



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411  
BOSTON, MASSACHUSETTS 02108

TEL: (617) 979-8300  
(800) 462-OCPF  
FAX: (617) 727-6549

MICHAEL J. SULLIVAN  
DIRECTOR

**M-04-01**

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MEMORANDUM

To: Interested Parties  
From: Michael J. Sullivan, Director *MJS*  
Subject: Contributions to Political Committees by Credit or Debit Card

M.G.L. c. 55, § 9 authorizes candidates and political committees to accept contributions by credit or debit card where the transaction is documented and complies with the contribution limitations of the campaign finance law. OCPF promulgated regulations at 970 CMR 1.09 to govern the receipt of credit or debit card contributions. This memorandum is intended to explain these regulations in more detail. Candidates and committees that intend to accept credit or debit card contributions should also read 970 CMR 1.09, which may be accessed from the "Legal Resources" page of OCPF's website, [www.ocpf.us](http://www.ocpf.us).

I. AUTHORIZED TRANSACTIONS

A. CREDIT CARD OR DEBIT CARD CONTRIBUTIONS MADE VIA INTERNET OR SIGNED AUTHORIZATION

As the above-quoted language of M.G.L. c. 55, § 9 suggests, in order to make a contribution by credit or debit card, a contributor must first authorize the transaction either on the Internet or by way of a signed paper record as described below. See 970 CMR 1.09. Therefore, credit and debit cards may be used to make contributions in one of the three following ways:

(1) Internet transactions, including transactions made via a committee website, a mobile app, crowd funding website or social media, but *only if* contributors, contemporaneously with the making of the contribution, (a) certify that the contributor is using the contributor's own credit or debit card, which is in the contributor's name, and (b) that the contributor's personal funds are the true source of the contribution. In addition, the contribution may be accepted only if the contributor, contemporaneously with the making of the contribution, provides his or her name and residential address, and if the amount contributed is \$200 or more, their occupation and employer.

The certification and required information must be submitted, *at the time the contribution is made*, in written or electronic form to the candidate or committee receiving the



contribution. A candidate or committee may not process a credit or debit card transaction made via the Internet if the required acknowledgment and contributor information is not provided with the contribution.

(2) Transactions where the cardholder-contributor provides credit or debit card information and a signed authorization by mail to a candidate or committee.

(3) Face-to-face transactions where, in the presence of a candidate, committee member or agent thereof, a cardholder-contributor signs a credit or debit card receipt, or an authorization to charge his or her credit or debit card.

*A candidate or committee may not receive a contribution based solely on a verbal authorization by the contributor-cardholder, such as over the telephone.*

#### B. CONTRIBUTIONS FROM CONTRIBUTOR'S BANK ACCOUNT MADE ELECTRONICALLY

Contributions may be made from a contributor's bank account by electronic means, but only if the committee complies with the record keeping and disclosure requirements applicable to receipt of credit or debit card contributions. See 970 CMR 1.09, defining contributions made using "credit or debit card" to include such contributions. For purposes of this Memo, the terms "credit or debit card" or "credit card" include contributions made by electronic means from a bank account.

#### C. DUTY TO ENSURE COMPLIANCE

Candidates and committees must review all credit and debit card contributions received to determine that the contributions comply with the source and limitation requirements of the campaign finance law. Any contribution determined to be illegal, including excess contributions, must be refunded to the contributor in accordance with 970 CMR 1.04(8).<sup>1</sup>

## II. CREATING A WEBSITE THAT SOLICITS CREDIT CARD CONTRIBUTIONS

### A. CONTRACTING WITH VENDOR OR MERCHANT PROVIDER

Where a candidate or committee contracts with a vendor or merchant provider,<sup>2</sup> such as a bank, to process credit or debit card contributions on the candidate's or committee's behalf, such a contract must conform to the campaign finance regulations at 970 CMR 1.09(2)(a). This provision requires that the contract be consistent with the vendor's

<sup>1</sup> 970 CMR 1.04(8) states, in relevant part, "Any contribution which is believed by a candidate or committee to be illegal, subsequent to its deposit, shall be refunded to the contributor immediately. This refund shall be in the form of a check written to the contributor on the account of the candidate or political committee into which the original contribution was deposited."

<sup>2</sup> A "merchant provider" is a bank or other business authorized to process credit or debit card transactions. A "vendor" is an individual or entity other than a merchant provider that provides services for campaign fundraising on the Internet to candidates and political committees. See 970 CMR 1.09(1). The term "vendor," as used in this Memorandum, includes both merchant providers and vendors.

customary and usual business practices, and not provide any discount that is not available to other candidates or political committees or the general public. The candidate or committee must be responsible for paying its portion of the fees charged by the vendor. See 970 CMR 1.09(2)(a)1-3.

In addition, to ensure compliance with section 19(b) of the campaign finance law, which requires depository committees to deposit contributions within seven days of "receipt," agreements that depository candidates and committees enter into with vendors should ideally require transfer of contributions from the vendor to the committee within seven days after the vendor receives the funds from the contributor. Where an agreement does not specifically require transfer by a vendor within seven days, however, transfers from the vendor must occur in the ordinary course of the vendor's business. Candidates or committees should review their accounts frequently to ensure timely transfer of funds.

#### B. CONTENT OF WEBSITES THAT SOLICIT CREDIT CARD CONTRIBUTIONS

The campaign finance regulations at 970 CMR 1.09(2)(b) set forth the criteria for web sites that solicit political contributions by credit or debit card. Specifically, the sites must: (1) set forth appropriate questions, which require an affirmative response from a contributor, to determine that the source and amount of the contribution complies with M.G.L. c. 55 and 970 CMR 1.09; (2) clearly identify the name of the candidate or committee involved in the solicitation; (3) require a contributor to certify with an affirmative action that the contributor is responsible for making payments on the credit or debit card and that the contributor's personal funds will be the true source of the contribution as required by M.G.L. c. 55, § 10<sup>3</sup>; and (4) clearly distinguish between required and optional information collected.

Vendors give committees *some* of the contributor information committees must maintain, e.g., the name of card holders and the amount contributed. Vendors typically do not, however, provide *all* required information, such as contributors' employer and occupation. Committees must obtain such information themselves at the time the contribution is made. The information may be obtained, for example, through the committee's own website before a contributor is redirected to another site that actually processes the contribution. Vendors also do not obtain the required true source certification. The certification must be obtained by committees at the time a contribution is made.

#### C. SOLICITATIONS ON MULTIPLE SITES

There is nothing in the campaign finance law, M.G.L. c. 55, to preclude a candidate's or committee's vendor from accepting credit or debit card contributions on behalf of the

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<sup>3</sup> For example, by including the following statement requiring a response from the contributor: "I certify that I am making this contribution with my own funds. I have not been nor will be reimbursed by another person or entity for this contribution. The credit card I am using is my personal card, not a corporate or business card or a card issued to another person. I am a United States citizen or a lawfully admitted permanent resident of the United States (green card holder). I am at least 18 years of age. My contributions to the [name of candidate] committee will not exceed \$1,000 per calendar year (\$200 per calendar year for lobbyists)."

candidate or committee via multiple websites, as long as the content of each of the websites conforms to 970 CMR 1.09(2). For example, subject to the appropriate regulations, candidates and committees may, in addition to their own websites, receive Internet credit or debit card contributions solicited on their behalf by an independent website created and maintained by unpaid volunteers (or by paid staff or other agent of the committee). See AO-04-11.

### III. CONFIRMATION OF CONTRIBUTIONS AND RECORD KEEPING

#### A. TRANSACTION CONFIRMATIONS

Credit or debit card contributions must be promptly confirmed to the contributor in writing via e-mail by the recipient candidate or committee, or by regular mail if the contributor does not provide an e-mail address. A record of such written confirmation should be retained by the committee. See 970 CMR 1.09(2)(c).

#### B. RECORD KEEPING

Besides M.G.L. c. 55, §§ 2 and 5, and 970 CMR 1.10, the record keeping provisions of the campaign finance statute and regulations that are applicable to all political contributions, the campaign finance regulation at 970 CMR 1.09(5)(a) imposes certain additional requirements in regard to Internet credit and debit card contributions.

Specifically, this regulation requires electronic (where applicable) and paper records of credit and debit card contributions, which include the following:

- (1) the name and residential address of the contributor;
- (2) the date received and amount of the contribution;
- (3) the occupation and employer of the contributor if the annual aggregate contribution(s) from the individual is equal to or greater than \$200;
- (4) any costs or fees deducted by or paid to the vendor; and
- (5) the contributor's billing address, if it is different from his or her mailing address.

As discussed below, candidates and committees, to ensure accurate disclosure of contributions actually received, must obtain transaction details from their vendor and reconcile the transaction details to information provided by the committee's bank.

### IV. DISCLOSURE

#### A. REPORTING CONTRIBUTIONS AND FEES

A credit or debit card contribution is deemed "received" for the purpose of the campaign finance law on the day that the contribution, if transferred from the vendor to the committee by check, is actually received by the committee and in the committee's

possession. If the contribution is made, however, directly by electronic transfer from the contributor's account or the account of a vendor into the committee's account, it is deemed to be "received" on the date the funds are transferred into the committee's account. See 970 CMR 1.09(5)(b). Also, the amount of the contribution reported and attributed to the individual contributor is the gross amount authorized by the contributor, even where a vendor deducts a transaction fee prior to depositing the proceeds of the contribution into the candidate or committee's account or otherwise assesses a fee for processing the transaction. See 970 CMR 1.09(5)(c).

All credit and debit card fees paid by the candidate or committee are reportable transactions by the candidate or committee for the purposes of the campaign finance law, even if the fee is directly deducted by the vendor prior to deposit in the committee account. See 970 CMR 1.09(5)(c).

Although it is permissible for a vendor to deduct fees prior to or at the same time as the transfer to the committee, the vendor may also debit the committee's bank account on a periodic basis for the fees or transfer the entire amount received from contributors and separately bill the committee for the fees.

#### B. DISCLOSURE BY NON-DEPOSITORY CANDIDATES AND COMMITTEES<sup>4</sup>

As with any monetary contribution, non-depository candidates and committees are required to report (gross) credit and debit card contributions on the list of receipts in the relevant campaign finance report, including, where applicable, all information required by M.G.L. c. 55, § 18, such as the contributor's name and residential address, or occupation and employer. Likewise, all fees and costs paid by a candidate or committee in conjunction with the solicitation and receipt of credit and debit card contributions are reported on the list of expenditures in the relevant campaign finance report. This includes all flat fees and per transaction fees, whether or not the fee is paid separately by the committee or is deducted from the proceeds of funds received by the vendor, i.e., netted out of the contributions.

For example, if three individuals each make a \$1,000 credit or debit card contribution to a candidate's committee on the Internet, the committee should disclose \$3,000 in receipts on the Receipts schedule of the relevant campaign finance report from those individuals, even if the committee's vendor deducted its fee, e.g., 3%, and only deposited \$970 of each of the three contributions into the committee's account. The committee would reflect the \$90 fee as an expenditure made payable to the vendor on the Expenditures schedule of the same report. Fees incurred during a reporting period may be aggregated and reported as a one line item. See attached Exhibit A.

Committees that receive credit card or debit card contributions via a vendor must obtain information from the vendor reflecting credit and debit card contributions processed by

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<sup>4</sup> Non-depository candidates include candidates for legislative office, candidates for mayor in cities with a population of less than 75,000, and candidates and committees that file with local election officials, as well as local party committees.

the vendor and any fees assessed. The vendor must itemize actual deposits made to the committee's account, list all contributions that cleared or were declined by the issuing bank, and provide such information to the candidate or committee. After receiving this information from the vendor, the committee must reconcile it to the information provided by the committee's bank regarding actual deposits. This will allow the committee to ensure the accuracy of its campaign finance reports. See 970 CMR 1.09(5)(e) and (f). The committee must also obtain information from contributors, including their residential address and, for persons contributing \$200 or more in a calendar year, their employer and occupation. See 970 CMR 1.09(5)(a).

### C. DISCLOSURE BY DEPOSITORY CANDIDATES AND COMMITTEES<sup>5</sup>

#### (1) Disclosure of information regarding contributors

Depository candidates and committees should keep in mind that the information a vendor gives to the depository bank regarding contributions generally does not include the names and addresses of contributors or their occupation/employer. Therefore, vendors should provide committees with the name, address, date and amount of all contributions, and also the fees incurred to process the contributions. Committees must obtain occupation/employer information either through their own efforts or in conjunction with a vendor.

Depository candidates and committees are responsible for reporting credit and debit card contribution activity directly with OCPF. This is done by electronically filing deposit reports in accordance with the same reporting schedule applicable to depository banks: between the 1st and the 5th day of each month, to cover the second half of the preceding month, and between the 15<sup>th</sup> and the 20<sup>th</sup> day of each month to cover the first half of the month. Depository candidates and committees that receive contributions by credit or debit card, like other candidates and committees that receive such contributions, must obtain information from their vendor and reconcile the information to information provided by the committee's bank, and from contributors. (See discussion in Part IV(B), above, and 970 CMR 1.09(6)(d)). *The reconciliation must take place prior to filing each deposit report and a deposit report must be filed for each period during which a committee receives credit or debit card contributions.*

#### (2) Disclosure of fees.

Candidates and committees must report credit and debit card processing fees in instances where the vendor or merchant directly deducts the fee from the contribution. This is necessary because the amount of the (gross) contribution reported on the deposit report will vary from the (net) amount actually deposited. A committee accounts for the deduction of fees by making an entry on the deposit report. The entry is made by

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<sup>5</sup> Depository candidates and committees include statewide and county candidate committees, PACs that file reports with OCPF, state party committees, governor's council committees and committees organized on behalf of candidates for mayor or city council in cities with a population of 75,000 or more (currently Boston, Cambridge, Lowell, Springfield, Worcester, New Bedford, Brockton, Quincy, Lynn, Fall River, Newton, Lawrence, and Somerville). See M.G.L. c. 55, § 19.

calculating the aggregate amount of fees per deposit. The information regarding the amount is provided by the vendor.

In contrast, fees are generally deducted by the vendor before contributions are transmitted to a committee. Alternatively, a vendor may debit fees directly from a committee's depository account. When fees are directly debited from a committee's account, the committee may need to append its bank report to explain the purpose of the expenditure.

Candidates and committees account for the vendor fees by entering a "Merchant Provider Fee" on a deposit report. This is done by selecting "Merchant Provider Fee" in the drop-down menu displayed below the "Deposit Date" field in a deposit report. After selecting "Merchant Provider Fee," the name of the vendor should be entered into the "Merchant Name" field and in the "Description" field, enter "Contribution Processing Fee." The total fees are entered into the "Amount" field. This amount will automatically be deducted from the deposit total of gross contributions ensuring the deposit report total reconciles to the actual deposit at the committee's bank.

For an example, please see the attached Exhibit B, a sample deposit report, which involves disclosure of two credit card contributions totaling \$2,000. Assuming that the committee's vendor deducted a \$40 fee prior to depositing these amounts, only \$1,960 would actually have been received by the depository bank. To account for this, a merchant provider fee of \$40 was added to the deposit report created by the committee using Reporter 6.

*Any candidates or committees who have additional questions regarding credit or debit card contributions after reviewing the attached regulations should contact OCPF for further guidance.*

**Exhibit A:**  
**Sample disclosure by Non-Depository Committee**

**Schedule A: Receipts**

*M.G.L. c. 55 requires that the name and residential address be reported, in alphabetical order, for all receipts over \$50 in a calendar year. Committees must keep detailed accounts and records of all receipts, but need only itemize those receipts over \$50. In addition, the occupation and employer must be reported for all persons who contribute \$200 or more in a calendar year.*

<u>Date</u>	<u>Name and Residential Address</u>	<u>Amount</u>	<u>Occupation and Employer</u>
3/31/2017	Holmes, Mycroft 654 Hope Avenue Boston, MA 02111	\$1,000.00	Detective Consultant Diogenes Club
4/3/2017	Holmes, Sherlock 221b Baker Street Boston, MA 02101	\$1,000.00	Detective Consultant Scotland Yard
4/1/2017	Watson, John 221b Baker Street Boston, MA 02101	\$1,000.00	Physician Self
<b>Total Itemized Receipts:</b>		<b>\$3,000.00</b>	
<b>Total Unitemized Receipts:</b>		<b>\$0.00</b>	
<b>Total Receipts:</b>		<b>\$3,000.00</b>	

**Schedule B: Expenditures**

*M.G.L. c. 55 requires committees to list, in alphabetical order, all expenditures over \$50 in a reporting period. Committees must keep detailed accounts and records of all expenditures, but need only itemize those over \$50. Expenditures over \$50 and under may be added together from committee records, and reported on line 13.*

<u>Date</u>	<u>Name and Address</u>	<u>Amount</u>	<u>Purpose</u>
4/3/2017	Acme Credit Card 951 Wall Street New York, NY	\$90.00	Credit Card Processing Fee
<b>Total Itemized Expenditures:</b>		<b>\$90.00</b>	
<b>Total Unitemized Expenditures:</b>		<b>\$0.00</b>	
<b>Total Expenditures:</b>		<b>\$90.00</b>	



**“Exhibit B”**

**Sample Deposit Report (Page 1)**

(The following images show a deposit report as it appears in Reporter 6 prior to e-filing with OCPF)

**Deposits & Receipts** Tank Dep Committee (40024)

Deposit Reports   Reconciliation   Receipts

**To Create A Deposit:**

- 1. Provide a date of deposit
- 2. Input the receipts you'd like to include in the deposit
- 3. Add an unitemized amount below if desired
- 4. Click the "Save & E-File" or "Save Draft" button below

Deposit Date: 9/9/2017

**Step 1: Enter the full amount for each deposit item, add the deposit items, then choose “Merchant Provider Fee.”**

**In this example, the committee received and deposited two \$1,000 credit card contributions.**

**Step 2: To account for the merchant provider fee.**

Individual Contribution  
Individual Contribution  
Candidate Loan  
**Merchant Provider Fee**  
PAC/Committee Contribution  
Non-Contribution Receipt  
Bank Interest  
Transfer from Savings Account  
Union/Association Contribution  
Unitemized Aggregated Amount

Occupation  
Employer

MA

**Add Deposit Item**

Type	Name, Address	Occupation	Employer	Other	Amount	Actions
Individual	<b>Herman, Kara</b> 34566 North Main Street Boston, MA 02101	Compliance Director	Atlantic Consulting Inc.		\$1,000.00	Edit
Individual	<b>Nelson, Daniel</b> 124 Schoolcrest Street Boston, MA 02101	Project Manager	Sunwest Projects LLC		\$1,000.00	Edit

# Sample Deposit Report (Page 2)

## Deposits & Receipts Tank Dep Committee (40024)

Deposit Reports   Reconciliation   Receipts

### To Create A Deposit:

1. Provide a date of deposit
2. Input the receipts you'd like to include in the deposit
3. Add an unitemized amount below if desired
4. Click the "Save & E-File" or "Save Draft" button below

Deposit Date: 9/9/2017

After entering the merchant provider fee information, click the "Add Deposit Item" button.

Merchant Provider Fee ▾

Coastline Credit Card Service Company   Credit C: ▾ \$40

Contribution Processing Fee

534543 West St.

Springfield   MA   01101 ▾

**Add Deposit Item**

Type	Name, Address	Occupation	Employer	Other	Amount	Actions
Individual	Herman, Kara 34566 North Main Street Boston, MA 02101	Compliance Director	Atlantic Consulting Inc.		\$1,000.00	<a href="#">Edit</a>
Individual	Nelson, Daniel 124 Schoolcrest Street Boston, MA 02101	Project Manager	Sunwest Projects LLC		\$1,000.00	<a href="#">Edit</a>

# Sample Deposit Report (Page 3)

## Deposits & Receipts Tank Dep Committee (40024)

Deposit Reports   Reconciliation   Receipts

### To Create A Deposit:

1. Provide a date of deposit
2. Input the receipts you'd like to include in the deposit
3. Add an unitemized amount below if desired
4. Click the "Save & E-File" or "Save Draft" button below

The merchant provider fee now appears in the list of deposit items as a negative entry.

Deposit Date: 9/9/2017

Individual Contribution

Last Name  Check  Amount

First Name  Occupation

Street Address  Employer

City/Town  MA

[Add Deposit Item](#)

Type	Name, Address	Occupation	Employer	Other	Amount	Actions
Fee	Coastline Credit Card Service Company 534543 West St. Springfield, MA 01101			Contribution Processing Fee	(\$40.00)	<a href="#">Edit</a>
Individual	Herman, Kara 34566 North Main Street Boston, MA 02101	Compliance Director	Atlantic Consulting Inc.		\$1,000.00	<a href="#">Edit</a>
Individual	Nelson, Daniel 124 Schoolcrest Street Boston, MA 02101	Project Manager	Sunwest Projects LLC		\$1,000.00	<a href="#">Edit</a>

Click "Save & E-File" to file the deposit report.

Total Deposit: \$1,960.00

[Save Draft](#) [Save & E-File](#)