



California Fair Political Practices Commission

June 18, 1990

Darryl R. Wold
Attorney at Law
3151 Airway Avenue, Suite M-1
Costa Mesa, CA 92626

Re: Your Request for Advice
Our File No. A-90-309

Dear Mr. Wold:

I am writing in response to your letter of May 17, 1990, which requested confirmation of telephone advice which I provided you on May 16, 1990. You requested advice on behalf of your client, Brad Gates, the incumbent Sheriff of Orange County and a candidate for re-election to that office; Friends of Brad Gates, his controlled campaign committee (the "Committee"); and David R. White II, CPA, the Committee's treasurer.

On both April 20 and May 16, we discussed the application of Government Code Section 85805(a) to the Committee's lease of its campaign office. Section 85805(a) expressly prohibits the payment or reimbursement for the lease of real property "where the lessee is, or the legal title resides, in whole or in part, in a candidate, elected officer, member of his or her immediate family, or the treasurer of the committee."

You have provided us with the following facts: the Committee leases office space from OTRA, INC., a California corporation wholly owned by Diana L. Gates, the wife of the candidate. OTRA, INC., is the master lessee of the building in which the Committee's office is located. Title to the property is in the name of the lessor to OTRA, INC.

Your letter accurately reflects that I advised you of our position that a corporation is considered a legal entity separate and distinct from its shareholders. Therefore, OTRA, INC., is a separate legal entity, distinct from its sole shareholder Diana L. Gates. Since OTRA, INC., is the lessee, Section 85805(a) does not prohibit the Committee from leasing office space from this corporation.

Please note, however, that the Commission may be considering regulations in the future on the question of whether, for purposes of the personal use law, a corporation of this type should be


considered distinct from the candidate or family member. Therefore, our advice may be revised at that time.

I also advised you that the office space should be rented at fair market value. If the office space is rented for less than fair market value, the difference between the fair market value and the actual rent is considered a contribution. Your letter of May 17, 1990 states that the fair market value was computed based on comparable rental rates for office space in the area. OTRA, INC., forgives \$1,000 of the annual rent as a non-monetary contribution to the Committee, which reports it as such.

I trust this answers your questions. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel

By:  Jill R. Stecher
Counsel, Legal Division

SH:JRS:plh