



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE ROOM 411
BOSTON MASSACHUSETTS 02108

MICHAEL J. SULLIVAN
DIRECTOR

TEL: (617) 727-8352
(800) 462-OCPF
FAX: (617) 727-6549

December 19, 1997
AO-97-25

David J. Mofenson, Esq.
Mofenson & Nicoletti, LLP
Three Newton Executive Park
Newton, MA 02162

Re: Inauguration expenditures

Dear Mr. Mofenson:

This letter is in response to your November 17, 1997 request for an advisory opinion, submitted on behalf of Newton Mayor-Elect David B. Cohen.

Question

Is it permissible for campaign staff to be paid out of campaign funds where part of their time would be spent planning an inaugural ball?

Answer

Yes. For the reasons which follow, campaign funds may be used to make such expenditures.

Discussion

Regulations issued by this office specifically allow payment of "inaugural expenses." In particular, 970 CMR 2.05(2)(t), which is made applicable to municipal candidates by 970 CMR 2.06(3), includes "inaugural expenses" among the categories of permissible expenditures:

- (t) Inaugural expenses, which may include room rental, printing, decorations, entertainment, food and beverages. Nothing contained in this division shall be construed to permit expenditures for costs associated with the transition of government.

The second sentence of the regulation must be read in the context of section 6 of chapter 55, which prohibits the expenditure of campaign funds for any person's "personal use." In 1991 the office interpreted "personal use" to include "any non-political uses such as business, governmental, legislative, family or social." See AO-91-06. That interpretation has been superseded by a later change to section 6.

David J. Mofenson, Esq.

December 19, 1997

Page 2

Specifically, section 6 was amended in 1992 to exclude from the definition of "personal use" expenditures "relating to the provision of constituent and legislative services or to the opening or maintaining of a legislative district office . . ." ¹ The amendment recognized that a successful candidate who becomes an office holder may use campaign funds for matters which relate to official duties and responsibilities required of the office holder, where such use also enhances the candidate's political future. The effect of the amendment was to allow the use of campaign funds to pay for "governmental" expenditures. See AO-92-31 (in which the office observed that the previous interpretation "resulted in a somewhat artificial distinction").

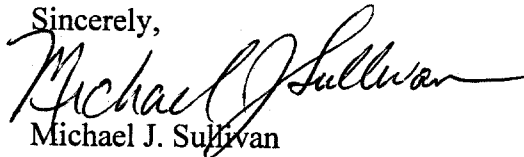
An inaugural ball, if held for the primary purpose of celebrating the formal inauguration of the mayor and not to benefit the candidate's political future, is part of the transition of government, even if it may also provide an incidental political benefit to a candidate. Like the provision of constituent services, participation in the ceremonies and celebrations associated with the transition of government may appropriately be considered a governmental activity. Therefore, the use of campaign funds to make expenditures associated with planning an inaugural ball would be consistent with the campaign finance law.²

Please note that the campaign finance law does not prohibit the use of governmental or private funds to pay for inaugural expenses if the purpose of the inaugural event is to celebrate the inauguration of the mayor **and** the event does not financially benefit a candidate's committee. Expenditures associated with such an event are analogous to expenditures made to open or maintain a legislative district office – they may be paid for using campaign funds if not otherwise paid for using governmental or private funds. See M.G.L. c. 55, s. 6. If funds are raised, e.g. through the sale of tickets, in connection with the event funded in whole or in part with governmental or private funds, however, no funds may be received by or given to, directly or indirectly, a candidate committee. Such funds would financially benefit a candidate's committee and therefore they would be contributions. Consequently, the character of the inaugural event would lose its primarily civic purpose, e.g. celebrating the transition of government, and instead become a political fund raising event subject to the campaign finance law.

This opinion is solely within the context of the campaign finance law and is provided on the basis of representations in your letter.

Please contact us if you have further questions regarding the campaign finance law.

Sincerely,



Michael J. Sullivan

Director

Enclosure

¹ See Section 379 of Chapter 133 of the Acts of 1992.

² This opinion overrules AO-91-28, issued before the change to section 6. In AO-91-28, the office stated that official inauguration ceremonies are primarily governmental but that an inaugural ball or other celebration following the ceremony is primarily political. As such, the office advised that the ceremony could be paid for either by private or governmental funds, but not campaign funds, and that the ball could only be paid for using campaign funds.