

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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June 30, 2011
AO-11-05

Elizabeth L. Delaney, Town Clerk
Town of Chelmsford
50 Billerica Road
Chelmsford, MA 01824

Re: Financing of Political Action Committee Relating to a Recall Election

Dear Ms. Delaney:

This letter is in response to your June 6, 2011, request for guidance.

You have stated that the town of Chelmsford is having a recall election on August 2, 2011, concerning the possible recall of four of five members of the Board of Selectmen. A group of citizens opposing the recall has filed the necessary paperwork to establish a political action committee ("PAC"), called Choose Chelmsford.

You have also stated that you are aware from OCPF's previous advisory opinions that an elected official is not allowed to "finance" a PAC, and that such an individual may therefore not sign fundraising letters. An elected official may, however, contribute to a PAC so long as he or she does not "finance" the PAC. You have asked three questions which relate to the extent a selectman, who is subject to possible recall, may be involved in the efforts of the PAC to oppose the recall.

Question 1

May a Selectman's political committee sign fundraising letters for the PAC or may the Selectman sell tickets for a PAC fundraising event?

Answer

No. Section 5A of Chapter 55 provides that "[n]o candidate or individual holding elective public office shall establish, finance, maintain, control or serve as a principal officer of a political action committee"¹

¹ The statute creates an exception for a majority of the members of each political party in the House of Representatives and in the Senate, each of which can authorize one PAC controlled by a candidate or elective public office holder.



The answer to this question lies in the meaning of the word “finance” since a candidate or elected official may not finance a PAC. The statute does not define the word “finance”, but the commonly accepted meaning of the word is “to raise or provide funds or capital for.” See Webster’s New Collegiate Dictionary.

In the office’s opinion, a candidate or elected official would be considered to be financing a PAC when such person takes significant action such as agreeing to lend his or her name to a fundraising appeal letter and that action (1) is designed to raise a significant portion of a PAC’s funds; (2) actually raises a significant portion of a PAC’s funds; or (3) significantly influences the manner in which a PAC obtains contributions. See AO-95-01 and 970 CMR 1.06 (b) 4.

Therefore, an elected official or his political committee, including an elected official who is the subject of a recall petition, may not sign fundraising letters for a PAC or sell tickets for a PAC fundraising event, pursuant to Section 5A. In addition, the official’s committee may not sell tickets for the PAC. Either activity would be considered “financing” the PAC.

Question 2

May a Selectman’s political committee contribute over \$500 to a PAC?

Answer

No, such action would involve the Selectman “financing” the PAC. Although candidate committees may generally contribute without limit to a PAC², a candidate who is subject to a recall petition may not, consistent with Section 5A, use his committee’s funds to provide a significant portion of funds to a PAC that opposes recall. See AO-95-01.

Question 3

May an elected official serve on a sub-committee of a PAC, so long as he or she does not serve as chairman or solicit funds for the sub-committee?

Answer

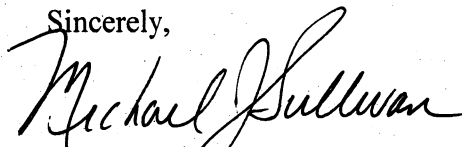
Yes. Section 5A provides that no candidate or individual holding elective public office shall control or serve as a principal officer of a PAC. A principal officer would include a chair or treasurer position. See Webster’s New Collegiate Dictionary, which defines the adjective “principal,” in part, as “most important, consequential or influential” and the noun principal as “a person who . . . is in a leading position.” The same dictionary defines the word “officer” as “one who holds an office of trust, authority, or command.”

² See M.G.L. c. 55, § 6, which states that although there is no monetary limit on contributions by candidate committees to PACs, such contributions may be made only for “the enhancement of the political future of the candidate.”

A member of a sub-committee of the PAC would not generally hold a leading position and would not, absent unusual circumstances, be considered a "principal officer." It is the office's opinion, therefore, that an elected official could be a member of the sub-committee.

This opinion is issued solely within the context of the campaign finance law and is provided based on representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive style with a large, stylized initial "M".

Michael J. Sullivan
Director