



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 1007

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MARY F. MCTIGUE
DIRECTOR

March 7, 1990
AO-90-05

Phillip A. Molea
174 Bellrock Street
Everett, Massachusetts 02149

Dear Mr. Molea:

This letter is in response to your request for an advisory opinion. We are sorry for the delay in responding to you.

You have stated that you are a Mayoral appointee on the Everett Board of Appeals. As Chairman of the Board, you are paid \$1,800 per year by the city for this position. You are a full-time employee of Demetri Enterprises, Inc. for which your salary, bonuses and fringe benefits exceed \$50,000 per annum. You have asked whether you may serve as treasurer of the political committee of a candidate for mayor.

Section 13 of M.G.L. c.55 states, in part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city, or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county, city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons

if such person so employed knows or has reason to know that the person or combination of persons has any interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility.

Section 13 prohibits any person employed for compensation by the Commonwealth or any political subdivision thereof from directly or indirectly soliciting or receiving contributions for any political purpose. The only exception to this general prohibition is a person who holds elective office. It is the general opinion of this office that any person who is paid directly any sum by the commonwealth, or a political subdivision thereof, to perform services and who is not an independent contractor falls within the prohibitions of section 13 of M.G.L. c.55. You receive compensation from the city of Everett for your position as Chairman of the Board of Appeals. It is therefore the opinion of this office that you are "employed for compensation" and are subject to the provisions of section 13 of M.G.L. c.55. You would thus be prohibited from serving as a treasurer of a political committee.

You should also be aware of the following provisions of the campaign finance law:

Section 14 of M.G.L. c.55 states: "No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen."

Section 15 of M.G.L. c.55 states:

No officer, clerk or other person in the service of the commonwealth or of any county, city or town shall, directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever.

Although the campaign finance law does not prohibit you from personally making a contribution in support of a candidate, section 15 would preclude you from delivering monies or checks directly to the candidate, who is also a public employee or incumbent office holder. You could, of course, deliver your own contribution to an agent of the candidate's political committee.

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Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

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 this office should you have additional questions.

Very truly yours,



Mary F. McTigue
Director

MFM/wp