



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MICHAEL J. SULLIVAN
DIRECTOR

June 21, 1995
AO-95-21

Charlyn M. Veracka, Treasurer
The O'Malley Committee
351 West Elm Street
Brockton, MA 02401

Re: Expenditure of campaign funds to pay for event after
candidate's funeral

Dear Ms. Veracka:

This letter is in response to your June 1, 1995 request for
an advisory opinion.

We understand that District Attorney O'Malley recently
passed away. You have stated that a breakfast was held for 300
of Mr. O'Malley's constituents after his funeral. You state
that "this function was for Mr. O'Malley's constituents, who
have helped his committee and campaign over the years, who
attended his funeral. The crowd was obviously too large for
Mrs. O'Malley to hold in her home and she wanted to thank
everyone for all of their help over the years."

You have asked if campaign funds may be used to pay the
\$1,732.50 bill. For the reasons that follow, the expenditure
may properly be made by the O'Malley Committee (the Committee).

Although the campaign finance law, M.G.L. c. 55, does not
specifically address expenditures made by a candidate's
committee after the candidate's death, regulations issued by
the office state that upon the death of a candidate, campaign
funds may be used to pay "costs clearly associated with
administering the termination of the committee." See 970 CMR
2.07(9)(b).

The regulations do not list all permissible expenditures,
but rather provide a general description of certain
expenditures which may be made. Expenditures similar to those
listed in the regulations may be consistent with the campaign
finance law. See 970 CMR 2.06(3), which states that ". . . the
following expenditures, as well as any expenditures which are
similar to the following and not inconsistent with 970 CMR
2.00, M.G.L. c. 55 or any other law shall be permitted by
political committees governed by 970 CMR 2.05."

A breakfast for supporters, if in compliance with the
conditions defined in the regulations, would be permissible
during the candidate's lifetime. See 970 CMR 2.06(3)(b), which

allows political committees to make gifts to supporters under certain circumstances. Similarly, the expenditure at issue is appropriate under the referenced regulations and is consistent with the campaign finance law.

An expenditure by a political committee primarily for any person's personal use, or primarily to benefit the estate of a deceased candidate, would be prohibited by the campaign finance law. See M.G.L. c. 55, s. 6. The expenditure described in your letter does not appear intended primarily to benefit the estate of the candidate. Although the costs of the funeral itself would be considered "personal," the costs associated with an event for Mr. O'Malley's constituents or political supporters held immediately after the funeral, which would not have taken place but for the candidacy of Mr. O'Malley, may be considered costs that are "clearly associated with terminating" the Committee.

After paying the costs associated with the breakfast or other obligations of the Committee, funds remaining in the Committee's account will be subject to the residual funds clause of M.G.L. c. 55, s. 18. The residual funds clause provides, in part, that residual funds "shall not be converted to the personal use of the candidate or any other person." Residual funds may be donated to:

- (i) the Local Aid Fund of the commonwealth;
- (ii) a charitable or religious organization (subject to certain limitations);
- (iii) a scholarship fund (subject to certain limitations); or
- (iv) the general fund of any city or town in the commonwealth.

Your OCPF auditor, Suzanne Weeks, is available to discuss the requirements of the residual funds clause in greater detail with you and, if appropriate, to assist you in the disposition of any residual funds.

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
cc: Suzanne Weeks