



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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March 24, 2020
AO-20-01

Jason Kahn
Chair, The Committee to Elect Elizabeth Exton
231 Washington Street
Arlington, MA 02474

Re: In-kind contribution of clothing from corporation

Dear Mr. Kahn:

This letter is in response to your recent request for an advisory opinion regarding the potential receipt of an in-kind contribution from M.M. LaFleur, a women's clothing business.

You have stated that M.M. LaFleur ("the Company") has proposed making an in-kind contribution in the form of clothing to candidates, and that the value of the contribution that might be received by the Committee to Elect Elizabeth Exton ("the Committee") would be \$200. The candidate, Elizabeth Exton, is seeking election to the Arlington School Committee.

According to recent reporting online¹, the Company "has just launched a program called Ready to Run that will offer complimentary clothing loans to women running for public office on the federal, state, or local level. Female candidates simply need to apply on the brand's website, and once their credentials have been approved, they'll get three items of clothing. (The brand's dresses run between \$200 and \$300, and blazers cost between \$300 and \$350.)² Since women running for office face a wide array of rules about what gifts they are allowed to receive, it was better for M.M. LaFleur to rent these outfits to candidate rather than give them away. After the election, the items of clothing will be donated to Bottomless Closet, a nonprofit that helps disadvantaged women in New York City looking for work."

We understand that Sarah LaFleur, the Company's Chief Executive Officer, "will be purchasing clothes herself and lending them out in order to safeguard against any campaign finance laws that would prohibit candidates from accepting such a donation from a company."³

¹ <http://fastcompany.com/90467308/mm-lafleur-will-dress-women-running-for-free>, accessed on March 5, 2020. According to the story, the program would run through Super Tuesday (March 3, 2020). For purposes of this Opinion, we assume that the program has been extended.

² One-time rentals, however, are \$40-\$65, based on Rent the Runway's page featuring the Company's clothing: <https://www.renttherunway.com/pages/designers/mmlafleur> (accessed March 11, 2020).

³ As reported online at <https://bust.com/style/196926-fashion-company-dressing-politicians.html>, accessed on March 5, 2020"

QUESTION

May the Committee accept the loan of clothing, and if so, how should it be reported?

ANSWER

Yes, the Committee may accept the clothing if (1) it is from Sarah LaFleur individually rather than from the Company, and (2) the value of the loaned clothing (based on the cost to rent), when added to any other monetary or in-kind contributions made by Sarah LaFleur to the Committee, does not exceed \$1,000 during a calendar year.

The value of the in-kind contribution may be determined by reference to the cost to rent similar clothing from Rent the Runway or other women's business attire companies. The Committee should reflect the receipt of an in-kind contribution from Sarah LaFleur, equal to the value of the clothing loaned, on the campaign finance report that covers the period when the clothing was received.

DISCUSSION

The campaign finance law defines "contribution" to include a loan "except a loan of money to a candidate by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business. . ." M.G.L. c. 55, § 1. Business corporations such as M.M. LaFleur may not make contributions (of money or in-kind) to candidates. M.G.L. c. 55, § 8. Therefore, the Company may not loan clothing to a candidate, or otherwise contribute to a Massachusetts state or local candidate.

If, however, Sarah LaFleur *personally purchases* clothing from the Company, then she may personally loan the clothing to the Committee. The clothing provided would, however, be subject to the contribution limit that applies to contributions by an individual to a candidate. This means that when considered together with any other monetary or in-kind contributions from Sarah LaFleur, the value of the rental may not cause Sarah LaFleur to exceed the total amount of \$1,000 to the Committee. M.G.L. c. 55, § 7A.

The value of the rental given to the Committee would be considered the market value of the rented clothing (i.e., the same price that any customer would pay for such rental in the ordinary course of business). The value is not the purchase price of the clothing, since the Committee is not keeping the clothing but rather is returning it to the Company after use.⁴ Instead, market value may be determined by reference to the cost for renting similar clothing from Internet businesses that rent women's business attire, such as Rent the Runway, and must include all costs incurred by the Company to rent the clothing, including packaging, marketing and delivery.

If the clothing is provided by Sarah LaFleur personally, like any other in-kind contribution received by the Committee, the receipt of the clothing must be reported on the In-Kind Contribution schedule (Schedule C). The contributor should be identified as Sarah LaFleur.⁵

⁴ The fact that the Company may be donating the clothing to charity after use does not change this analysis.

⁵ Loans of money are reported as liabilities in Schedule D. Since *clothing* is provided and no repayment is involved, however, the loan should be reported as an in-kind contribution.

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Although you have not stated that the Committee anticipates purchasing clothing, you should note that such purchase of "normal clothing attire" would be considered primarily for "personal use." Expenditures for personal use are not be permitted by Section 6 of the campaign finance law. In contrast, however, rental of formal attire for exclusive use at political or governmental functions, is permitted. 970 CMR 2.06(6)(a)4.

In accordance with the opinion of the Supervisor of Public Records, this letter is a public record. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in blue ink that reads "Gregory Birne" followed by a stylized flourish that appears to be "1/mcc".

Gregory Birne
General Counsel