

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN
DIRECTOR

June 5, 1996
AO-96-19

Frederick M. Whitney, Treasurer
Western Mass. Republicans,
A Political Action Committee
P.O. Box 4662
Springfield, MA 01101-4662

Re: Filing and Reporting Requirements

Dear Mr. Whitney:

This letter is in response to your May 16, 1996 request for an advisory opinion regarding the filing and reporting obligations of the Western Mass. Republicans, A Political Action Committee (WMR).

Question

Is the WMR subject to the registration and reporting obligations imposed on political action committees (PACs) by the campaign finance law?

Answer

Yes.

Facts

You have acknowledged that the funds WMR raises through dues or fundraisers are used, at least in part, to make contributions to candidates. You state, however, that WMR is not like a "normal PAC" since "normal PACs are organizations existing for their own special purpose and have funds, facilities and resources available to them from sources other than political contributions . . . We charge dues to belong to WMR and this covers our operational expenses. Fund raising activities are necessary to provide us with money to distribute. A portion of the money raised must be used to pay the expenses of these events. Business or union PACs are not faced with such expenses."

Given these circumstances you have contended that it would be "unfair" to require WMR to comply with the same limitations that exist for other PACs, and you have asked if it is necessary for WMR to remain a PAC.

Discussion

Section 1 of M.G.L. c. 55, the Massachusetts campaign finance law, defines a political committee as "any committee, association,

organization, or other group of persons, including a national, regional, state, county, or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates, or of presidential and vice presidential electors, or for the purpose of opposing or promoting a . . . question submitted to the voters." (Emphasis added). A PAC is defined as a political committee which is not a candidate's committee, political party committee, or ballot question committee.¹

The definition of political action committee distinguishes these committees from certain other political committees ("people's committees"), which although similar to PACs, are limited in the amount which they may receive from individual contributors. People's committees are limited to the annual receipt of \$100 (indexed every other year) from individuals only. In addition, such committees must first be in existence as PACs for at least six months and must have contributed to at least five candidates. People's committees are not subject to certain restrictions which apply to PACs and therefore the distinction between PACs and people's committees may be seen as responsive to some of your concerns. See IB-94-02. You have stated, however, that becoming a people's committee "is not an alternative for WMR."

In the advisory opinion referenced in your letter, AO-94-43, this office concluded that the Republican Club of Massachusetts (the Club) did not need to register as a PAC since the Club does not make contributions to candidates or political committees. Rather, the Club makes expenditures to publish a calendar of events of interest to Republican Party activists and supporters, sponsor unity luncheons following the Republican Party's convention and primary as a means of raising funds to offset the Club's operating costs and to provide a forum for bringing activists and supporters together. The office concluded that such "party building" activities did not constitute a "contribution" as defined by the campaign finance law.

Unlike the Republican Club of Massachusetts, however, WMR receives contributions and makes expenditures to directly influence the nomination or election of candidates. Therefore, it is by definition a political committee and since it is not a candidate's committee, party committee or ballot question committee it must be a PAC. See also AO-95-19 (Association of Massachusetts Republican Town and City Committee Chairmen is a PAC since the Association makes contributions to ward, town and city party committees, i.e., "regulated organizations").

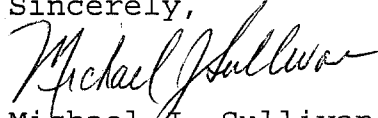
¹ "Party committees" are state, city, town or ward political committees organized in accordance with M.G.L. c. 52 on behalf of a political party. See M.G.L. c. 55, s. 1. You should note that M.G.L. c. 56, s. 42 states that organizations cannot use the name of a political party in circulars, advertisements or publications, except with the written consent of the duly elected state committee representing such political party. You should contact the Secretary of State, Elections Division, if you have questions regarding compliance with this provision.

Frederick M. Whitney
June 5, 1996
Page 3

You also contend that it is unfair to treat WMR like a business or union PAC. The statute does not, however, make a distinction between PACs which are organized by persons with business or union interests and those established by other individuals.²

This opinion is solely in the context of M.G.L. c. 55 and is based solely on the representations made in your letter. Should you have additional questions, please do not hesitate to contact this office.

Sincerely,



Michael J. Sullivan
Director

MJS/cp

² PACs, whether established by persons associated with business groups or otherwise, are prohibited from receiving contributions, gifts or anything of value from business or professional corporations. To the extent something of value (e.g., office space) is provided by a corporation to a PAC, the PAC must pay the corporation the fair market value of the item. See M.G.L. c. 55, s. 8.