



Commonwealth
of Massachusetts

OCPF Online
www.mass.gov/ocpf
Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

December 12, 2006
AO-06-10

Allen Bondeson, Chairman
Insurance Committee
Massachusetts Organization of State Engineers & Scientists
90 North Washington Street, 3rd Floor
Boston, MA 02114

Re: Receipt of commissions from insurance company for segregated scholarship fund

Dear Mr. Bondeson:

This letter is in response to your recent request for an advisory opinion. You have asked if the campaign finance law would allow the Massachusetts Organization of State Engineers & Scientists (MOSES) to establish a separate bank account to receive commissions from insurance companies, if such funds would be used only to provide scholarships.¹

You have stated that an insurance company is holding funds for MOSES accrued from a 2% commission on each premium paid by an enrolled member of MOSES, as well as a 1% commission on each written premium for renewals paid by an enrolled member.

In AO-05-08, this office stated that MOSES could not accept commission funds from insurance companies since MOSES makes political contributions to candidates. The opinion was premised on M.G.L. c. 55, § 8, which prohibits even indirect use of corporate funds to support or oppose candidates.

You state that the insurance company is concerned about “running afoul of tax and insurance regulations” should they make direct payments to MOSES scholarship winners. Therefore, the company and MOSES would like to establish a separate bank account to be used by MOSES, but

¹ The annual MOSES Memorial Scholarship Awards scholarships are limited to MOSES members (including active retirees) as well as their spouses and children, and spouses and dependent children of late MOSES members with certain restrictions.

only for the purpose of receiving monies from the insurance company, which funds would then be expended solely to award scholarships.

QUESTION: May MOSES accept and deposit commission proceeds into a separate bank account if the bank account is used solely to fund scholarship awards?

ANSWER: Yes, but only if the bank account is maintained by a separate legal entity, i.e., a public charity registered with the Attorney General's office.

Consistent with Section 8, an organization receiving corporate money may not provide administrative support to a PAC even if the organization creates a separate account within the organization in an attempt to segregate corporate funds from other funds and uses non-corporate funds to support the PAC. See AO-98-08. Similarly, an organization that makes political contributions to candidates should not use a segregated account within the organization to receive corporate funds with the intention of using non-corporate funds to make the political contributions.

The office has stated, however, that an organization making political expenditures may be associated with a separate legal entity that receives funds from a prohibited source, so long as these prohibited funds are not transferred to the organization. See AO-01-01 (involving the receipt by an entity of public funds).

Similarly, if MOSES creates a separate legal entity, i.e., a public charity registered with the Attorney General's office, the newly created entity may, consistent with the campaign finance law, receive commission proceeds and make scholarship awards. No part of the commission proceeds may be transferred by the new entity to MOSES, ensuring that the money will be used exclusively for scholarships.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and in your conversations with OCPF staff. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan".

Michael J. Sullivan
Director

MJS/gb