



CALIFORNIA DEMOCRATIC PARTY

SENATOR ART TORRES (RET.), CHAIRMAN

September 25, 2006

Via Facsimile

Duf. Sundheim, Chairman
California Republican Party
1201 K Street, Suite 740
Sacramento, CA 95814

Dear Chairman Sundheim:

I have read your letter of September 24, 2006, in which you allege a violation of Proposition 34. Let me assure you we are well aware of the requirements of the Political Reform Act and the California Democratic Party is in full compliance with those rules.

Your letter suggests that political party committees are prohibited by law from airing issue ads within 45 days of the November election if those ads are paid with funds accepted outside the contribution limits that apply to political parties for the purpose of making contributions to state candidates. You then incorrectly paraphrase Government Code section 85310 to support your unfounded allegations.

First, as your letter implicitly acknowledges, issue ads broadcast by political parties at any time are not "contributions" to candidates under Proposition 34 that must be paid with limited funds. If they were, your party would not have been able to run millions of dollars in "soft" money ads praising the Governor's policies and attacking the State Treasurer.

Second, you incorrectly assume section 85310 imposes a separate limitation upon political parties who broadcast issue ads within 45 days of an election. However, section 85310 is clear on its face. The limits apply only "if the communication is made at the behest of the clearly identified candidate." (Government Code section 85310(c))

The issue ads by the California Democratic Party that you reference clearly identify Arnold Schwarzenegger, not State Treasurer Angelides. Because the ads are obviously not made at the behest of Governor Schwarzenegger, section 85310 does not apply.



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This interpretation of the law is consistent with that of the Fair Political Practices Commission. In a memo which accompanied regulations implementing section 85310, the Commission noted:

"Subdivision (c) of section 85310 imposes a contribution limit to persons who pay for communications that feature a clearly identified candidate where that communication is made at the behest of that candidate. **Logically, then, if the candidate that is clearly identified in the communication does not behest the communication, then no such contribution limitation would apply.**" (Emphasis added)

Finally, I found your letter curious for several reasons.

First, I have been informed that your party's issue ad, "Jessica's Law," aired on the Discovery Channel as recently as this morning, well into the 45 day window.

Second, I'm sure you don't need to be reminded that it was the head of your party, Gov. Schwarzenegger, who was fined \$200,200 by the FPPC this year for intentionally failing to file proper campaign disclosure reports in connection with the special election; illegally loaned his campaign \$4 million dollars during the Recall election; and sued the FPPC to strike down the Commission's regulation imposing contribution limits on candidate controlled ballot measure committees.

Sincerely,

Senator Art Torres (Ret.)
Chairman of the California Democratic Party

cc: Steve Schmidt, Campaign Manager, Schwarzenegger for Governor