

CAMPAIGN & POLITICAL
FINANCE

2016 OCT 14 P 12: 10 DISPOSITION AGREEMENT

This disposition agreement ("Agreement") is entered into as of Oct 14, 2016, by and between the Office of Campaign and Political Finance ("OCPF") and Richard McKinnon ("McKinnon"). The parties mutually agree to this Disposition Agreement, as follows:

I. Introduction

1. Richard McKinnon is the President of The McKinnon Company ("the Company"). The Company is a non-incorporated business. The Company's principal place of business is in Cambridge, Massachusetts. McKinnon has cooperated with OCPF's investigation.

2. The fundraising activities on behalf of candidates and committees, as described in this Agreement, are subject to the provisions of M.G.L. c. 55, the Massachusetts campaign finance law.

3. The following Committees, at all times relevant to this Agreement, were duly organized political committees subject to the provisions of M.G.L. c. 55:

Timothy Toomey Committee ("Toomey Committee")
Kenneth Reeves Committee ("Reeves Committee")
David Maher Committee ("Maher Committee")
Leland Cheung Committee ("Cheung Committee")
Marc McGovern Committee ("McGovern Committee")
Dennis Benzan Committee ("Benzan Committee")
Alfred Fantini Committee ("Fantini Committee")
Denise Simmons Committee ("Simmons Committee")

4. OCPF has the power and authority to review and investigate the legality, validity, completeness and accuracy of all reports and actions required to be filed or taken by candidates, treasurers, political committees, and any other person or entity pursuant to M.G.L. c. 55 or any other laws of the Commonwealth, relative to political contributions and expenditures.

5. The political contributions, expenditures and other activities noted herein are subject to the provisions of M.G.L. c. 55 and the regulations promulgated thereunder.

II. Facts

1. OCPF received a complaint alleging improprieties in contributions made to certain City of Cambridge candidates. As a result of this complaint, the office initiated a review of the campaign reports filed by such candidates. Ultimately, the review focused on the reports filed by the Committees referenced above in Section I, Paragraph 3, to determine whether the contributions listed in the reports were actually made by the named contributors using their own funds. OCPF has concluded that funds under McKinnon's control were the actual source of the contributions as further described below.

2. The Company has two employees - Mai Thi Le and Adriana Benjamin. McKinnon asked Benjamin and Thi Le to financially support candidates in Cambridge by making monetary contributions to the candidates' political committees. To facilitate the making of contributions, McKinnon provided funds under his control to each employee.

3. Based upon a review of bank records and other information obtained by OCPF, OCPF learned that Benjamin and Thi Le received funds from McKinnon into their personal checking accounts either shortly before or shortly after Thi Le and Benjamin made contributions to candidates.

III. Specific Transactions

1. On or about May 8, 2013, McKinnon made a \$400 contribution to the Reeves Committee. On approximately the same date, Benjamin made a \$150 contribution and Thi Le made a \$250 contribution to the Reeves Committee from their personal checking accounts, using funds provided by McKinnon for that purpose.

2. On or about May 8, 2013, McKinnon made a \$500 contribution to the Toomey Committee. On approximately the same date, Benjamin made a \$500 contribution and Thi Le made a \$500 contribution to the Toomey Committee from their personal checking accounts, using funds provided by McKinnon for that purpose.

3. On or about September 4, 2013, McKinnon made a \$400 contribution to the Fantini Committee. On approximately the same date, Benjamin made a \$350 contribution to the Fantini Committee from her personal checking account, using funds provided by McKinnon for that purpose.

4. In March 2015, McKinnon made a \$500 contribution to the Simmons Committee. In September 2015, Benjamin made a \$350 contribution to the Simmons Committee. In October 2015, Thi Le made a \$500 contribution to the Simmons Committee. These contributions to the Simmons Committee from their personal checking accounts were made using funds provided by McKinnon for that purpose.

5. In June 2015, McKinnon made a \$750 contribution to the Toomey Committee. In September 2015, Benjamin made a \$350 contribution to the Toomey Committee. In October 2015, Thi Le made a \$500 contribution to the Toomey Committee. These contributions to the Toomey Committee from their personal checking accounts were made using funds provided by McKinnon for that purpose.

6. In June and August 2015, McKinnon made two separate \$500 contributions (totaling \$1,000) to the Maher Committee. In October 2015, Thi Le made a \$500 contribution to the Maher Committee. This contribution to the Maher Committee from her personal checking account was made using funds provided by McKinnon for that purpose.

7. On or about July 15, 2015, McKinnon made an \$850 contribution to the Benzan Committee. On approximately the same date, Benjamin made a \$400 contribution to the Benzan Committee from her personal checking account, using funds provided by McKinnon for that purpose. In addition, Thi Le made an \$800 contribution from her personal checking account to the

Benzan Committee in October 2015, using funds provided by McKinnon for that purpose.

8. On or about July 15, 2015, McKinnon made a \$750 contribution to the McGovern Committee. On approximately the same date, Benjamin made a \$500 contribution to the McGovern Committee from her personal checking account, using funds provided by McKinnon for that purpose. In October 2015, Thi Le made a \$500 contribution to the McGovern Committee. The contribution to the McGovern Committee from her personal checking account was made using funds provided by McKinnon for that purpose.

9. On or about September 29, 2015, McKinnon made a \$500 contribution to the Cheung Committee. On approximately the same date, Benjamin made a \$300 contribution to the Cheung Committee from her personal checking account, using funds provided by McKinnon for that purpose.

10. This Agreement covers the period from January 1, 2013 through December 31, 2015. Benjamin and Thi Le, during this time period, made additional contributions to candidates that are not referenced in this Agreement. OCPF was unable to conclusively verify that Benjamin and Thi Le were reimbursed by McKinnon for any contributions that are not specifically referenced in the Agreement.

11. Neither the candidates nor their respective Committees had any knowledge that the \$6,450 contributed by Benjamin and Thi Le and described in paragraphs 1 through 9 were made with funds provided by McKinnon until they were so notified during OCPF's review. The contributions were made using checks drawn on the individual checking accounts of Benjamin and Thi Le. It would have appeared to the recipients of the checks, absent other information, that the contributions were, in fact, from those individuals. OCPF has no reason to believe that the candidates or committees had knowledge that the named contributors did not in fact make the contributions, until they were so notified.

12. The candidates or committees that received the contributions described in paragraphs 1 through 9 that are still active have voluntarily disgorged or will voluntarily disgorge amounts

equivalent to the amount of the illegal contributions received by making payments to entities in a manner consistent with the residual funds clause of M.G.L. c. 55, § 18 in the aggregate amounts of: \$1,850 (by Toomey), \$400 (by Reeves), \$500 (by Maher), \$300 (by Cheung), \$1,000 (by McGovern), \$1,200 (by Benzan), \$850 (by Simmons) and \$350 (by Fantini). The funds will be disgorged by December 31, 2016.

IV. Conclusions

Based upon OCPF's review, OCPF has concluded that McKinnon has violated the following Sections of Chapter 55:

1. Contributions Made in a Manner Intended to Disguise the True Source of the Contributions – M.G.L. c. 55, § 10

Section 10 states that no person may “make a campaign contribution in any name except his own, or in any manner for the purpose of disguising the true origin of the contribution . . .” McKinnon violated this provision by arranging for persons associated with McKinnon (Benjamin and Thi Le) to make multiple contributions using his funds in a manner that disguised the true origin of the funds. The \$6,450 in contributions (\$1,750 in 2013 and \$4,700 in 2015) made by Benjamin and Thi Le listed above in paragraphs 1 through 9 were made using McKinnon's funds, in violation of Section 10.

2. Excess Contributions – M.G.L. c. 55, § 7A

In 2013-2014, Section 7A limited individual contributions to a total of no more than \$500 to any one candidate in a calendar year.¹ By providing funds to Benjamin and Thi Le with the intention that the funds be used by them to make political contributions, and by providing funds that were actually used to make those contributions, McKinnon is the actual contributor, and, therefore, personally made excess contributions totaling \$4,800. The excess contributions made were over the \$500 individual annual threshold in 2013 and over the \$1,000 individual annual threshold in 2015,

¹ Effective January 1, 2015, the individual contribution limit was increased to \$1,000 per candidate per calendar year. Ch.210, § 11 of the Acts and Resolves of 2014 (Mass. Aug. 1, 2014).

in violation of Section 7A.

V. Respondent's Position

Respondent has always lived in Cambridge, as have nearly all of the elected officials receiving donations in this matter. The parties have known one another for years. None of Respondent's real estate projects are approved by any elected officials; instead they are approved by appointed Boards.

Respondent's company has only two employees, Mai Le has been with the company for 16 years, and Adriana Benjamin for 13. The three are personally very close, and often operate more like an extended family than a traditional business. They socialize together, do things for one another and celebrate family events together. The examined records during the period of this investigation reveal tens of thousands of dollars from McKinnon to his employees in loans and bonuses. Unfortunately, the transactions between the parties are informal and clear records of intent and purpose were not always maintained.

No member of the company has ever hosted or organized a fundraiser. Instead the President makes a limited number of donations himself and occasionally asks his employees to donate rather than raise funds or host events. Although it was never his intention to violate any law, Respondent now understands and acknowledges how his actions and the lack of precise accounting could have violated campaign finance laws. Respondent stresses that neither he nor his employees ever asked for or received anything from any elected official in return for these contributions.

VI. Resolution

In order to resolve the matters now before OCPF and preserving their respective positions and conclusions, the parties agree, pursuant to 970 CMR 3.07(1) and M.G.L. c. 55, § 3, for the purposes of this Agreement only, as follows:

1. Upon execution of this Agreement, unless otherwise noted:

(a) McKinnon will make a payment totaling \$16,000 to the Commonwealth of Massachusetts in the nature of a civil forfeiture. The payments will be made according to the following schedule:

- (i) \$5,000 due upon execution of the Agreement;
- (ii) \$5,000 due on or before March 17, 2017; and
- (iii) \$6,000 due on or before December 29, 2017.

(b) McKinnon agrees not to solicit contributions for any Massachusetts candidate or political committee from any employee of the Company for a period of three years.

(c) McKinnon further agrees not to provide or arrange to provide funds to any third person or entity to enable that person or entity to make a political contribution to any Massachusetts candidate or political committee.

(d) McKinnon agrees not to make contributions to any Massachusetts candidate or political committee for a period of three years.

2. OCPF agrees not to refer McKinnon or the Company to any other governmental agency, including without limitation, the Office of the Attorney General, for any failure to comply with the provisions of M.G.L. c. 55, cited herein, with respect to the conduct that is specifically referenced in this Agreement.

3. 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 McKinnon, 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.

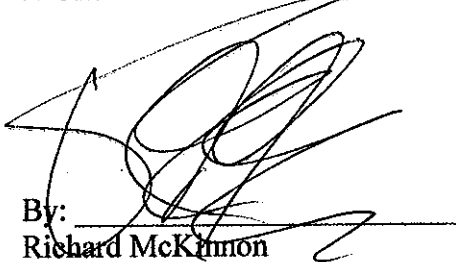
4. This Agreement shall be binding upon OCPF and McKinnon, including their successors.

5. This Agreement constitutes a complete disposition of all matters specifically referenced herein for the referenced period.

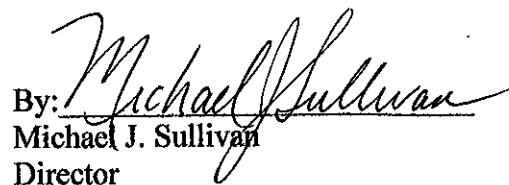
6. The parties have entered into this Agreement, knowingly and voluntarily, in an effort to resolve all matters set forth in the Agreement. Neither party has made any admissions with respect to the facts and conclusions set forth herein and this Agreement shall not be admissible in any other proceeding except one to enforce its terms.

7. This Agreement is a public record under Section 7 of M.G.L. c. 4 and shall be subject to public inspection as required by Section 10 of M.G.L. c. 66.

RICHARD MCKINNON


By: _____
Richard McKinnon

OFFICE OF CAMPAIGN AND
POLITICAL FINANCE


By: _____
Michael J. Sullivan
Director