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MEMORANDUM

To: Interested Persons
From: Michael J. Sullivan, Director *MJS*
Subject: Credit cards with rewards programs

This memorandum addresses questions relating to the use, by a political committee, of a credit card that earns rewards. Issues arise regarding (1) whether the candidate or other person may use the rewards, and (2) whether the receipt of such rewards must be disclosed in campaign finance reports.

Reward credit cards provide incentives (sometimes referred to as “loyalty programs”) for purchases made with the card. Points accumulate for each dollar charged on the card, and cardholders may redeem points for rewards. Rewards available may include points that can be used for flights, hotel stays, products or services from a specific retailer, gift cards, and more. Some rewards cards provide cash rewards.

A political committee may use a committee credit card that generates rewards. Regulations describe the disclosure required for expenditures made using credit cards, but do not provide guidance regarding rewards received through the use of such cards. *See* 970 CMR 2.09(3).

Question 1: May a candidate’s committee, PAC, or party committee accept a reward of miles or points, or cash rewards?

Response: Yes, a committee may accept cash or other rewards received in the ordinary course of business through a loyalty rewards program.

Two sections of the campaign finance law are relevant in considering whether a committee may receive rewards through the use of a credit card: Section 6 (which states that campaign funds may not be used for a candidate’s or any other person’s personal use) and Section 8 (which prohibits the receipt of corporate contributions by a candidate, traditional PAC or party committee).



To ensure compliance with Section 6, rewards earned by a committee may not be used personally. Section 6 exempts, from the definition of “personal use,” “expenses relating to the provision of constituent or legislative services.” Therefore, for example, to comply with Section 6, a committee that has earned sufficient points for a reward of a free flight may not allow anyone, including the candidate, to use the points for a free flight for vacation travel, but could use the points to “purchase” a free flight to attend a conference that enhances the candidate’s political future.

Section 8 of the campaign finance law prohibits business and professional corporations from making contributions or expenditures, or giving “any money or other valuable thing” to aid any candidate, PAC, or political party. Because Section 8 is a criminal statute, however, it must be narrowly construed. *See Weld for Governor v. Director of OCPF*, 407 Mass. 761, 766 (1990). The prohibition on the receipt of corporate contributions does not prohibit the receipt of non-contribution funds or items of value received **in the ordinary course of business**. Political committees may therefore enter into arms-length business relationships with corporations, which result in a benefit to the committee, without implicating section 8. *See, e.g.*, AO-96-27 (receipt of discount coupon books which could be distributed to contributors as an incentive to encourage contributions), and AO-02-14 (tote bags could be provided by corporation to attendees of party convention). The reward of points for the use of a credit card would therefore comply with Section 8 if the committee receives the rewards consistent with the same rules that apply to other holders of the card.

Question 2: If a committee may accept and utilize loyalty rewards, are there any disclosure requirements or restrictions on the receipt of rewards?

Response: Yes, there are disclosure requirements when points are redeemed or cash rewards received.

If a cash reward is received, the committee must disclose a monetary “non-contribution receipt” when reporting the receipt and deposit of the funds. The receipt is reported in the period in which the funds are credited to the committee’s account.

If instead of a cash reward, the committee redeems points, the committee must disclose the redemption of points as a “non-contribution receipt” in the in-kind contribution schedule covering the period when the points are redeemed. For example, if a committee redeems points for a hotel stay, the committee would disclose a non-contribution receipt in the in-kind contribution schedule, and would use the “description” field to explain the receipt, e.g., by indicating that it received a reward certificate and the value (e.g., that it is for a one night stay) of the certificate. Prior to redemption, however, while points are being accumulated and the credit card statements reflect the earning of points, the committee would not be required to disclose that points have been earned.¹

¹ The same analysis applies to the receipt and use of rewards or other benefits from merchants through loyalty programs that do not involve credit cards.

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This Memorandum is issued to provide guidance, solely within the context of the campaign finance law, to candidates and committees. Public employees who may be receiving rewards through loyalty programs should ensure that their activity, in addition to complying with the campaign finance law, also complies with the Massachusetts conflict of interest law, M.G.L. c. 268A, which is enforced by the State Ethics Commission.

For further information and guidance with respect to the campaign finance law, please contact OCPF at 617-979-8300.