

1 Amend 2 Cal. Code Regs. Section 18427:

2 **§ 18427. Duties of Treasurers and Candidates with Respect to Campaign Statements.**

3 (a) Treasurers. The treasurer of a committee shall verify that to the best of his or her  
4 knowledge the committee campaign statements are true and complete and use all reasonable  
5 diligence in the preparation of the statements. To comply with these duties the treasurer shall do  
6 all of the following:

7 (1) Establish a system of record keeping sufficient to ensure that receipts and  
8 expenditures are recorded promptly and accurately, and sufficient to comply with regulations  
9 established by the Commission related to record keeping.

10 (2) Either maintain the records personally or monitor record keeping by others.

11 (3) Take steps to ensure compliance with all requirements of the Act concerning the  
12 receipt and expenditure of funds and the reporting of funds.

13 (4) Either prepare campaign statements personally or review with care the campaign  
14 statements and underlying records prepared by others.

15 (5) Correct inaccuracies or omissions in campaign statements of which the treasurer  
16 knows, and cause to be checked, and, if necessary, corrected, information in campaign  
17 statements a person of reasonable prudence would question based on all the surrounding  
18 circumstances of which the treasurer is aware or should be aware by reason of his or her duties  
19 under this regulation and the Act.

20 (b) Candidates with respect to candidate campaign statements. A candidate shall verify  
21 that to the best of his or her knowledge his or her own campaign statements are true and  
22 complete and use all reasonable diligence in the preparation of the statements. To comply with

23 these duties the candidate shall be subject to the same duties imposed upon treasurers as stated in  
24 subdivision (a).

25 (c) Candidates with respect to campaign statements of committees they control. A  
26 candidate shall verify to the best of his or her knowledge that the campaign statements filed by a  
27 committee he or she controls are true and complete and that the treasurer has used all reasonable  
28 diligence in the preparation of the statements. To comply with these duties, the candidate shall  
29 do all of the following:

30 (1) Ascertain whether the treasurer is exercising all reasonable diligence in the  
31 performance of his or her duties including those duties specified under subdivision (a).

32 (2) Take whatever steps are necessary to replace the treasurer or raise the treasurer's  
33 performance to required standards, if the candidate knows or has reason to know that the  
34 treasurer is not exercising all reasonable diligence in the performance of his or her duties.

35 (3) Review with care the campaign statements prepared for filing by the committee.

36 (4) Correct any inaccuracies and omissions in campaign statements of which the  
37 candidate knows, and cause to be checked, and, if necessary, corrected, any information in  
38 campaign statements a person of reasonable prudence would question based on all the  
39 surrounding circumstances of which the candidate is aware or should be aware by reason of his  
40 or her duties under this regulation and the Act.

41 (5) Perform with due care any other tasks assumed in connection with the raising,  
42 spending or recording of campaign funds insofar as the tasks relate to the accuracy of  
43 information entered on campaign statements.

44 (6) Unless such steps are required to meet the standards set forth in subdivision (c)(1)  
45 through (4), a candidate is not responsible for establishing a record keeping procedure for a

46 committee, monitoring committee record keeping, reviewing campaign finance records other  
47 than campaign statements, or personally taking steps to corroborate any information contained  
48 on a campaign statement.

49 (d) Committees where no treasurer is designated. If a committee fails to designate a  
50 treasurer as required by ~~Government Code~~ Section 84100, the individual or group of individuals  
51 primarily responsible for approving the political activity of the committee, as defined in  
52 Regulation 18402.1(b)(c), will be considered the treasurer or treasurers and will be subject to all  
53 the duties set forth in subdivision (a).

54 COMMENT. This regulation sets out the duties of candidates and treasurers only with respect to  
55 campaign statements. Among the duties imposed by this regulation on candidates and treasurers  
56 with respect to committee campaign statements is to "cause to be checked, and, if necessary,  
57 corrected, any information . . . which a person of reasonable prudence would question based on  
58 all the surrounding circumstances of which the treasurer [candidate] is aware or should be aware  
59 by reason of his or her duties under this regulation and the Act." The circumstances that trigger a  
60 duty to inquire under this standard are limited to those circumstances actually known to the  
61 candidate or treasurer and to those circumstances the candidate or treasurer should be aware of in  
62 carrying out his or her duties under the Act and regulation. They do not include circumstances a  
63 candidate or treasurer "might" or "should have known" if the candidate or treasurer had gone  
64 beyond his or her required duties. For example, Mr. Jones gives Mr. Smith \$100 in cash and  
65 instructs him to write a check to the candidate's controlled committee and to conceal the true  
66 source of the contribution. The committee reports the contribution received from Smith. If  
67 neither the candidate nor treasurer has knowledge of the questionable nature of the contribution  
68 and neither, through performance of their respective duties (such as monitoring campaign

69 records or reviewing campaign statements), could have learned facts that would lead one to  
70 question the contribution, the candidate and treasurer have no duty of inquiry with respect to the  
71 contribution. There is no duty of inquiry even though Smith would have revealed the true source  
72 of the funds if he had been asked.

73         Once circumstances are known that raise a question concerning the accuracy of  
74 information on a campaign statement, an inquiry is required. It is not possible in a regulation to  
75 describe with particularity every factual situation that might trigger a duty to inquire because the  
76 circumstances that could arise with respect to any particular campaign transaction are endless.  
77 For example, a duty to inquire may be triggered in the case of a contribution as a result of the  
78 size of the contribution, the reported source, the likelihood of that source making a contribution  
79 of the size reported, the circumstances surrounding receipt, or the manner in which the  
80 contribution is recorded in campaign records.

81         The burden of inquiry is likely to fall more heavily upon the treasurer because it is the  
82 treasurer, rather than the candidate, upon whom the major record keeping and reporting  
83 responsibility falls. Therefore, the treasurer is more likely than the candidate to be the person  
84 who, by reason of performance of duties, is aware of or should be aware of facts which would  
85 give rise to a duty of inquiry.

86 Note: Authority cited: Section 83112, Government Code. Reference: Sections 81004, 84100,  
87 84213 and 91004, Government Code.