



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

October 13, 1992
AO-92-29

Stephen M. Limon
Legal Counsel to the Attorney General
One Ashburton Place
Boston, MA 02108

Re: Anna Maria Scholarship

Dear Mr. Limon:

This letter is in response to your August 26, 1992 letter requesting an advisory opinion regarding the establishment of a criminal justice scholarship in the name of Scott Harshbarger.

You have stated that Anna Maria College (hereinafter "College") is proposing the establishment of such a scholarship subject to the following conditions:

1. The scholarship will be in the name of Scott Harshbarger, not in his name as Attorney General.
2. There is no litigation pending in which the Office of the Attorney General and the College are adversaries.
3. The personnel, resources, facilities and equipment of the Office of the Attorney General will not be used in any way, directly or indirectly, in the fundraising effort for this scholarship.
4. Solicitations by the College for the scholarship will not mention Scott Harshbarger's title as Attorney General.
5. All of the proceeds raised for the scholarship, minus reasonable and necessary fundraising expenses, will go to the scholarship, and none of the proceeds may be used by the College, directly or indirectly, for political or lobbying purposes.

6. Scott Harshbarger will not participate in the selection process for the recipient of the scholarship.

You have asked whether the scholarship, if it meets the above conditions would violate any provisions of the campaign finance law, M.G.L. c.55.

M.G.L. c.55, s.1 defines the words "contribution" and "expenditure" with reference to the purpose of a contribution and expenditure. Specifically, contribution is defined, in pertinent part, as:

a contribution of money or anything of value to an individual, candidate, political committee, or person acting on behalf of said individual, candidate or political committee, for the purpose of influencing the nomination or election or said individual or candidate (emphasis added) .

The word "expenditure" is similarly defined. See M.G.L. c.55, s.1. Under the factual situation that you have outlined, the clearly articulated purpose of the College's fundraising activity is to create a scholarship for students of criminal justice at the College which is a civic rather than a political purpose. The funds will not be used to influence Scott Harshbarger's nomination or election either in a general way or in any particular primary or election. Therefore, funds donated to the College for the scholarship are not "contributions" and expenses by the College relative to the scholarship are not "expenditures" for purpose of the campaign finance law.

Although your letter does not specifically raise the issue of a testimonial for Scott Harshbarger, I draw your attention to the last paragraph of M.G.L. c.55, s.1 which provides, in part:

Notwithstanding any other provisions of this chapter, any receipt or disbursement of any money or anything of value by an individual, or person acting on behalf of said individual, which is not otherwise a "contribution" or "expenditure" as defined in this section, resulting from any purchases from said individual, or any person acting on behalf of said individual, whether through the device of tickets, advertisements, or otherwise, for any fund-raising activity, including a testimonial, held on behalf of said individual, regardless of the purpose of said activity, shall be deemed to be a "contribution" or "expenditure" if said individual . . . is a candidate . . .

In order to provide you with more information I have included copies of AO-84-15 and AO- 87-01, previous advisory opinions issued by OCPF regarding the so-called "testimonial" provision of the campaign finance law.

For the above reasons, it is this Office's opinion that the College establishment of the proposed scholarship as outlined above in the name of Scott Harshbarger would not violate or be subject to M.G.L. c.55.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact the OCPF if you have any additional questions.

Very truly yours,


Mary F. McTigue
Director

Enclosures