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INTERPRETIVE BULLETIN

Disclaimers on Independent Expenditures and Electioneering Communications

The Office of Campaign and Political Finance (OCPF) periodically issues interpretive bulletins regarding various aspects of M.G.L. c. 55, the Massachusetts campaign finance law. This bulletin is issued to provide guidance and direction regarding the interpretation and implementation of M.G.L. c. 55, § 18G.¹

Section 18G states that “an independent expenditure or electioneering communication which is transmitted through paid radio, television or internet advertising” must contain “a statement disclosing the identity of the individual, corporation, group or association paying for the advertisement.” If made by radio or television, such advertisements must include “a statement by the individual paying for the advertisement in which the person acknowledges that he paid for the message and his city or town of residence. If the radio or television advertisement is paid for by a corporation, group, association or a labor union” the statement “shall be made by the chief executive officer of the corporation, the chairman or principal officer of the group or association or the chief executive or business manager of the union” and shall be in the following form: ‘I am _____(name) the _____(office held) of _____(name of corporation, group, association or labor union) and _____(name of corporation, group, association or labor union) approves and paid for this message.’ Such statements in television advertisements shall be conveyed by an unobscured, full-screen view of the person making the statement.” If the independent expenditure or electioneering communication is made through internet advertising, the statement “shall appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement.”

Discussion

Implementation of Section 18G raises several issues, including understanding the scope of the statute, identifying the person responsible for filing, and providing guidance regarding who makes the required statement and the manner in which the statement is included in the advertisement.

¹ This provision was added by outside section 202 of the FY 2011 budget (Chapter 131 of the Acts of 2010), and became effective on July 1, 2010.



I. Defining the scope of the statute: comparison with federal statute. In interpreting this language, we find it helpful to refer to the regulations issued by the Federal Election Commission which is responsible for implementing a similar federal statute. *See* 11 CFR 110.11 and 2 U.S.C. 441d. Comparing Section 18G with the federal statute highlights the limited scope of Section 18G.

Unlike the similar federal statute and regulations, the state law applies only to independent expenditures and electioneering communications.² In contrast, the federal statute requires a disclaimer for all public communications containing express advocacy or soliciting contributions for a candidate.

In addition, unlike the federal statute, Section 18G only regulates paid radio, television and internet advertising. It does *not* regulate other forms of advertising, including print advertising, telephone communications or billboard ads.

II. Television ads

A disclaimer in a television ad may be conveyed in one of two ways: either by a full-screen view of the officer while the officer is making the statement, or by a clearly identifiable photographic or similar image of the officer, that is shown by a full-screen view at the same time the statement is read. A disclaimer in a television or radio ad must be made in a manner that is not difficult to hear.

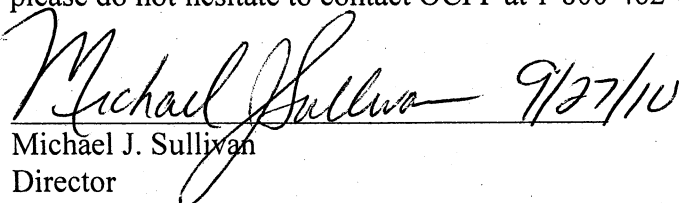
III. Radio ads

A disclaimer in a radio ad must be made at the same audio level as the rest of the communication.

IV. Internet ads

A disclaimer in an internet ad must be in printed (not verbal) form. It must be of sufficient type size to be clearly readable by the viewer. Such disclaimers must be contained in a printed box, or other separate section, set apart from the other contents of the communication, and the color contrast requirement is met if the disclaimer is printed in black on a white background, or if the degree of contrast between the background color and the disclaimer text is at least as great as the degree of contrast between the background color and the color of the largest text in the communication.

If you have questions regarding this interpretative bulletin or any other campaign finance matter please do not hesitate to contact OCPF at 1-800-462-OCPF or 617-979-8300.

 9/27/10
Michael J. Sullivan
Director

² A political committee that pays for a radio or television advertisement by making an independent expenditure is a "group" within the meaning of the statute. Any committee making such an expenditure must comply with the disclaimer requirement by including, in the advertisement, a statement by the chairman or other principal officer of the committee.