



The Commonwealth of Massachusetts

AO-16

*Office of
Campaign & Political Finance*

One Ashburton Place, Boston 02108

727-8352

*Dennis J. Duffin
Director*

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William M. Bulger
President of the Senate
State House
Boston, MA 02133

Dear Senator Bulger:

This is in response to your recent request for an advisory opinion concerning M.G.L. c. 55, the campaign finance law. The specific question at hand is whether the campaign finance law would permit the political committee organized on your behalf to expend funds to defray the legal costs associated with a defamation action commenced by you, as a candidate upon the belief that you have been libeled or slandered.

Section 6 of Chapter 55 provides that political committees such as yours may make expenditures

"for the enhancement of the political future of the candidate or the principle, for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use..."

Regulations promulgated by this office in accordance with this provision deal more specifically with the issue you have raised. They provide, in relevant part, that committees such as yours are prohibited from making expenditures for:

"Any expenses relative to civil suits or administrative proceedings except that this prohibition shall not apply to:...

(c) expenses relative to necessary legal action to protect or further the interest of the political committee."

[970 CMR 2.06 (6)(a) 3]

Therefore, expenditures to defray the legal costs of a defamation action on behalf of a committee's candidate would only be permitted if that particular legal action is necessary to protect or further the interest of the political committee.

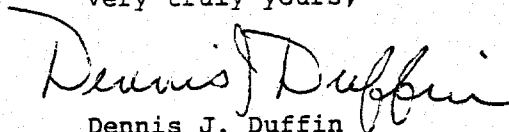
The interests of the Bulger Committee must be concerned with the enhancement of the political future of the candidate on whose behalf the committee is organized. The type of legal action contemplated by

you is designed and intended to redress the wrong which one believes he has suffered as the result of an alleged defamation. A defamation is that which tends to injure one's reputation, and to diminish the esteem and respect in which one is held. An action for defamation seeks to repudiate the harm which one's reputation has endured as the result of the libel or slander. In my opinion, central to the issue of one's political future is a positive reputation and respect in the community. The legal expenses relative to such an action on behalf of a candidate, such as yourself, would appear to be for the enhancement of the political future of the candidate on whose behalf the committee is organized.

The campaign finance law, however, clearly prohibits expenditures by political committees the primary purpose of which are to benefit the candidate or any other individual in a personal manner, even if the expenditures would enhance a candidate's political future. Therefore, the nature of your interest in pursuing a legal action for defamation with your political committee bearing the expenses of such an action, must primarily be a concern about the effect of the defamation action on your political future. A political committee may not expend funds on behalf of its candidate on this type of legal action if the primary purpose of the action is personal vindication for the candidate. In order for a political committee to incur such legal expenses, either the context in which the defamation arose must be related to one's campaign for public office, such as issues emanating from campaign literature or appearances, or, the substance of the defamatory words must be directly related to one's political future, such as words which impugn on one's integrity as a public official.

Because of the clear and strict prohibition on the use of political committee funds to benefit the candidate or any other individual in a personal manner, any monetary damages which are awarded in a legal action which is funded by a political committee may not accrue to the personal benefit of the candidate or any other individual.

Very truly yours,



Dennis J. Duffin
Director

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