

MEMORANDUM

To: Coby King
Legal Counsel to Hon. Brad Sherman

Date: April 5, 1994

From: Lawrence A. Augusta
Assistant Chief Counsel

Subject: **CONTRIBUTION DISCLOSURE OPINION NO 94-4**

A member may return a contribution and participate in a matter even though he previously disqualified himself, if the matter was rescheduled without hearing or other action at the meeting at which he disqualified himself; if he wishes to continue to disqualify himself, he must do so again on the record.

You asked for our opinion on the following fact situation. A member received a contribution in excess of \$250. The contributor was subsequently a party to a proceeding that was scheduled for Board action at a regular meeting. When the contributor's matter came up on the agenda, the member announced that he was disqualifying himself on the basis of receiving a contribution. However, the matter was not considered on that day, but was rescheduled for a subsequent meeting without testimony or other substantive action. The matter has now appeared on a current agenda.

Disqualification is not necessarily permanent (see CDO 93-5). Further, in this instance, there was not an adjudicatory proceeding on the substance of the matter.

If the member wishes to continue to disqualify himself, he must again disclose his contribution on the record before the matter is considered.

If the member wishes, he may return sufficient of the contribution to bring the amount of the contribution below \$250, and if he does so prior to the hearing on the matter, and within 30 days from the time he knows, or had reason to know, that the matter was again scheduled for hearing, he may participate and vote (§15626(d)).

LAA:ph



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