of the City and County of San Francisco and the San Francisco Department of Elections. (See *Moll* Advice Letter, No. A-96-315; *Sutton* Advice Letter, No. A-01-184; and Section 84215(a)(3).)

Notwithstanding Section 84218(c) and 84215(d), you assert that the City and County of San Francisco has selected a county clerk other than the Registrar of Voters and the Department of Elections by adopting Section C3.699-11, part 3, of the San Francisco Charter. Thus, you have asked us to determine whether the City and County of San Francisco has effectively transferred the filing location for county slate mail organizations pursuant to Section 84218(c) from the Registrar of Voters of the City and County of San Francisco and the San Francisco Department of Elections to the San Francisco Ethics Commission by adopting Section C3.699-11, part 3, of the San Francisco Charter.

Addressing a local jurisdiction’s ability to designate a filing location other than the location specified in Section 84215, Section 82009.5 defines the term “clerk” as a city or county clerk “unless the city council or board of supervisors has designated any other agency to perform the specified function.” However, Section 81009.5(b) prohibits local jurisdictions from enacting filing requirements other than those imposed by the Act unless the requirements apply only to:

“[T]he candidates seeking election in that jurisdiction, their controlled committees or committees formed or existing primarily to support or oppose their candidacies, and to committees formed or existing primarily to support or oppose a candidate or to support or oppose the qualification of, or passage of, a local ballot measure which is being voted on only in that jurisdiction, and to city or county general purpose committees active only in that city or county, respectively.”

In interpreting Sections 82009.5 and 81009.5, we have previously determined that the “redesignation” of a filing officer for purposes of a person solely within the jurisdiction is “a valid exercise of a local jurisdiction’s authority under Section 81009.5.” (*Sutton* Advice Letter, *supra*.) In other words, a local jurisdiction is permitted to designate a filing location other than the location specified in Section 84215 so long as the designation applies only to persons within the jurisdiction. (See *Miller* Advice Letter, No. I-09-253.)<sup>4</sup>

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<sup>4</sup> We note that Section 84215 provides the applicable filing locations for candidates and committees, and Section 81009.5 only specifically permits a local jurisdiction to designate a filing location, other than the location required in Section 84215, for candidates and committees within the jurisdiction. However, we find no reason to prohibit a local jurisdiction from designating a filing location, other than a location required in 84215, for slate mailer organizations within the jurisdiction. The plain language of Section 84218 requires slate mailer organizations

Notwithstanding a local jurisdiction's discretion to designate a filing location, other than the location required in Section 84215, for a person within the jurisdiction, you have provided the fact that the City and County of San Francisco does not interpret Section C3.699-11, Part 3, of the San Francisco Charter as applying to county slate mailer organizations and advises county slate mailer organization to file campaign reports with the Registrar of Voters of the City and County of San Francisco and the San Francisco Department of Elections. As the authority to designate a filing location, other than the location required in Section 84215, for persons solely within a local jurisdiction rests entirely in the local jurisdiction pursuant to Sections 82009.5 and 81009.5, the Commission must defer to the City and County of San Francisco in interpreting its Charter.

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

Sincerely,

Scott Hallabrin  
General Counsel

By: Brian G. Lau  
Counsel, Legal Division

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to file in the same location as candidates and committees under Section 84215. Thus, we conclude that Sections 82009.5 and 81009.5 are equally applicable to filing locations for slate mailer organizations and permits a local jurisdiction to designate a filing location, other than the location required in Section 84215, for both (1) candidates and committees within the jurisdiction, whom file directly under Section 84215, and (2) slate mailer organizations within the jurisdiction, whom file indirectly under Section 84215 pursuant to Section 84218.