

**SOME OF THE SAN DIEGO MUNICIPAL CODE SECTIONS
REFERENCED IN THIS LETTER WERE RE-NUMBERED AS OF
JANUARY 5, 2005 (SEE COMPARISON CHART WITH “OLD” AND “NEW”
SECTION NUMBERS ON THE ETHICS COMMISSION WEBSITE)**

August 1, 2003

SDEC Formal Advice Letter No. FA03-09

Advice Provided to:

Councilmember Jim Madaffer
City Council, District 7
202 C Street, 10th Floor
San Diego, CA 92101

Re: Request for Advice Regarding Contributions from Controlled Committee to Ballot Measure Committee

Dear Councilmember Madaffer:

This advisory opinion is in response to your memo to the City of San Diego Ethics Commission dated July 21, 2003. You have requested an advisory opinion from the Ethics Commission concerning whether or not your controlled committee (Friends of Jim Madaffer 2004) may contribute funds to a ballot measure committee (CITIPAC). Your question and the Commission's response are detailed below.

QUESTION

Is it permissible for your controlled committee (Friends of Jim Madaffer 2004) to make a contribution to a ballot measure committee (CITIPAC)?

SHORT ANSWER

Yes, it is permissible for your controlled committee to make a contribution to a ballot measure committee. Moreover, because contribution limits set forth in the Election Campaign Control Ordinance [ECCO] do not pertain to ballot measures, and more particularly do not pertain to statewide ballot measures, there are no limitations on the amount of such a contribution.

BACKGROUND AND ANALYSIS

You provided documentation showing that the League of California Cities has formed a ballot measure political action committee known as CITIPAC to advocate on behalf of California cities when ballot measures are being considered throughout the state. This documentation indicates

Page 2
Councilmember Jim Madaffer
August 1, 2003

that CITIPAC is not involved in local ballot measure elections, but will participate only in statewide measures.

ECCO provides that the use of your campaign funds is subject to regulation by state law. San Diego Municipal Code [SDMC] § 27.2940. According to state law, expenditures of campaign funds must be reasonably related to a political, legislative, or governmental purpose. Cal. Gov't Code §§ 89512, 89513. A contribution to CITIPAC is clearly related to a political, legislative, or governmental purpose. In addressing this specific issue, the Fair Political Practices Commission [FPPC] has interpreted state law to hold that funds raised for a candidate's controlled committee may generally be used to support ballot measures. The FPPC has clarified, however, that funds from a candidate controlled committee may not be used to support another candidate in a jurisdiction that imposes contribution limitations. *In re Weems*, FPPC Adv. Ltr. A-91-448. The literature you provided from the League of California Cities confirms that CITIPAC was formed solely to support ballot measures, and not candidates. Accordingly, your controlled committee's funds may be used to support CITIPAC.

Moreover, it appears that CITIPAC will participate solely in statewide ballot measure activity and will not be involved in City of San Diego ballot measures. As such, contributions to CITIPAC would not be subject to additional restrictions by ECCO. Even if CITIPAC were to become involved in a City ballot measure election, the provisions in ECCO that restrict contributions to \$250 (SDMC § 27.2941) and prohibit organizational contributions (SDMC § 27.2947) do not apply to ballot measure committees. Therefore, such restrictions would not apply to any contributions made by Friends of Jim Madaffer 2004 to a committee supporting or opposing a City ballot measure.

In conclusion, both state and local law allow you to make unlimited contributions from your controlled committee (Friends of Jim Madaffer 2004) to a ballot measure committee (CITIPAC).

Sincerely,

Charles B. Walker
Executive Director

CBW:jm