



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

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Peter C. Webber
Department of Environmental Management
100 Cambridge Street
19th Floor
Boston, MA 02202

Dear Mr. Webber:

This letter is in response to your request for an advisory opinion as well as to additional inquiries you have subsequently made to this office over the telephone.

You have stated that a portrait of retired Senator John F. Parker is being commissioned and that it will be hung in the Senate Reception Room. Senator Parker, although retired, maintains a political committee. The Senator John F. Parker Portrait Committee (the "Committee") (and not Senator Parker's political committee) will have responsibility for raising the funds to pay for the portrait. The members of the Committee are as follows: Senator Theodore Aleixo, Jr., Senator Robert Buell, Senator William Bulger, Senator Edward Kirby, Senator David H. Locke and yourself. Mr. Thomas Joyce, Esq., has agreed to serve as treasurer and will thus accept all contributions and handle all financial matters on behalf of the Committee.

You wish to know if the funds raised for the portrait must be received and disclosed by Senator Parker's political committee. You have also asked if corporate monies may be solicited and accepted to pay for the portrait. Additionally you have inquired whether any other political committee, whether organized for a specific candidate or as a multi-candidate committee (a so-called "PAC") may make contributions for the portrait.

Section 1 of M.G.L. c.55 defines "contribution" and "expenditure," in part, as:

[N]otwithstanding 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, whether through the device of tickets, advertisements, or otherwise, for any fund-raising

activity, including a testimonial, held of 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 accordance with the provisions of clauses (1) or (2) of the definition of "candidate" at the time of said receipt or disbursement.

The definition of "candidate" so referenced includes "an individual . . . who has given his consent for any other person or committee to receive a contribution or make an expenditure for the purpose of influencing his nomination or election to . . . office."

As Senator Parker has an operative political committee established with this office, any "testimonial" or similar event held on his behalf would be subject to the provisions of M.G.L. c.55. It is the opinion of this office, however, that an event sponsored by the Committee and held to raise monies to commission a portrait of Senator Parker would not be an event subject to the provisions of M.G.L. c.55 provided Senator Parker did not benefit from such an event. For example, if Senator Parker were to be the recipient of such monies, this office would consider the event to have been held on Senator Parker's behalf within the definition of "contribution" cited above. As the Committee is the recipient of the portrait, however, any monies raised for the portrait do not have to be received and disclosed by Senator Parker's political committee.

Section 8 of M.G.L. c.55 prohibits any business corporation from directly or indirectly giving, paying, expending or contributing, or promising to give, pay, expend or contribute "any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding or promoting or antagonizing the interest of any political party."

The Committee would be the recipient of all monies raised in the effort you have described above. It is our understanding that the Committee is not charged with aiding, promoting or preventing the nomination or election of any person to public office. Furthermore, it is our understanding that the Committee is apolitical, representing neither Republicans nor Democrats and in effect, an organization comprised of Senator Parker's former colleagues from both sides of the aisle, whose sole purpose is the commission of a portrait of Senator Parker. The Committee is thus not an organization representing a particular political party. Therefore, it is the opinion of this office that monies from business corporations may be solicited and received for the Senator Parker portrait project without violating section 8 of M.G.L. c.55.

Section 6 of M.G.L. c.55 provides that political committees organized on behalf of constitutional candidates may

make expenditures which are reasonable and necessary and directly related to the campaign. Section 6 of M.G.L. c.55 further provides that all other committees may make expenditures for the enhancement of the political future of the candidate or the principle for which the committee was organized. Each provision prohibits expenditures which are for the candidate's or any other person's personal use and authorizes the office to establish regulations concerning permissible expenditures.

The regulations (970 C.M.R. 2.00 et seq.) permit expenditures of a political nature, including payment for travel, advertising, public relations, postage, printing, office staff, equipment and space and taxes. The regulations also permit certain gifts, charitable contributions and flowers.

The regulations concerning gifts permit constitutional candidates to make gifts only to campaign workers (970 C.M.R. 2.05(4)(b)(1) while all other candidates and committees may make gifts, provided, inter alia, "the political committee or candidate will receive publicity and foster political goodwill as a result of making the gift or contribution" (970 C.M.R. 2.06(3)(b)(2)).

It is the opinion of the office that the provisions of M.G.L. c.55 and the regulations promulgated thereunder would not permit political committees organized on behalf of constitutional candidates to make expenditures to the Committee to pay for the commission of a portrait of retired Senator Parker. All other political committees would be permitted to make such expenditures, provided the requirements set out in 970 C.M.R. 2.06(3)(b)(2)(a)-(d) are met.

This opinion has been rendered solely on the basis of representations made in your letter and over the telephone to OCPF staff, and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,

Mary F. McTigue

Mary F. McTigue
Director

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