

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into on January 20th 2016, by and between the Office of Campaign and Political Finance ("OCPF"), the Brian A. Joyce Committee (the "Committee"), and Brian A. Joyce (the "Candidate"), in which the parties mutually agree, for the purposes of this Agreement only, as follows:

I. INTRODUCTION

1. The Committee, at all times relevant to this Agreement, was a duly organized political committee subject to the provisions of M.G.L. c. 55, the Massachusetts campaign finance law.
2. The Committee was organized to promote the nomination and election of the Candidate to public office.
3. OCPF has the authority to review and investigate the legality, validity, completeness, and accuracy of all reports required to be filed and all actions required to be taken by political committees, candidates, and any other person pursuant to M.G.L. c. 55 or any other laws of the Commonwealth relative to campaign contributions and expenditures.
4. The political contributions, expenditures, and other activities noted in this Agreement are subject to the provisions of M.G.L. c. 55 and the regulations promulgated thereunder in accordance with M.G.L. c. 55.
5. The Candidate has cooperated fully and at all times with OCPF's investigation into the matters described herein.

II. FACTS

OCPF's review of the Committee's 2013-2015 campaign finance reports and bank records revealed several matters of potential concern. As a result, OCPF identified the following:

1. Expenditures for Personal Use
 - a. Committee Volunteer's Unauthorized Use of ATM/Debit Card

In 2013-2014, a Committee volunteer, without the Candidate's permission, knowledge, or approval, used one of the Committee ATM/debit cards to withdraw cash from the Committee account. The volunteer, who is unrelated to the

Candidate, used the Committee's ATM/Debit card on fifteen separate occasions over thirteen months (December 2013-December 2014) to withdraw funds totaling \$4,480 from the Committee's checking account. These withdrawals were not disclosed on the Committee's campaign finance reports. The volunteer used those funds to pay personal expenses because the volunteer was feeling financially desperate. It was the intention of the volunteer to repay the Committee before the Candidate became aware of the withdrawals. The volunteer has since returned the funds to the Committee account.

b. Spring 2014 Event at the Candidate's Home

In the spring of 2014, Committee funds were utilized to pay a portion of the costs associated with a graduation party at Senator Joyce's home. Of the event's total cost of approximately \$5,200, the Candidate personally paid at least \$1,800 and the remaining \$3,367 was paid by the Committee.

2. Disclosure

a. Over-Reported Contributions and Expenditures and Balance Discrepancies

During the course of its review, OCPF learned that the Candidate and his Committee staff had kept imprecise records, which led to inadvertent discrepancies in disclosures. These discrepancies were primarily accounting errors and do not appear to reflect any misappropriation of funds. OCPF learned that the Candidate frequently used his personal funds to pay expenses directly to vendors on behalf of the Committee. He would subsequently, and at various times, seek repayment from the Committee for those expenses. The Committee would then disclose the receipt of a Candidate contribution/loan, even though funds had not been deposited into the Committee account. Similarly, when the Candidate paid a vendor directly, the Committee reported an expenditure to the vendor, even though the funds were not paid from the Committee account, and, at a later date, the Committee reported another expenditure to the Candidate in the form of a loan repayment.

While this practice was clearly intended to provide full disclosure with respect to the funds provided by the Candidate and the ultimate recipient of those funds, it also inadvertently artificially inflated both the Committee's receipts and its expenditures and, at least in part, resulted in a discrepancy between the balances reported on the Committee's campaign finance reports and those reported by the Committee's bank. For the period November 2013 through April 2015, the Committee's bank statements reflected deposits in the amount of \$198,024.13, while the Committee's campaign finance reports for the same period reflected receipts in the total amount of \$232,846.19, resulting in over-reported receipts of \$34,822.06. The Committee also over-reported expenditures for the same period of time (November 2013 through April 2015). During those months, the Committee reported expenditures of \$189,023.45. The Committee's bank statements, however, disclosed total withdrawals of \$168,186.40, a difference of \$20,873.05.

Consequently, the Committee's 2015 Mid-Year report reflected an ending balance, as of June 30, 2015, of \$25,867.16. The Committee's bank statements, however, reflected an ending balance on the same date of \$15,461.33, resulting in a balance discrepancy of \$10,405.83. OCPF notes that, upon informing the Candidate of these discrepancies, the Candidate immediately took steps to rectify these issues by hiring reputable outside accounting professionals to undertake the Committee's accounting work going forward.

b. Unreported Expenditures

From November 2013 through April 2015, the Committee did not report 173 expenditures made directly from the Committee bank account, totaling \$10,821.46. Of those unreported expenditures, 26 expenditures totaling \$6,323.28 exceeded \$50 and should have been itemized on the Committee's campaign finance reports.

3. Recordkeeping

The Committee acknowledges that it did not keep accurate campaign finance records of all Committee activity. Specifically, neither the Candidate nor the Committee were able to produce receipts for several expenditures made using the Committee debit card (beyond the itemization of the debit charges reflected on bank statements which the Committee believed were sufficient), nor were they able to produce detailed records or detailed mileage logs to support the Candidate's payments to reimburse the Committee for his personal use of the Committee's leased vehicle in 2013-2015. OCPF notes that the Candidate did, however, make regular efforts to reimburse his Committee for his personal mileage usage, although he did not keep the required records or logs.

III. OCPF'S CONCLUSIONS

1. EXPENDITURES MADE FOR PERSONAL USE – M.G.L. c. 55, § 6

Section 6 of the campaign finance law allows a committee to spend funds for the enhancement of a candidate's political future, but prohibits the expenditure of campaign funds "for the candidate's or any other person's personal use." OCPF has concluded that the volunteer's withdrawal of cash in the total amount of \$4,480 from the Committee account violated Section 6, as the volunteer acknowledged that the money withdrawn from the Committee account was used to pay personal expenses and not for legitimate Committee expenses. OCPF concludes that the Candidate had no knowledge of or participation in these events.

The June 2014 event at the Candidate's home was a graduation party for the Candidate's son. The use of Committee funds to pay for a portion of the costs associated with that event, in the total amount of \$3,367, could constitute personal use within the meaning of Section 6.

After this matter was brought to the attention of OCPF, and in an effort to avoid any appearance of impropriety, the Candidate voluntarily agreed to make a charitable donation in accordance with the residual funds clause in the amount of \$3,367 to resolve this matter.

2. FAILURE TO DISCLOSE CAMPAIGN FINANCE ACTIVITY -- M.G.L. c. 55, § 18

Section 18 of the campaign finance law requires that the Committee file accurate periodic reports of contributions and expenditures with OCPF. The reports the Committee filed with OCPF in 2013-2015 inadvertently failed to accurately and completely disclose the Committee's campaign finance activity, and failed to itemize several expenditures in excess of \$50. OCPF concludes that these accounting errors were not part of an intentional effort to misreport expenses but rather reflect inadequate or deficient internal bookkeeping practices which have been rectified through the Committee's voluntary retention of a professional accounting firm.

OCPF has concluded, therefore, that the Committee inadvertently failed to comply with M.G.L. c. 55, § 18 when it did not file accurate campaign finance reports in 2013-2015.

3. FAILURE TO KEEP DETAILED RECORDS -- M.G.L. c. 55, §§ 2 AND 5

Sections 2 and 5 of the campaign finance law state that candidates and treasurers of political committees must keep and preserve detailed accounts, vouchers, and receipts. Part of this obligation includes keeping a mileage log for a campaign vehicle that is used for personal travel. See M-97-03.

OCPF has concluded that the Committee's failure to maintain proper records related to certain expenditures made using the Committee debit card or the Candidate's personal use of the Committee vehicle for 2013-2015 violated M.G.L. c. 55, §§ 2 and 5.

IV. THE COMMITTEE'S POSITION

The Committee maintains that it has at all times made best efforts to comply with all applicable laws and that the issues discussed herein are the product of either an unrelated third party's deception of the Committee or imprecise practices with respect to recordkeeping. Accordingly, nothing set forth in this Disposition Agreement is intended to be or shall be construed as an admission or finding of any wrongdoing or violation of law by the Candidate. That said, the Committee is greatly appreciative of OCPF's efforts to assist it with improving its recordkeeping and for calling the Committee's attention to these issues. As OCPF is aware, the Committee has already taken timely and substantial steps to address each issue raised herein.

With respect to the issues presented in this Agreement, the Committee maintains the following:

1. Expenditures for Personal Use – Committee Volunteer’s Unauthorized Use of Debit/ATM card

As confirmed by OCPF, the Candidate was unaware of the Committee volunteer’s activities with respect to the Committee’s debit/ATM card. In fact, after OCPF first raised questions about the Committee’s use of an ATM card, it was the Candidate who discovered the volunteer’s activities and immediately reported it to OCPF. The volunteer intended to and has repaid the Committee in full for these activities.

2. Expenditures for Personal Use – Spring 2014 Event at the Candidate’s Home

In connection with his son’s graduation, the Candidate hosted an event at his house to which he invited several hundred people, most of whom were unknown to the Candidate, along with others. The Candidate hoped that this would bring him in contact with a significant group of individual voters who he had not met before in a very positive setting. The Candidate hosted other such gatherings previously, such as in support of the local library. The Candidate, of course, recognized that the event was also a celebration of his son’s graduation.

Central to the Candidate’s position is a 1994 Advisory Opinion issued by OCPF, AO-94-22. In that Advisory Opinion, OCPF explicitly endorsed the use of campaign funds to pay certain expenses related to a golf tournament, despite the fact that the fees associated with the golf tournament were, at least in part, personal in nature to the candidate. Particularly relevant to OCPF’s opinion that the committee’s use of funds in that case to pay for the candidate to sponsor and participate in the golf tournament was the candidate’s statement that “under no circumstances would the [candidate] sponsor a hole or foursome if he were not a candidate for office” and the fact that the activity brought the candidate in contact with individuals other than family members and friends. Similarly here, and in accordance with OCPF’s written guidance on this point, Senator Joyce would not have hosted such a large event in his home but for the fact that he intended to enhance his political future and the overwhelming number of guests at the

event were not family or friends. Further, unlike the candidate in AO-94-22, Senator Joyce actually undertook the task of attempting to apportion those expenses which involved a personal benefit and personally paid for those expenses himself. Senator Joyce thus took enhanced steps to comply with the law beyond those taken by the candidate whose expenses were deemed appropriate in AO-94-22. Senator Joyce's position was subsequently supported by the former legal counsel to the Massachusetts House of Representatives, from whom he sought a legal opinion.

The Candidate has supplied OCPF with information which establishes that, of the total cost of \$5,200 for the event, he paid personally at least \$1,800 and the Committee paid \$3,367.

V. RESOLUTION

In order to resolve this matter now before OCPF, and with no admission of liability, responsibility, or wrongdoing by the Committee or the Candidate, the parties agree, pursuant to 970 CMR 3.07(1) and M.G.L. c. 55, § 3, as follows:

1. To resolve this matter, the Candidate agrees to a civil disposition totaling \$5,867. The payments shall be made pursuant to the following schedule:
 - a. The Candidate, using his personal funds, will voluntarily donate \$2,500 to charities of his choice in accordance with the residual funds clause. \$1,250 will be paid upon execution of this Agreement. The Candidate and OCPF agree to suspend the remaining \$1,250, pending the Candidate's and Committee's full compliance with the terms of this Agreement through December 31, 2017. If the Candidate and Committee fully comply with the Agreement, the Candidate may at his discretion, but will not be required to, make the additional donation.
 - b. The Candidate has already used his personal funds to make a charitable contribution in the amount of \$3,367, which represents the total amount paid by the Committee for costs associated with the June 2014 graduation party.
2. The Committee has adopted a written financial policy with respect to reimbursements and other Committee activity, a copy of which has been submitted to OCPF. The policy includes a written access and control policy for any debit cards issued to the Committee

account. OCPF has approved the Committee's policy and the Committee has agreed to follow it going forward.

3. To ensure full disclosure in the future, the Candidate and the Committee agree to file campaign finance reports as follows:

<u>Report Period</u>	<u>Report Type</u>	<u>Due on or Before:</u>
7/1/15 – 12/31/15	Electronic*	1/20/2016
1/1/16 – 3/31/16	Paper	4/10/2016
4/1/16 – 6/30/16	Paper	7/10/2016
1/1/16 – 9/2/16	Electronic*	9/12/2016
9/3/16 – 10/21/16	Electronic*	10/31/2016
10/22/16 – 12/31/16	Electronic*	1/20/2017
1/1/17 – 3/31/17	Paper	4/10/2017
1/1/17 – 6/30/17	Electronic*	7/20/2017
7/1/17 – 9/30/17	Paper	10/10/2017
7/1/17 – 12/31/17	Electronic*	1/22/2018

*- required by M.G.L. c. 55

The Candidate and Committee agree to keep complete and accurate records of all receipts, expenditures, and mileage logs. The Candidate and the Committee further agree to provide, within twenty-one days of the filing of the above-referenced reports, copies of bank statements, deposited items, cancelled checks, Committee bills and invoices or receipts, including receipts for expenditures made using the Committee debit card, and automobile mileage logs maintained in accordance with M-97-03.

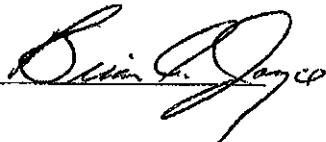
4. The Candidate and the Committee agree that all Committee expenses will be paid from the Committee account. The Candidate will no longer personally pay Committee expenses and seek reimbursement from the Committee, absent prior approval from OCPF. If

the Candidate intends to lend money to the Committee, the Candidate agrees that said funds shall initially be deposited into the Committee's account and not paid directly from the Candidate to vendors.

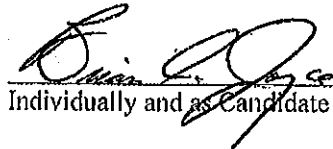
5. The Candidate and Committee agree to retain the services of an outside vendor to serve as the Committee's treasurer, maintain the Committee's records, and to file the required campaign finance reports.
6. OCPF agrees that, if the Candidate and Committee comply with this Agreement, it will consider the matter closed and will not seek further action with respect to the activity referenced in this Agreement.
7. OCPF may, at any time, review compliance with this Agreement. If it believes that the provisions of this Agreement have been violated, after notice to the Candidate and the Committee, OCPF may, notwithstanding the provisions of the foregoing paragraph, proceed with any action consistent with M.G.L. c. 55 or otherwise authorized by law.
8. This Agreement shall be binding upon OCPF, the Candidate, and the Committee.
9. The parties have entered into this Agreement, knowingly and voluntarily, in an effort to resolve all matters set forth in the Agreement.
10. This Agreement is a public record under M.G.L. c. 4, § 7, and shall be subject to public inspection as required by M.G.L. c. 66, § 10.

THE BRIAN A. JOYCE
COMMITTEE

By:



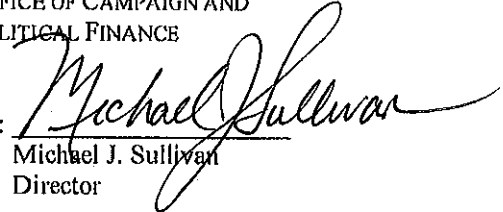
BRIAN A. JOYCE



Individually and as Candidate

OFFICE OF CAMPAIGN AND
POLITICAL FINANCE

By:



Michael J. Sullivan
Director