

CAMPAIGN & POLITICAL
FINANCE

DISPOSITION AGREEMENT

2014 AUG -5 P 12:49

This Disposition Agreement ("Agreement") is entered into on August 1, 2014 by and between the Office of Campaign and Political Finance ("OCPF") and the Respondents, One Boston Independent Expenditure Political Action Committee ("One Boston") and One New Jersey ("One New Jersey"), in which the parties mutually agree, for the purposes of this Agreement only, as follows:

I. INTRODUCTION

1. One Boston, which was recognized as an independent expenditure political action committee by OCPF on October 24, 2013, is a political committee registered with OCPF and is subject to the provisions of M.G.L. c. 55, the Massachusetts campaign finance law. At all times relevant to this Agreement, Jocelyn Hutt served as the duly-appointed Chair and Treasurer of this Committee.

2. One New Jersey is a nonprofit corporation incorporated in the state of New Jersey, and is an entity organized under Section 501(c)(4) of the Internal Revenue Code of 1986. One New Jersey has not registered as a political committee with OCPF.

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, campaign treasurers, 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 issued by this office in accordance with M.G. L. c. 55.

II. FACTS

1. According to an affidavit provided by Steve Rosenthal, the founder of One New Jersey, One New Jersey requested funds from the American Federation of Teachers ("AFT") on October 18, 2013. One New Jersey's purpose in soliciting the funds from AFT was to use the funds to purchase television ads regarding the November 2013 Boston Mayoral election. One New Jersey has stated that at the time it solicited the funds from AFT, no decision had been made whether such television advertisements would include express advocacy or issue advocacy, and One New Jersey was not registered as a political committee in Massachusetts. One New Jersey, to date, has not registered as a Massachusetts political committee. See Rosenthal Aff., ¶ 4, April 23, 2014.

2. On October 22 and 23, 2013, pursuant to One New Jersey's request for funds, One New Jersey received a total of \$500,000 from AFT via two wire transfers of \$400,000 and \$100,000.

3. On October 23, 2013, One New Jersey transferred \$500,000 to One Boston by making a wire transfer of the funds to a separate bank account in the name of "One Boston PAC." The wire transfer from One New Jersey was the opening and only deposit in One Boston's checking account. One New Jersey transferred the funds it received from AFT so that One Boston could purchase television advertisements intended to influence the Boston Mayoral election. See Rosenthal Aff., ¶ 4-5, April 23, 2014.

4. On October 23, 2013, One Boston completed paperwork to organize as an independent expenditure political action committee with OCPF; the paperwork was received and approved by OCPF on October 24, 2013.

5. Also on October 24, 2013, One Boston made a payment of \$480,000 via wire transfer to Message & Media, Inc., for an ad buy related to the Boston Mayoral election.

6. One Boston purchased ad time for one ad which expressly advocated for the election of Marty Walsh. The ad aired several times in the Boston television market in the week prior to the election. There is no indication that either One Boston or One New Jersey coordinated with any candidates in the creation or production of the advertisement.

7. On October 30, 2013, One Boston filed a timely independent expenditure report disclosing an expenditure of \$480,000 to Message & Media for an ad buy supporting Boston Mayoral Candidate Marty Walsh.

8. On January 7, 2014, One Boston filed its dissolution report, disclosing only a single contribution received of \$500,000 from One New Jersey, expenditures to Message & Media totaling \$490,000 and to miscellaneous vendors totaling \$10,000, and a zero balance.

9. One Boston's dissolution report disclosed two separate payments to Message & Media – one on October 24, 2013 for \$480,000 and another on December 12, 2013 for \$10,000. Message & Media subcontracted with outside vendors that provided production, editing, broadcast, and strategic services to Message & Media for its One Boston account. One Boston subsequently filed subvendor reports disclosing the subvendors used by Message & Media.

III. OCPF CONCLUSIONS

1. FAILURE TO ORGANIZE AS A POLITICAL COMMITTEE – M.G.L. c. 55, §§ 1 AND 5

Section 1 of the campaign finance law defines a political committee as “any committee, association, organization, or other group of persons...which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate...”. Section 5 requires that “each political committee shall organize by filing with the director...a statement of organization.” One New Jersey, by soliciting and receiving funds from AFT for the purpose of making an expenditure (in the form of a contribution to One Boston) to influence a Massachusetts election, was a political committee within the meaning of the Massachusetts campaign finance law. One New Jersey was therefore required to register with OCPF prior to soliciting and receiving funds for a political purpose; by failing to do so, One New Jersey violated M.G.L. c. 55, §§ 1 and 5.

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

Section 18 of the campaign finance law requires that political committees file accurate reports of contributions and expenditures with OCPF. One Boston violated M.G.L. c. 55, § 18 when it failed to file campaign finance reports accurately disclosing AFT as its true contributor. In addition, One New Jersey violated § 18 when it failed to file a campaign finance report disclosing contributions and expenditures in 2013.

3. CONTRIBUTIONS MADE IN A MANNER INTENDED TO DISGUISE THE TRUE SOURCE OF THE CONTRIBUTIONS—M.G.L. c. 55, § 10

Section 10 states that contributions may not be made in a manner that disguises the true source of the contribution, nor shall any political committee knowingly accept contributions whose true source has been disguised. One Boston violated M.G.L. c. 55, § 10 by accepting and reporting a contribution from One New Jersey when One Boston knew that the contribution originated with AFT. One New Jersey also violated Section 10 by making a contribution to One Boston in a manner intended to disguise AFT as the true source of the funds used to make that contribution.

4. CONTRIBUTIONS AND EXPENDITURES MADE BY WIRE TRANSFER—M.G.L. c. 55, § 9

Section 9 of the campaign finance law requires that all contributions in excess of \$50 be made using written instrument or direct deposit, and that expenditures must be made by check or committee credit card. Direct deposit contributions to PACs may be processed from individual contributors, provided the political committee retains a signed authorization card. One Boston

and One New Jersey received contributions and One New Jersey made an expenditure in violation of this section.

5. RECEIPT OF CONTRIBUTIONS NOT RAISED IN ACCORDANCE WITH THE CAMPAIGN
FINANCE LAW – M.G.L. c. 55, § 7

Section 7 of the campaign finance law prohibits any political committee from accepting contributions that were not raised in accordance with the campaign finance law. One Boston, in accepting funds One New Jersey raised without having first organized as a political committee in Massachusetts in accordance with Section 5 of the statute, received a contribution that was not raised in accordance with M.G.L. c. 55. Accordingly, One Boston violated M.G.L. c. 55, § 7.

IV. ONE NEW JERSEY AND ONE BOSTON RESPONSE

One New Jersey and One Boston (“Respondents”) contend that they acted in good faith reliance on the advice of legal counsel after legal counsel had consulted with OCPF. This consultation occurred to any solicitation of funds or establishment of a new political committee, and under the good faith belief that Respondents complied with applicable provisions of Massachusetts campaign finance law.

Specifically, Respondents object to the assertion that One New Jersey was required to register as a political committee because of the timing of the solicitation and establishment of One Boston, as detailed in the Facts section above. Since it is Respondents belief that One New Jersey is not a political committee under Massachusetts law, One Boston did not receive contributions that were not raised in accordance with campaign finance law.

Respondents had no intention of disguising the true source of the funds given to One Boston. First, the donation from AFT to One New Jersey is required to be publicly disclosed by AFT on its regularly scheduled reporting to the Internal Revenue Service. Second, AFT and the Respondents went further by issuing a press release voluntarily disclosing AFT’s support. Third, OCPF acknowledges and agrees that One Boston was not required to file any reports disclosing donors until January 2014. OCPF further acknowledges and agrees that the voluntary press releases regarding AFT’s support were issued weeks in advance of this deadline.

Respondents also object to the assertion that One Boston failed to properly disclose donors as Massachusetts law does not currently require such itemization, as evidenced by House Bill No. 4197. This Bill, still under consideration in the Massachusetts state legislature, would require OCPF to create new regulations that address transfers from one group to another for the purpose of making independent expenditures. The Massachusetts state legislature has taken steps to impose a new reporting scheme on entities that engage in independent expenditures – but this requirement would be new and should not be retroactively applied to 2013 election activity.

Finally, sufficient written authorizations exist to support the wire transfers between the Respondents documented in the facts section, as detailed in Respondents' previous submissions to OCPF.

V. RESOLUTION

Solely for the purposes of settling this matter expeditiously and avoiding the cost and time of further proceedings, and without admitting or denying any issue of law or fact, the Respondents agree not to contest OCPF's allegations above, and hereby agree with OCPF, pursuant to 970 C.M.R. 3.07(1) and M.G.L. c. 55, §3, as follows:

1. Upon execution of this Agreement, the Respondents will pay \$30,000 to the Commonwealth of Massachusetts in the nature of a civil forfeiture.
2. Within 14 days of the date of this Agreement, One New Jersey will file a Statement of Organization with OCPF to register as an independent expenditure PAC. It will also, within 14 days of the date of this Agreement, file a Dissolution report disclosing the contribution it received from AFT and the expenditure it made to One Boston.
3. OCPF acknowledges that One Boston has now filed all required subvendor reports.
4. OCPF agrees that if the Respondents comply with this Agreement, it will not refer the Respondents to any other law enforcement agency, including, without limitation, the Office of the Attorney General, for the violations referenced in this Agreement.
5. OCPF may, at any time, review compliance with this Agreement. This Agreement is enforceable in the Superior Court for Suffolk County.
6. This Agreement shall be binding upon OCPF and the Respondents.
7. The parties have entered into this Agreement, knowingly and voluntarily, in an effort to resolve all matters set forth in the Agreement.
8. 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.

ONE BOSTON INDEPENDENT
EXPENDITURE PAC

By:

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Carolyn Utrecht
Counsel, One Boston

OFFICE OF CAMPAIGN AND
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By:

Michael J. Sullivan 8/5/14
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