



Commonwealth
of Massachusetts

OCPF Online
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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

February 28, 2007
AO-07-02

Paul R. Ferro
53 Edinboro Street
Marlborough, MA 01752

Re: Purchase of office building by political party committee

Dear Mr. Ferro:

This letter is in response to your request for an opinion regarding whether a state political party committee may purchase an office building for its use. You have provided a hypothetical example involving the receipt of a contribution of \$1,000,000 that would be given by an individual for that purpose.

QUESTION

Does the Massachusetts campaign finance law allow a state political party committee to accept contributions to purchase a building to be used for a party headquarters?

ANSWER

No. The campaign finance law would prohibit the receipt of the contribution described in your hypothetical.

DISCUSSION

Any money given to a state political party committee “for the purpose of supporting or opposing [the] political party committee” is a “contribution” subject to the campaign finance law.¹ See M.G.L. c. 55, § 1. The purpose of a state party committee is to support the party’s candidates. Purchasing a new building would help the committee support candidates. Therefore, money received by a political party committee for that purpose would be considered a “contribution” subject to the limits and prohibitions of the statute.

¹ Money received by a *federal* account of a state political party, however, is subject to Federal law, not the Massachusetts campaign finance law.

Contributions are subject to the limits, prohibitions and disclosure requirements of the campaign finance law. For example, the maximum annual aggregate contribution that may be made by an individual to all committees of any one party, including those on the state and local level, is \$5,000. See M.G.L. c. 55, § 7A. In addition, Section 8 of the campaign finance law prohibits the receipt of contributions from business corporations.

Prior to 2002, when the Bipartisan Campaign Reform Act of 2002 (BCRA) amended Federal law, donations to state party committee building funds were exempt from the Federal law's definition of "contribution" and individuals and corporations could, under Federal law, donate money without limit to special building funds established by state party committees. Therefore, state party committees were able to create building fund accounts to receive and spend funds for the purpose of purchasing a building. BCRA removed the exemption.² Now, a state political party committee may spend only Federal funds subject to the limitations on contributions established by Federal law, or alternatively, they may use non-Federal funds, *but only to the extent the non-Federal funds are raised, spent and disclosed "subject to State law."* See 2 U.S.C. § 453(b) (emphasis added). The Federal Election Commission's regulations issued to implement BCRA clearly allow a state to regulate funds given to state party committees for purposes of purchasing a building. See 11 CFR 300.35 and FEC AO 2004-28. As noted in the Explanation and Justification for 11 CFR 300.35, "if State law forbids corporate donations and donations in excess of a particular amount, Federal law would not preempt the application of State law prohibiting the use of funds from a party committee's non-Federal account." 67 Fed. Reg. 145, 49101 (2002). Such prohibitions and limitations exist in Massachusetts, which would not allow an individual to make the contribution you have described in your hypothetical.

Finally, you have asked not only if funds can be raised to pay for a new building, but also whether (assuming funds are available in the committee's state account) a state party committee may make an expenditure for that purpose. The Massachusetts campaign finance law contains no provision either expressly allowing or expressly prohibiting the expenditure of funds to purchase a building. Since the major parties' state political committees, unlike other types of political committees, are ongoing in nature, however, it would seem that such expenditure would be permissible, but since the funds have not been raised for that purpose in your hypothetical, we do not need to address that issue now. A party committee should contact OCPF for guidance before actually making any such expenditure.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and your telephone conversation with OCPF staff. Please contact us if you have further questions.

Sincerely,



Michael J. Sullivan
Director

² In OCPF advisory opinion AO-95-15 OCPF sought to harmonize Federal law then in effect with state law, in order to avoid possible preemption issues. Because of BCRA's changes to Federal law the opinion is no longer in effect.