



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

March 12, 1991
AO-91-01

Rep. Kevin O'Sullivan
State House
Room 146
Boston, MA 02133

Dear Representative Sullivan:

This letter is in response to your letter dated January 10, 1991 requesting for an advisory opinion.

You have asked if your campaign committee may reimburse your wife for compiling gift baskets for constituents, campaign supporters and contributors. You have further stated that your wife would be reimbursed only for the cost of the supplies used in the baskets and not for profit.

Implicit in your question is whether your political committee can make expenditures for the gifts you have described in the first instance. If such expenditures are permitted, you then inquire if your wife may be reimbursed.

M.G.L. c.55 governs expenditures by political committees. Section 6 provides, in pertinent part, as follows:

(A) political committee, duly organized, may . . . expend money or other things of value for the enhancement of the political future of the candidate . . . for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use . . .

The regulations promulgated pursuant to M.G.L. c.55 explicitly address the issue of payment for gifts. 950 CMR 2.06(3)(b) provides, in part:

(3) Expenditures which may be made for the enhancement of the political future of the candidate . . . for which that political committee was organized shall include . . .

(b) Gifts and Flowers, of reasonable value, provided that the purpose of the expenditure falls within one of the

following categories:

(2) The political committee or candidate will receive publicity and foster political goodwill as a result of making the gift or contribution. . . .

Gifts made under this section must meet the four pronged test set forth in subsection (2) which provides that

- a. the candidate or treasurer has no personal relationship with the individual or his family; and
- b. the gift is appropriate to the occasion which has prompted the gift; and
- c. making such a gift is usual and customary practice of the political committee; and
- d. the gift would not be made but for the interest in it enhancing the political future of the candidate . . . for which the committee was organized.

An example of a gift that would satisfy the above regulations would be a gift basket of fruit or flowers, of reasonable value, given to a constituent on the occasion of the birth of a child, a significant birthday, a wedding anniversary or the loss of a loved one. Such a gift would foster political goodwill and receive publicity even if only at a personal or family level. As long as the gift otherwise met the four pronged test of the regulations, expenditures for such a gift would be permitted under M.G.L. c.55 and the regulations cited above.

The second question raised by your letter is whether your spouse may be reimbursed for the costs of such gifts. Nothing in either M.G.L. c.55 or the pertinent regulations would prohibit a political committee from reimbursing a candidate's spouse for reasonable and necessary expenses of the campaign. Indeed, 970 CMR 2.06 (3) which incorporates by reference 970 CMR 2.05 (2)(i) permits a political committee to compensate an individual provided such compensation is done in a "reasonable manner" and "solely for work actually done for that political committee." The regulations do not prohibit payments merely because the work is done by or reimbursement is made to a candidate's spouse.

I would caution you that a different standard applies for gifts given in gratitude to "campaign workers" under 970 CMR 2.06(3)(b)(1). This section permits gifts to campaign workers subject to the three pronged test set forth in the regulations. Specifically, any gift must (a) accurately reflect the worker's contribution to the campaign, (b) be made in a timely fashion to clearly indicate its purpose is to express gratitude for the work done on behalf of the campaign, and (c) not be made for

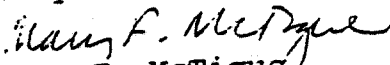
any other purpose or occasion. I also note that this opinion is limited to non-constitutional candidate's political committees because of the different standards set forth in M.G.L. c.55 and the pertinent regulations.

For the reasons set forth above, it is the opinion of this office that the gifts that you have described, if of reasonable value, may be given to constituents, campaign supporters and contributors provided that the provisions and limitations of the applicable regulatory tests are met.

This opinion is based solely on the representations made in your letter and has been rendered solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,


Mary F. McTigue
Director