



Commonwealth
of Massachusetts

OCPF Online

www.state.ma.us/ocpf

Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

June 11, 2002

AO-02-27

David Riedell, Treasurer
Grabauskas for Treasurer
P.O. Box 290835
Charlestown, MA 02129

Re: Use of personal credit card by committee

Dear Mr. Riedell:

This letter is in response to your May 16, 2002 request for guidance.

Facts

You have stated that the Grabauskas for Treasurer Committee (the Committee) has tried, without success, to acquire a credit card for use in the campaign. The financial institutions you have contacted are not willing to provide a credit card to your political committee, even if the candidate personally guarantees payment.

Question

May the Committee use a personal credit card obtained by the candidate that would be used solely by the Committee, where the Committee would make all payments directly to the credit card company?

Response

Yes, if the Committee complies with 970 CMR 2.09, which among other things specifies the disclosure required where a committee obtains a credit card.¹

¹ The candidate is not a participant in the Clean Elections program. Such participants may not obtain a credit card involving the making of a personal guaranty in excess of \$100. See M.G.L. c. 55A, § 2(a) limiting receipt of funds to allowable contributions and clean election funds, and the definitions of "allowable contribution" and "obligated expenditure" in M.G.L. c. 55A, § 1.

The campaign finance law allows a political committee to “*maintain and use* a credit card, obtained in accordance with applicable banking laws and in the ordinary course of business, in order to make expenditures for the purpose for which said committee was organized, pursuant to the provisions of section six” See M.G.L. c. 55, § 9 (emphasis added). The law does not specify that the committee itself must obtain the credit card that it “maintains and uses.”

The office has interpreted the campaign finance law as not allowing a depository committee the option of reimbursing an individual in an amount greater than \$50 for use of the individual’s credit card. The reasons for this interpretation are found in Section 19 of Chapter 55, which states that depository committees² may not pay or reimburse a candidate or other person for an amount greater than \$50. See M.G.L. c. 55, § 19(c) which requires that all depository committee checks must be payable to a “named payee” other than the candidate or treasurer unless the amount paid to the candidate or treasurer is “for no more than fifty dollars,” subject to a \$500 cap during the reporting period. As a result, a depository candidate or treasurer may only be reimbursed for minor expenses, provided the expenses are for no more than \$50. It has been the office’s view that reimbursement by a depository committee of amounts due from use of a candidate’s personal credit card might result in the intermingling of personal and committee expenditures without the assurance of accurate and timely disclosure to ensure that funds are used in compliance with the campaign finance law.

The office has not previously been asked if a depository candidate may personally apply for a credit card to be dedicated in its entirety to use by the candidate’s political committee where all payments would be made directly to the credit card company.

As noted above, Section 9 of Chapter 55 states that a committee “may maintain and use” a credit card. The statute does not specify that the committee and not the candidate must obtain the card. Where only the committee uses a card, the committee makes all payments directly to the credit card company, the card bears the name of the committee on its face³, and otherwise complies with 970 CMR 2.09, such use is consistent with Section 9. An interpretation of the depository requirements in Section 19 that would prohibit use of a card in these circumstances is not mandated with Section 9, and Section 19 should be construed in a manner that harmonizes its provisions with Section 9.

Therefore, it is this office’s opinion that expenditures made directly to the credit card company to pay the amount due on a candidate’s card used solely by the candidate’s committee should be treated in the same manner as payments made to pay the amount due on a card obtained by the committee. Such payments are not made in fact to reimburse the candidate but rather to pay directly for the committee’s expenses. In addition, there should be no difference between a candidate obtaining a card for the exclusive use by his committee and a committee obtaining a card relying on a guaranty provided to the credit card company by the candidate. In either circumstance, the candidate is ultimately personally responsible for payment.

² Depository committees are committees organized on behalf of candidates for statewide, county, Governor’s Council and citywide candidates (other than school committee candidates) in cities with populations greater than 100,000 in the last federal census (Boston, Cambridge, Lowell, Springfield and Worcester).

³ If the financial institution issuing the card will not allow the committee’s name to be placed on the card, the candidate obtaining the card must agree with the committee, in writing, that the card will be maintained and used exclusively by the committee and that the committee will comply with the disclosure requirements specified in this opinion and the applicable regulations.

The regulation governing credit card expenditures states that “a political committee may apply for and receive a credit card.” 970 CMR 2.09(2). This provision does not mean that *only* a committee may apply for the card. Where a candidate obtains a card for the exclusive use of his committee, however, the candidate obtaining the card and committee must comply with the requirements specified in the regulation. Specifically, the application must be processed in the ordinary course of business by the financial institution and the extension of credit and the terms of the credit must be commercially reasonable. See 970 CMR 2.09(3) and (4). As noted above, the card should, if possible, bear the name of the political committee on the face of the card, although it may also bear the name of the candidate, treasurer or other agent authorized as a cardholder by the committee. No individual, other than the candidate, may be a guarantor on the credit card for any amount which, together with all other contributions by that individual to that political committee, results in a contribution in excess of the amount permitted by statute. See 970 CMR 2.09(6).⁴ The committee may not use the card for the purpose of obtaining a cash advance or loan. See 970 CMR 2.09(7). Finally, the committee must disclose all campaign finance activity using the card. Specifically a report (Form CPF 9: Disclosure of Credit Card Activity) must be filed by the fifteenth day of every month regardless of the extent of credit card activity covering the entire statement period of the most recent credit card statement received prior to the date of filing. See 970 CMR 2.09(8)(a), (f), (g) and (h).

This opinion is provided on the basis of representations in your letter and in your conversations with OCPF staff, and is issued solely within the context of the campaign finance law.

I encourage you to contact us in the future if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned to the left of a vertical line that extends downwards from the end of the signature.

Michael J. Sullivan
Director

MJS/gb

⁴ In addition, candidates must ensure compliance with the loan limits of M.G.L. c. 55, § 7. A loan includes the amount guaranteed by the candidate. Therefore, since a candidate for state treasurer may not loan more than \$150,000 per election to the candidate’s committee, the candidate could not guarantee payment and provide loans in an amount exceeding \$150,000 in connection with a primary or election. For governor or lieutenant governor, the maximum that may be loaned is \$200,000 per election. For Secretary of state auditor or attorney general, the maximum is \$150,000. For state senator, the maximum is \$50,000, and for state representative, the maximum is \$30,000.