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VIA EMAIL CommAsst@fppc.ca.gov

Jodi Remke, Esq., Chair
FPPC Commissioners
Fair Political Practices Commission
1102 Q St.
Suite 3000
Sacramento, CA 95811

Re: **Rios Opinion Request.**

Dear Honorable Chair Remke and Commissioners Audero, Hatch and Hayward:

The Rios Opinion request and the draft Opinion must be rejected. Commission approval of the draft Opinion would create a direct internal legal conflict between the Opinion itself and Commission Regulation 18535 (2 Cal. Code Regs., § 18535), which would remain in place until and unless the Commission properly amends or repeals the regulation.

FPPC Regulation 18535 provides that "a candidate for elective state office, as defined in Government Code section 82024, and any committee(s) controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of $3,000 per election." Subdivision (e) of Regulation 18535 provides that "the restrictions of Government Code section 85305 are applicable to contributions made by legislative candidates and their controlled committees to any candidate for elective state office…." Section 82007 of the Act defines "Candidate" as "an individual who is listed on the ballot … for nomination for or election to any elective office…. *** **'Candidate' also includes any officeholder who is the subject of a recall election**." (Emphasis added.)[1] Commission Regulation 18535 applies to candidate-controlled recall committees.

Aside from a plain reading of Regulation 18535 (which is expressly referenced as a regulation under section 85305), the Commission has cited to 18535 on numerous other

[1] See also Bauer Advice Letter, FPPC File No. A-07-140 ["A recall election is a 'hybrid' election incorporating a ballot measure election and a candidate election. (See Staff Memorandum to Commission, Adoption of Regulation 18531.5 - Recall Elections, dated June 25, 2003.) Because a Section 85315 committee can be established to oppose the qualification of a recall measure and to support the target officer in the recall election, a Section 85315 committee shares characteristics of both a ballot measure committee and a candidate's committee for elective office. For this reason, a Section 85315 committee is not considered a primarily formed ballot measure committee as defined by the Act"].)

occasions as providing for limitations on contributions from candidates to candidate controlled recall committees. For example, in its "Frequently Asked Questions: Recall Elections," available on its website (http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Documents/Recall_Elections.pdf), the FPPC advises:

> 19. Q. Are contributions made by other elected officials to the target candidate or to a replacement candidate's controlled committee subject to limits?
>
> A. Yes. Under the Act's provisions restricting transfers of funds between state candidates, state candidates and officeholders (and their controlled committees) may not make contributions in excess of the contribution limit in Section 85301(a) ($4,400 for 2017-18) to any committees controlled by other state candidates, including a state candidate's controlled committee supporting or opposing a recall. (Section 85305; **Regulation 18535**; Johnson Advice Letter, No. A-08-032.)

(Emphasis added.)

Regulation 18535 is also cited as authority for limiting candidate contributions to candidate-controlled "recall committee[s]" on the Commission's "California State Contribution Limits (Effective January 1, 2017 - December 31, 2018)" chart: "This [$4,400] limit applies on a per election basis and includes, in the aggregate, contributions made from the candidate's or officeholder's personal funds and from campaign funds."

Additionally, the 2002 staff cover memorandum to proposed Regulation 18535 is unambiguous that the purpose of the regulation is to "interpret[] section 85305" and specifically to "clarify that the limit on contributions between state candidates under section 85305 is $3,000, as adjusted for inflation, and applies to all state candidates." (Exh. A.) The staff analysis in support of Regulation 18535 confirmed that "[u]nder the plain meaning of section 85305, the limit on contributions between state candidates applies to contributions made from the personal funds of a state candidate and contributions made by all committees controlled by that candidate." (*Id*.)

The Commission approved Regulation 18535 at its August 2002 meeting. Ironically, the initial request for an interpretation of Section 85305 was a request for a formal Commission Opinion. However, the FPPC Executive Director at the time denied the request for an Opinion "[b]ecause the interpretation of the restriction on contributions between candidates is a question of general applicability…." The Executive Director concluded "that the interpretation of section 85305 should instead be resolved through a regulation." (Exh. A.) The Commission went on to adopt Regulation 18535 as proposed.

Of course, "a valid administrative regulation has the force and effect of law" (*Canteen Corp. v. State Bd. of Equalization* (1985) 174 Cal.App.3d 952, 960, citing *Maryland Casualty Co. v. United States* (1920) 251 U.S. 342, 349; *Agricultural Labor Relations Bd. v. Superior Court* (1976) 16 Cal.3d 392, 401), and there is a presumption of correctness and regularity of a valid administrative regulation. (*Mission Pak Co. v. State*

*Bd. of Equalization* (1972) 23 Cal.App.3d 120, 125; see also *Hamilton v. Regents of the University of California* (1934) 293 U.S. 245 [State law "include[s] every act legislative in character to which the state gives sanction, no distinction being made between acts of the state Legislature and other exertions of the state lawmaking power"].)

*Hamilton* belongs to a long-established legal convention that "state law" includes more than just a narrow set of legislative acts. (See, *e.g.*, *Cipollone v. Liggett Group, Inc.* (1992) 505 U.S. 504, 522 ["At least since *Erie R. Co. v. Tompkins*, 304 U.S. 64 ... (1938), we have recognized the phrase 'state law' to include common law as well as statutes and regulations"]; *Chrysler Corp. v. Brown* (1979) 441 U.S. 281, 295-296 (Chrysler) ["It has been established in a variety of contexts that properly promulgated, substantive agency regulations have the 'force and effect of law"].) Thus, Regulation 18535 is "state law."

Any attempt by the Commission to repeal Regulation 18535 by a Commission Opinion would be improper and ineffectual. (*Thomas Jefferson University v. Shalala* (1994) 512 U.S. 504, 512 [No deference may be given to an agency's interpretation that is plainly erroneous or "inconsistent" with prior regulation].) The proposed Opinion does not even mention Regulation 18535. But ignoring Regulation 18535 does not excuse the fact that 18535 must be amended or repealed in order to give the apparent desired effect to the Opinion – *i.e.* to allow unlimited candidate contributions to candidate-controlled recall committees. Failing to take this extra step creates an internal legal conflict, in which Regulation 18535 would supersede the Opinion, resulting in no change to "state law."

Section 83112 of the Political Reform Act provides that the "Commission may adopt, amend and rescind rules and regulations …. in accordance with the Administrative Procedure Act." (See also *Citizens to Save California v. California Fair Political Practices Comm'n* (2006) 145 Cal. App. 4th 736, 746 ["Section 83112 expressly incorporates the dictates of the Administrative Procedure Act (§ 11340 *et seq.*)"].) Under the Administrative Procedures Act ("APA"), in order to amend a regulation, an administrative agency must prepare an initial statement of reasons for its "proposing the adoption, amendment, or repeal of a regulation…." (§ 11346.2). This statement of reasons "[s]hall include, but not be limited to, all of the following":

> A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. These benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the

> promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

The agency thereafter must prepare and issue a public notice of proposed action at least 45 days prior to the hearing on the proposed amendment (§§ 11346.4, 11346.5); conduct a hearing on the proposed amendment (§ 11346.8); adopt the amendment by noticed action (§§ 11343, 11346.8); and submit the amendment to the Secretary of State for filing (§ 11343.2). The amendment becomes effective 30 days after such filing (§ 11346.2).

In addition to bypassing the procedural and substantive issues by utilizing the opinion process, rather than the regulatory amendment process, the proposed Opinion also fails to account for the unintended consequences of its interpretation of section 85315. The Opinion contends that Section 85315 must be read together with 85305 to exempt from any contribution limits a contribution from one candidate to another candidate who is the subject of a recall. The proposed Opinion justifies that stance by broadly opining that "Section 85315 waives the application of 'campaign contributions limits' found within Chapter 5." This approach, however, fails to consider the broad effects of such a standard.

For example, Chapter 5 includes section 85702, which prohibits lobbyists from contributing to candidates and officeholders of offices they are registered to lobby. This restriction was upheld in *Inst. For Governmental Advocates v. Fair Political Practices Commission* ((E.D.Cal. 2001) 164 F. Supp.2d 1183). Under the proposed Opinion, lobbyists' contributions to candidates and officeholders would not be prohibited if the candidates were subject to a recall -- because the 85702 limitation is a contribution limit found in chapter 5 of the Act. Moreover, if the Opinion in fact does permit unlimited lobbyist contributions to a candidate's controlled recall committee, it would directly conflict with Regulation 18572, which expressly bans contribution from lobbyists to a candidate and "his or her controlled committee."

All of the foregoing factors weigh strongly in favor of the Commission pulling back from a hurried approval of the draft Opinion, and giving further consideration to the implications of the purported statutory construction of section 85315. The Commission should step back, consider the procedural and substantive issues, and proceed anew under the deliberative regulatory process, with full disclosure and a full opportunity for all interested persons to consider the action and comment. Added time and attention to address the issues raised here (and elsewhere) will provide necessary clarity and confidence in the process, which serves all sides in the regulated community. This approach also gives Commissioners who desire more education and exposure to differing viewpoints on this issue an opportunity to better understand all sides of the matter.

Please feel free to contact me if you require additional information.

Very truly yours,

Brian T. Hildreth
On behalf of the California Republican Party

# EXHIBIT A

**California Fair Political Practices Commission**

**MEMORANDUM**

**To:** Chairman Getman, Commissioners Downey, Knox and Swanson

**From:** Hyla P. Wagner, Senior Counsel
Luisa Menchaca, General Counsel

**Date:** July 26, 2002

**Subject:** **Proposition 34 Regulations: Adoption of Emergency Regulation 18535 – Restrictions on Contributions between State Candidates**

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**A. Summary.** Proposition 34 added to the Act section 85305 which restricts contributions between state candidates. Questions have arisen concerning the application of the limit, including (1) whether the limit amount is $3,000 across-the-board, or whether it is $3,000, $5,000 and $20,000; (2) to which committees the limit applies; (3) when section 85305 takes effect; and (4) whether the limit applies now to contributions made by legislative candidates to statewide candidates. Draft regulation 18535 seeks to clarify the interpretation of section 85305. The regulation is presented for emergency adoption because of the proximity of the November elections.

**B. Section 85305.** Section 85305 states as follows:

> "A candidate for elective state office or committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301."

Section 85305 of Proposition 34 was intended to limit the movement of campaign funds between state candidates. Legislative leaders in the Senate and the Assembly typically raise funds to support candidates of their party in important races. The summary of Proposition 34 by the legislative analyst contained in the ballot pamphlet stated as follows:

> "This measure repeals a provision of Proposition 208 that bans transfers of funds from any state or local candidate or officeholder to any other candidate, but establishes limits on such transfers from state candidates."

In addition, the 'Argument in Favor' of Proposition 34 in the ballot pamphlet stated:

> – "Proposition 34 Stops Political Sneak Attacks – In no-limits California, candidates flush with cash can swoop into other races and

spend hundreds of thousands of dollars at the last minute to elect their friends. Proposition 34 stops these political sneak attacks."

The idea of restricting contributions or transfers[1] between candidates is not new. The Act has contained several bans on contributions between candidates in the past. Proposition 73, passed in 1989, contained a strict provision in former section 85304 prohibiting transfers between a candidate's own controlled committees and prohibiting any transfers of contributions between candidates for elective office. In the litigation challenging Proposition 73, a federal appellate court held that the contribution limits of Proposition 73 calculated on a fiscal year basis were unconstitutional. (*Service Employees International Union v. Fair Political Practices Commission* (9th Cir. 1992) 955 F.2d 1312, 1321, *cert. den.* 505 U.S. 1230.) The court invalidated the ban on transfers between a candidate's own committees and affirmed that the prohibition on transfers between candidates did not prevent circumvention of contribution limits where no valid contribution limits were in effect. (*Id.* at 1322-23.)

Proposition 208, enacted in 1996, contained its own prohibition on the transfer of campaign funds between candidates in then-section 85306. Section 85306 was repealed by Proposition 34 and replaced by its restriction on contributions between state candidates in section 85305. Several questions involving the interpretation of section 85305 are discussed below.

**1. Is the dollar amount of the limit on contributions between state candidates $3,000 across-the-board, or is it $3,000, $5,000 and $20,000, depending on the office?**

Under section 85305, a state candidate may not make a contribution to another state candidate "*in excess of the limits set forth in subdivision (a) of Section 85301.*" Section 85301 sets forth Proposition 34's general limits on contributions from persons to candidates. Although phrased indirectly, section 85301 provides in subdivision (a) that the limit on contributions from persons to legislative candidates is $3,000; in subdivision (b) that the limit on contributions from persons to statewide candidates (other than Governor) is $5,000; and in subdivision (c) that the limit on contributions from persons to candidates for Governor is $20,000. Section 85301 states:

"(a) A person, other than a small contributor committee or political party committee, may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office other than a candidate for statewide elective office

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[1] Contributions between candidates are sometimes called "inter-candidate transfers." The movement of funds between several of a candidate's own committees is sometimes called an "intra-candidate transfer." Because the distinction between inter-candidate and intra-candidate transfers becomes confusing, we do not use the term "transfer" here and in the proposed regulation, but adhere to Proposition 34's statutory language of "contributions between candidates."

> may not accept from a person, any contribution totaling more than three thousand dollars ($3,000) per election.
>
> (b) Except to a candidate for Governor, a person, other than a small contributor committee or political party committee, may not make to any candidate for statewide elective office, and except a candidate for Governor, a candidate for statewide elective office may not accept from a person other than a small contributor committee or a political party committee, any contribution totaling more than five thousand dollars ($5,000) per election.
>
> (c) A person, other than a small contributor committee or political party committee, may not make to any candidate for Governor, and a candidate for governor may not accept from any person other than a small contributor committee or political party committee, any contribution totaling more than twenty thousand dollars ($20,000) per election."

The amount "set forth in subdivision (a) of Section 85301" that one state candidate may contribute to another under section 85305 is $3,000 per election. Where the plain meaning of a statute is clear, that meaning must be enforced. (*United States National Bank of Oregon v. Independent Insurance Agents of America, Inc.* (1993) 508 U.S. 439, 113 S. Ct. 2173.) Under the plain language of section 85305, the limit on contributions made by one state candidate to another is $3,000 per election. Further, under the plain meaning of section 85305, the $3,000 limit applies to all "candidates for elective state office.[2]" This means the $3,000 limit applies to contributions made by a legislative candidate to a candidate for Governor and to contributions made by a candidate for Governor to a legislative candidate, absent the section 83 concerns discussed below.

Ms. Jan Wasson, treasurer to a legislative officeholder, and Mr. Tony Miller, her attorney, have raised questions concerning section 85305 in the requests for advice attached in Appendix 2.[3] Mr. Miller interprets section 85305 to mean that the limit on contributions between state candidates is $3,000, $5,000, or $20,000, depending on the recipient of the contribution.

In effect, this interpretation reads section 85305 out of the Act. If section 85305 did not exist, candidates would be limited to the general contribution limits of section 85301 in making contributions to other state candidates. Mr. Miller's interpretation

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[2] "'Elective state office' means the office of Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, Member of the Legislature, member elected to the Board of Administration of the Public Employees' Retirement System, and member of the State Board of Equalization." (Section 82024.) In this memorandum, candidates for "elective state office" are also referred to as state candidates.

[3] Mr. Miller subsequently asked that the Executive Director grant his request for a Commission opinion interpreting section 85305. Because the interpretation of the restriction on contributions between candidates is a question of general applicability and because the request for an opinion may have raised some past conduct issues, the Executive Director denied the request, concluding that the interpretation of section 85305 should instead be resolved through a regulation.

would also be correct if section 85305 stated that contributions made by state candidates to other state candidates were limited to the contribution limits set forth in subdivisions (a), (b), and (c) of section 85301. But section 85305 states that the contributions between state candidates may not exceed the limits set forth in *subdivision (a) of section 85301*, which amount is $3,000. Section 85305's limit on contributions between state candidates incorporates the $3,000 monetary limit of section 85301(a), and includes no other limit.

Mr. Miller counters that if section 85305 meant $3,000, the drafters could have just inserted that number. However, by incorporating the limit of section 85301(a), section 85305 takes advantage of the cost-of-living adjustment applied to the contribution limits every other year as specified in section 83124. In this way, the limit on contributions between state candidates will always remain consistent with the legislative contribution limit.

Mr. Miller also argues that it makes more sense for the limits on what a candidate may give to another candidate, and what that candidate may accept, to be the same. But section 85305 speaks only in terms of prohibiting a state candidate from *making* a contribution to another state candidate in excess of $3,000. Section 85305 does not limit the contributions a committee may receive.

Paragraphs (a) and (b) of proposed regulation 18535 clarify that the limit on contributions between state candidates under section 85305 is $3,000, as adjusted for inflation, and applies to all state candidates.

**2. To which committees do the restrictions on contributions between state candidates apply?**

Section 85305 states that "[a] candidate for elective state office *or committee controlled by that candidate* may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301 [$3,000]." Under the plain meaning of section 85305, the limit on contributions between state candidates applies to contributions made from the personal funds of a state candidate and contributions made by all committees controlled by that candidate. Subdivision (c) of proposed regulation 18535 codifies advice given in the *Dichiara* Advice Letter, No. I-02-040, that the section 85305 limit is $3,000, rather than $3,000 from the candidate and $3,000 from his or her committee, for a total of $6,000. The Act and regulations define "controlled committee" in section 82016 and regulation 18217, and those definitions are applicable here, as stated in subdivision (c) of the proposed regulation.

**3. When does section 85305 take effect for statewide candidates?**

Portions of Proposition 34 do not become applicable to candidates for statewide elective office[4] until after the November 6, 2002 election. Under section 83, the

contribution limitations of Article 3 (except the $1,000 and $5,000 online reports required by section 85309(a) and (c) and section 85319 concerning returning contributions) do not apply to candidates for "statewide elective office" until November 6, 2002.[5] Pursuant to section 83, section 85305 applies now to contributions made by legislative candidates to other candidates for elective state office. It applies starting November 6, 2002, to contributions made by statewide candidates to other candidates for elective state office.

In other words, section 85305 applies now to restrict a legislative candidate from making a contribution in excess of $3,000 to any candidate for elective state office, including a candidate for the Legislature, a candidate for statewide office, or a candidate for Governor. Pursuant to section 83, however, section 85305 does not apply to statewide candidates until November 6, 2002. Thus, to use Mr. Miller's example, the State Treasurer is *not* presently prohibited from contributing in excess of $3,000 to the Governor for the November 2002 election. After November 6, 2002, however, the State Treasurer would be limited to contributing $3,000 per election to the Governor or any other candidate for elective state office.

Paragraph (e) of draft regulation 18535 states the delayed effective date for statewide candidates. This is the most straightforward application of the Section 83 effective date.[6]

**4. May a legislative candidate and his or her controlled committee (pre- or post-Proposition 34) make a contribution to a statewide candidate in excess of $3,000 now?**

In the *Wasson* Advice Letter, attached in Appendix 2, we answered that section 85305 prohibits a legislative candidate and his controlled committees, whether pre-2001 or post-2001, from making a contribution today to a statewide candidate in excess of $3,000. Consistent with the discussion above, we answered that the restriction on contributions between state candidates is in effect now for legislative candidates, it

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[4] "'Statewide Elective Office' means the office of the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction and member of the State Board of Equalization." (Section 82053.) In this memorandum, candidates for "statewide elective office" are also referred to as statewide candidates.

[5] Section 83, an uncodified section of Proposition 34, as amended by Stats. 2001, Ch. 241, effective September 4, 2001, provides as follows: "This act shall become operative on January 1, 2001. However, Article 3 (commencing with Section 85300), except subdivisions (a) and (c) of Section 85309, Section 85319, Article 4 (commencing with Section 85400), and Article 6 (commencing with Section 85600), of Chapter 5 of Title 9 of the Government Code shall apply to candidates for statewide elective office beginning on and after November 6, 2002."

[6] In regulations 18531.6 and 18536, the section 83 effective date for statewide candidates is also restricted to elections occurring on and after November 6, 2002, because sections 85316 and 85306 concerning fundraising for outstanding debt and a candidate's transferring contributions between his or her own committees involve maintaining the limits on contributions a committee may receive for a particular election. In contrast, section 85305 restricts the current actions of a contributor – a state candidate – in funding another state candidate.

covers current conduct, and it applies to all of a candidate's controlled committees. The plain meaning of section 85305 leads to this conclusion.

Mr. Miller argues that the outstanding debt rules of regulation 18531.6(a) limit how section 85305 may be interpreted. Regulation 18531.6 interprets section 85316 of Proposition 34 concerning post-election fundraising. Section 85316 provides that a state candidate may only accept a contribution after the date of an election to the extent that the contribution does not exceed net debts outstanding from the election, and that the contribution does not exceed the applicable contribution limit for the election. In essence, it restricts post-election fundraising, and ensures that the contribution limits of an election are not exceeded.

So as not to retroactively impose Proposition 34's contribution limits on elections that took place before Proposition 34 was in effect, regulation 18531.6(a) states:

> "(a) Pre-2001 Elections. Government Code section 85316 does not apply to a candidate for elective state office in an election held prior to January 1, 2001.
> (1) There are no contribution limits in effect for elections held prior to January 1, 2001 for contributions made on or after January 1, 2001.
> (2) Contributions for an election held prior to January 1, 2001 may be accepted in an amount that exceeds net debts outstanding."

The discussion at the adoption of that regulation concerned fundraising for outstanding debts, application of the contribution limits of sections 85301 and 85302 to past elections, and permitting termed-out incumbent officeholders to raise funds into committees maintained for officeholder purposes. There was no discussion of the interpretation of section 85305 in the memorandum or during the commission meetings relating to the outstanding debt rules. Regulation 18531.6 was not intended to interpret, nor does it interpret, the limit on contributions between state candidates in section 85305.

Mr. Miller is asking whether a legislative leader may make a contribution to a statewide candidate in excess of $3,000. We respectfully submit that section 85305 could not be more clearly applicable to contributions made by legislative leaders to other candidates if the code section were titled "Restrictions on Transfers by Legislative Leaders." The restriction on contributions between state candidates is a prohibition that is distinct from and in addition to the rules applicable to debts outstanding after an election contained in section 85316 and regulation 18531.6. To argue that a regulation interpreting section 85316 concerning outstanding debt renders section 85305 inapplicable, is to ignore the statute.

In essence, section 85305 is designed to reduce the power of legislative leaders to influence election outcomes by transferring money to candidates in tight races. The effect of the interpretation advanced by Mr. Miller is to stave off the application of section 85305 and keep the money moving around a little longer, albeit in old committees and to statewide candidates.

The proposed regulation in subdivision (d) interprets section 85305 to apply to current contributions made by a state candidate and all of his or her controlled committees, regardless of whether a committee is pre-2001or post-2001. As interpreted in the proposed regulation, section 85305 applies to the current conduct of a contributor and to all of the contributor's controlled committees, which committees are expressly included in the language of section 85305. Unlike regulation 18531.6 which seeks to avoid applying contribution limits to past elections that were not conducted under such limits, staff believes there is no persuasive policy argument to exempt from section 85305 the current activity of a state candidate in contributing to another state candidate, even if the contribution is made from or to an old committee.

Mr. Miller raised the additional question of whether the $3,000 restriction of section 85305 would apply to contributions made by state candidates to a committee of another state officeholder maintained for officeholder purposes. Under paragraph (d) of the proposed regulation, the $3,000 limit would apply.

**C. Recommendation.** Under the interpretation of section 85305 in the proposed regulation, the limit on contributions between state candidates is $3,000 per election and it applies to current contributions made by the candidate and all of his or her controlled committees. The proposed interpretation of section 85305 contained in the draft regulation expresses the plain meaning of the statute, and results in a clear and easy-to-apply rule. Staff recommends that the Commission approve regulation 18535 for emergency adoption.

Attachments

Appendix 1 – Proposed regulation 18535
Appendix 2 – Wasson request for Advice, dated February 14, 2002
*Wasson* Advice Letter, No. I-02-048
Miller request for reconsideration, dated May 24, 2002.