

MEMORANDUM OF LAW

DATE: January 9, 1991

TO: Councilmember Linda Bernhardt
FROM: City Attorney
SUBJECT: Advertisement in Mira Mesa Sentinel

By letter of October 5, 1990, you asked for our review of a 3-1/2" x 2-1/2" advertisement (see attached) listing two (2) locations and dates where people could sign a proposed recall petition. Since that advertisement did not identify who placed it, you asked for our review of whether any campaign disclosure laws were violated.

There are three (3) separate potential disclosure requirements, two (2) state requirements and one (1) municipal. Sections 84305 and 84507 of the California Government Code require printed disclaimers on mass mailings and initiative advertisements. Since the Sentinel advertisement is neither a mass mailing nor deals with an initiative as defined in both California Government Code sections 82041.5 and 84501, those disclaimers are inapplicable.

The municipal requirement is found in the San Diego Campaign Control Ordinance. San Diego Municipal Code section 27.2951 et seq. A committee that receives and expends five hundred dollars (\$500.00) or more for a political purpose must file campaign statements in the time and manner required by the Political Reform Act. Sections 27.2901(d); 27.2931. Such statements cover both contributions and expenditures.

The advertisement under review was placed by the Recall Bernhardt Committee on September 28, 1990 at an expense of \$55.50 (see attached invoice) and paid for by the Recall Bernhardt Committee (see copy of attached check).

Since the expenditure was under \$100.00, the payee and purpose of the expenditure did not have to be detailed. California Government Code section 84211(j). Rather a nonitemized total is listed on the campaign statement. This was

properly done. See attached page 11 of Recall Bernhardt Committee, Statement of 7/1/90 to 10/23/90 showing nonitemized expenditure of \$134.30 which per Treasurer Chris Miller included the \$55.50 payment.

San Diego Municipal Code section 27.2951 does require a disclaimer to appear on all independent expenditures ". . . not subject to the control of . . . a committee . . ." However, this ad was directly placed by the committee hence its reporting

requirement was through the campaign statement and not a disclaimer.

In short, we find the ad was properly placed and reported as a nonitemized expenditure on the committee's campaign statement. I trust this answers your inquiry and, of course, we are available to discuss any further information you have.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

TB:mrh:062(x043.2)

Attachments

cc Chris Miller

ML-91-3