Statement by OCPF on Citizens United v. Federal Election Commission

On January 21, 2010, the United States Supreme Court issued an important decision in ***Citizens United v. Federal Election Commission***, 558 U.S. ____ (2010). In ***Citizens United***, the Court ruled that ***independent expenditures*** by corporations made to influence candidate elections cannot be limited, because doing so would not comply with the First Amendment. Although the decision concerned application of a federal statute, it also calls into question OCPF's longstanding interpretation of M.G.L. Chapter 55, Section 8 as prohibiting both contributions and independent expenditures by corporations to support or oppose candidates or political parties.

Section 8 states, in part, that business corporations, and other entities specified in Section 8, may not "***expend*** or contribute, any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding or promoting or antagonizing the interest of any political party." (Emphasis added). In light of ***Citizens United***, the office will apply Section 8 as follows: Corporations or other entities named in the statute ***may still not make contributions*** to support or oppose candidates or political parties. In addition, if a corporation or other entity which may not contribute under Section 8 makes an independent expenditure, a report disclosing the independent expenditure must be filed, as required by M.G.L. Chapter 55, Section 18A.

If a corporation or its agents make an expenditure not "in concert with, or at the request or suggestion of, any candidate, or any nonelected political committee organized on behalf of a candidate or agent of such candidate" it is an independent expenditure. See M.G.L. Chapter 55, Sections 1 and 18A. On the other hand, a corporate expenditure that is made in concert with, or at the request or suggestion of, a candidate, would be prohibited by Section 8.