

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE
ONE ASHBURTON PLACE, ROOM 411
BOSTON, MASSACHUSETTS 02108

MICHAEL J. SULLIVAN
DIRECTOR

TEL: (617) 979-8300
(800) 462-OCPF
FAX: (617) 727-6549

December 23, 2019

Daniel Luberto
11 North Hill Dr.
Lynnfield, MA 01940

Re: CPF 19-134

Dear Mr. Luberto:

This office has completed its review of a complaint received regarding advertisements to support the Dan Rizzo for Mayor campaign. The advertisements were published in several local newspapers shortly before the November 5, 2019 City Election in Revere.

Based on this review, we have determined that, as discussed below, you did not comply with the disclosure and attribution requirements of the Massachusetts Campaign Finance Law, M.G.L. c. 55, that apply to independent expenditures.

1. Disclosure

Independent expenditures are defined, in part, as expenditures that expressly advocate the election of a candidate not made in consultation or cooperation with a candidate or the candidate's committee. *See M.G.L. c. 55, § 18A.* Independent expenditures are not subject to contribution limits, but they must be disclosed in a timely manner. Specifically, Section 18A requires individuals making an independent expenditure exceeding \$250 in a calendar year to disclose the expenditure within seven business days of when the goods or services are utilized.

Reports of independent expenditures made to support or oppose mayoral candidates must be filed electronically with OCPF. If an independent expenditure ad is published within ten days, but more than 24 hours before an election, the report must be filed within 24 hours of publication. Failure to file a required report of independent expenditures may result in a fine of \$5,000 and an additional \$25 for each day a report is filed late. *See M.G.L. c. 55, § 18A(e) and 970 CMR 2.14(1).*

You and your business, Luberto's Pastry Shop in Revere, jointly paid, or were invoiced for, full-page ads supporting Mayor Rizzo. The ads were published in five newspapers (The Revere Journal, The Advocate, La Voz, the Post-Gazette, and El Mundo) between the last week in October



and the election on November 5, at a total cost of \$6,300.¹ Some of the ads ran for one week; others ran for two weeks. Because ads were published on October 26, which was within 10 days of the election, a report of independent expenditures was due within 24 hours of publication, i.e., by October 27. No independent expenditure reports were filed, however, until December 10, 2019 - well after the election, following OCPF's receipt of the complaint and our contacting you.

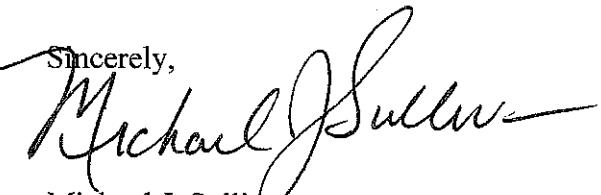
2. Attribution

The campaign finance law, in addition to requiring the timely filing of reports disclosing independent expenditures, also requires attribution on the ads, to inform viewers of the source of the funding. *See M.G.L. c. 55, § 18G and 970 CMR 2.20* (requiring identification of the source of funding on ads if an aggregate of more than \$5,000 is paid for that purpose during a 12-month period). Only one of the five ads, however, contained a "paid for by Dan Luberto" disclaimer.

To resolve this matter, you have paid \$3,000 from your personal and business accounts to the Commonwealth. In addition, you have agreed to make a payment of \$2,000 (with personal and business funds) to a charitable entity or entities, by the end of January 2020.

Because you have cooperated fully with our review, and taken the appropriate remedial action including filing the required reports, we have concluded that this matter may be closed at this time. We anticipate that our guidance will assist in ensuring future compliance by you with the campaign finance law. Future non-compliance with the requirements of the campaign finance law may, however, result in additional action by the office.

In accordance with the opinion of the Supervisor of Public Records this letter is a public record. A copy is being provided to the person(s) who brought this matter to our attention. If you have any questions regarding this letter or any other campaign finance matter, please do not hesitate to contact this office.

Sincerely,

Michael J. Sullivan
Director

MJS/gb

¹ You personally paid \$2,000 for one ad and Luberto's Pastry paid \$3,300 for three ads. An invoice for the fifth ad, in the amount of \$1,000, had not been paid as of December 10, 2019. You have stated that you initially expected other businesses to pay part of the cost for the ads, but such payments have not been received by you and are now not expected. If such payments to you were made, you would have been required to organize and file reports as an Independent Expenditure PAC. *See 970 CMR 2.17(4) and (5).*