

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT

NO. SJC-12413

1A AUTO, INC. AND 126 SELF STORAGE, INC.,
Plaintiffs-Appellants,

V.

MICHAEL SULLIVAN, DIRECTOR, OFFICE OF CAMPAIGN AND POLITICAL
FINANCE,
Defendant-Appellee.

BRIEF OF AMICI CURIAE COMMON CAUSE AND FREE SPEECH FOR PEOPLE

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Judicial Court Rule 1:21(b)(i), amici state as follows:

(i) Common Cause is a Washington, D.C., nonprofit corporation exempt from federal taxation under section 501(c)(4) of the Internal Revenue Code. There is no parent corporation or publicly-held corporation that owns 10% or more of Common Cause's stock because Common Cause has not issued any stock.

(ii) Free Speech for People is a Massachusetts charitable corporation organized under section 501(c)(3) of the Internal Revenue Code and G.L. c. 180. It has no parent corporation and has issued no stock (and accordingly there is no publicly held company that owns any such stock).

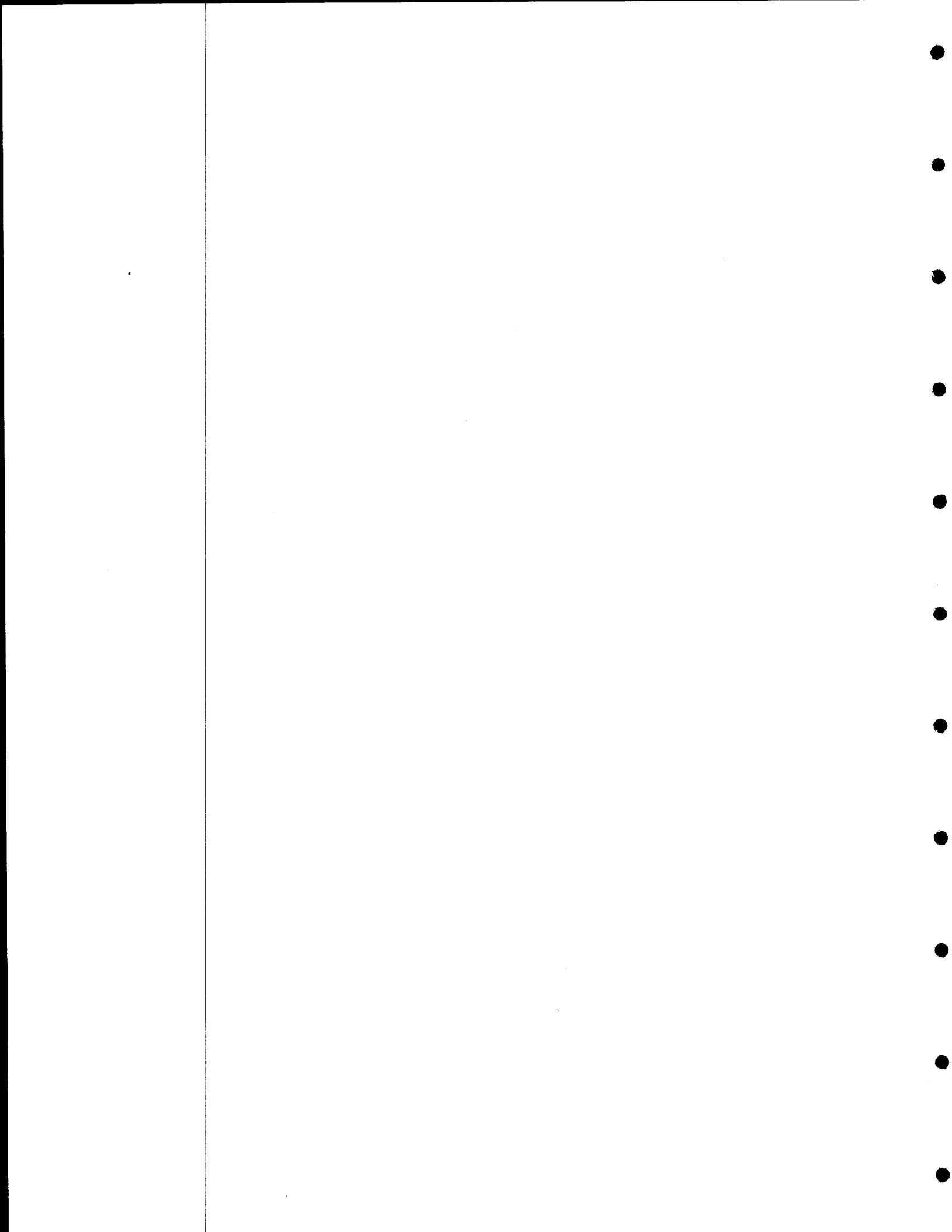


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INTRODUCTION

This is a routine administrative law case masquerading as a federal constitutional case. Thus far a threshold administrative law issue — i.e., how the Office of Campaign and Political Finance interprets and applies G.L. c. 55 to nonprofit entities — has been relegated to subtext. Amici Common Cause and Free Speech for People write to highlight that issue and to stress that it should be briefed comprehensively by the parties and fully addressed by the Superior Court before this Court prematurely ventures into weighty constitutional analysis.

Since 1907, the Commonwealth has barred for-profit corporations from donating to political candidates. Plaintiffs challenge that ban on First Amendment and Equal Protection grounds¹, based on differences between the treatment of business corporations, on the one hand, and nonprofit entities, on the other. The primary basis for the different treatment is not the General Laws, but an interpretive bulletin issued by the Office of Campaign and Political Finance ("OCPF"). Whether the interpretive

¹ Plaintiffs conclusory assertion that the ban on for-profit corporate donations violates certain provisions of the Massachusetts Declaration of Rights has been waived for the reasons stated in the brief of the Office of Campaign and Political Finance. See Defendant's Brief ("D. Br.") at 46-47.

bulletin properly interprets G.L. c. 55 is a threshold inquiry that the Court must address before it considers Plaintiffs' constitutional claims. But the parties have not addressed that issue; nor did the Superior Court.

Amici Common Cause and Free Speech for People write to stress two points. First, it is well settled that states may bar corporate contributions to political candidates — 21 states do so, as does the federal government. The compelling interests served by the ban on corporate contributions — preventing corruption, its appearance, and the circumvention of donation limits — are beyond peradventure. They remain as important today as they were in 1907 when the bar was first instituted. Plaintiffs are well aware of the controlling law. By this case, they seek not an application of well-developed constitutional law, but a vehicle to ask the Supreme Court of the United States to change it.

Second, in their rush to use Massachusetts law in service of a challenge to corporate contribution bans nationally, Plaintiffs have attempted to elide a threshold issue of state law. Before state law is to be measured against constitutional mandates, the actual substance of the state law requires close judicial and administrative attention — which as yet has been lacking in this case.

The plain text of G.L. c. 55 bars for-profit corporate contributions to candidates and subjects nonprofit entities making such contributions to regulatory requirements so strict that no donations ever would be made. Upon that statutory text, OCPF has placed a gloss in the form of subregulatory guidance it calls Interpretive Bulletin 88-01 (the "Interpretive Bulletin"). According to the Interpretive Bulletin, nonprofit entities (e.g., social welfare organizations and unions) may donate up to \$15,000 to any particular candidate without triggering the regulatory requirements. Of course, subregulatory guidance is not the law. There is nothing at all in G.L. c. 55 that allows \$15,000 contributions by nonprofit entities, nor can G.L. c. 55 reasonably be read to allow such contributions.

Whether the Interpretive Bulletin properly interprets G.L. c. 55 requires careful analysis. In amici's view, the answer is no. In any event, the issue cannot be passed over. This Court should not attempt to analyze whether state law creates a constitutionally impermissible disparity between business corporations and nonprofit entities without first determining: (i) whether OCPF's Interpretive Bulletin properly interprets G.L. c. 55; and (ii) if not, what the landscape of state campaign finance law looks like without it. This case should be remanded to the Superior Court so

that the Interpretive Bulletin may be addressed there, upon full briefing by the parties.²

INTERESTS OF THE AMICI

Common Cause is a non-partisan, nonprofit organization that works to create open, honest, and accountable government that serves the public interest; promote equal rights, opportunity, and representation for all; and empower all people to make their voices heard in the political process. With over one million members and supporters, Common Cause advocates for sound, effective campaign finance law to ensure a government that is accountable and responsible to the public that it serves. Common Cause believes that corporate donations to state candidates distort and decidedly do not further the frame of government so carefully crafted by the Massachusetts Constitution of 1780. See Mass. Const. Pt. I, art. 7 ("[T]he people alone have an incontestable, unalienable, and indefensible right to institute government; and to reform, alter, or tally change the same, when their protection, safety, prosperity and happiness require it") (emphasis added).

² If the Court finds that a remand is not appropriate, it should: (i) analyze the Bulletin itself; (ii) conclude that the Bulletin cannot stand, because it conflicts with the text and structure of G.L. c. 55; and (iii) affirm the Superior Court's dismissal of Plaintiffs' constitutional claims, which unquestionably fail in the absence of the Bulletin.

Free Speech for People is a non-partisan, nonprofit organization that works to restore republican democracy to the people, including through legal advocacy in the constitutional law of campaign finance. Free Speech For People's thousands of supporters around the country, including in Massachusetts, engage in education and non-partisan advocacy to encourage and support effective government of, for and by the American people.

ISSUE PRESENTED

Whether this Court should undertake a constitutional analysis of G.L. c. 55 without first considering the extent to which Plaintiffs' challenge rests on OCPF subregulatory guidance that is inconsistent with the text and structure of the statute.

STATEMENT OF THE CASE

Amici adopt the Statement of the Case set forth by the Defendant-Appellee Michael Sullivan, Director, OCPF. See D. Br. at 2-10.

As background, amici: (i) provide a brief and broad overview of state campaign finance law; (ii) set the specific statutory and regulatory context into which the Interpretive Bulletin fits; and (iii) note the limited extent to which the Interpretive Bulletin has been addressed by the parties in this case.

A. Massachusetts Campaign Finance Law.

The financing of state campaign and political activity in the Commonwealth is governed by G.L. c. 55, which also creates OCPF and imbues it with regulatory and enforcement authority. See G.L. c. 55, § 3.

The focus of G.L. c. 55 is political organizations – specifically, what they are, what they are permitted to do, who may donate to them, and what disclosure obligations they must meet. See G.L. c. 55, §§ 1-3, 5, 6-8, 18, 18A, 22, 23. Two types of political organizations are most relevant to this case, and a third provides additional context.

The first type is a "candidate's committee," which is "the political committee organized on behalf of a candidate" G.L. c. 55, § 1; see G.L. c. 55, § 2. This is the legal entity that is popularly referred to as a candidate's campaign. See generally, OCPF, "Campaign Finance Guide: Depository Candidates and Political Action Committees," available at http://files.ocpf.us/pdf/guides/dep_2010.pdf.

The second type of political organization is known as a "political committee" which is defined as:

[A]ny committee, association, organization or other group of persons . . . which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates . . . or for the purpose of

opposing or promoting a . . . question
submitted to the voters.

G.L. c. 55, § 1 (emphasis added); see id. §§ 5-6. A candidate committee is a type of political committee, but the term "political committee" encompasses other organizations as well. G.L. c. 55, § 1. For example, a political committee may raise and spend money on particular issues or particular types of candidates; this type of political committee is a "political action committee," or a PAC. See id. This case is primarily concerned with candidate committees and the subset of political committees known as PACs.

Both candidate committees and PACs are closely regulated. They must keep detailed records regarding donations and expenditures. G.L. c. 55, § 2(1)-(4); see G.L. c. 55, § 5 (applying §2's record keeping requirements to PACs). They must file public reports regularly disclosing their assets, the identity of their donors, the value of the contributions they have received, and a detailed listing of any expenditures they make. G.L. c. 55, § 18. In addition, how a candidate or PAC spends its resources is strictly curtailed: "No political committee . . . may pay or expend money or anything of value unless such transaction will enhance the political future of the candidate or principle on whose behalf the committee was organized." 970 Code Mass.

Regs. § 2.06(6) (b); see G.L. c. 55, § 6, para. 1; 970 Code Mass. Regs. § 2.07(2).

Candidate committees may receive no more than \$1,000 annually from any one particular individual and no more than \$500 annually from a PAC. See G.L. c. 55, §§ 6, 7A(a). PACs may receive no more than \$500 annually from any one particular individual; a PAC may give no more than \$500 annually to any one candidate's committee. See G.L. c. 55, § 6; 970 Code Mass. Regs. 1.04(12) (Contribution limits chart). For-profit corporations may not donate to candidate committees or PACs. G.L. c. 55, § 8.

There is, however, a third type of political organization to which for-profit corporations may donate without any limitation whatsoever known as an "independent expenditure PAC." See G.L. c. 55, § 18A(d). Independent expenditure PACs are not at issue in this case, but they provide important context.

An independent expenditure PAC may raise and spend money "to expressly advocate the election or defeat of a clearly identified candidate," but only if its expenditures are "made or incurred without cooperation or consultation with any candidate." G.L. c. 55, § 1; see id. § 18A; 970 Code Mass. Regs. § 2.21. Independent expenditure PACs may not donate to candidate committees; nor may they donate to any other type

of political committees. See generally OCPF Interpretive Bulletin 10-03 (Dec. 7, 2017 revision); 970 Code Mass. Regs. § 1.04(12) n. 1.

Though a much more limited version of independent expenditure PACs existed in Massachusetts law before 2010, the law governing them (and the extent of their use) changed considerably in the wake of Citizens United v. Federal Election Comm'n, 558 U.S. 310 (2010), and SpeechNow.org v. Federal Election Comm'n, 559 F.3d 686 (D.C. Cir. 2010) (en banc).³ Now, independent expenditure PACs may accept

³ Citizens United struck down as contrary to the First Amendment a federal statutory bar on corporate independent expenditures (i.e., express advocacy for the election or defeat of a candidate, made without coordinating with that candidate) and corporate spending on electioneering communications (i.e., indirect advocacy for or against a candidate, likewise without coordination) near in time to an election. 558 U.S. at 320-21, 371-72. In SpeechNow.org the D.C. Circuit interpreted the First Amendment (through the lens of Citizens United), and held that not only were corporate independent expenditures permitted, but that corporations and individuals must be allowed to contribute without limitation to entities organized for the sole purpose of making independent expenditures — thus giving birth to what we now know as SuperPACs. 599 F.3d at 692-98.

Although lower courts have followed the SpeechNow.org decision, the Supreme Court has not addressed its validity, and the decision split with decades of precedent regarding the distinction between contributions and expenditures. Whether SpeechNow.org was properly decided is the subject of pending litigation, see Lieu v. Federal Election Comm'n, No. 16-CV-02201, (D.D.C. 2016), and extensive scholarship, e.g., Albert W. Alschuler, Laurence H. Tribe, Norman L. Eisen, & Richard W. Painter, "Why Limits on Contributions to Super PACs Should Survive Citizens United," forthcoming 86 Fordham

unlimited donations from business corporations, nonprofit entities, and individuals. See generally OCPF Interpretive Bulletin 10-03 (Dec. 7, 2017 revision). As amended in 2014, G.L. c. 55 imposes record keeping, public filing, and disclosure requirements on independent expenditure PACs. See G.L. c. 55, §§ 18A, 18F, 18G.

Per OCPF records, spending by independent expenditure PACs has exploded. For example, independent expenditure PACs spent \$16.9 million in the 2014 gubernatorial race, while the candidate committees themselves collectively spent less than half that amount (\$8.4 million). See OCPF, Newsletter 1 (Fall 2014), available at <http://files.ocpf.us/pdf/newsletters/2014fall.pdf>.

Plaintiffs do not quibble with independent expenditure PACs because corporations, such as Plaintiffs, are free to donate to an independent expenditure PAC to any extent they so desire. See G.L. c. 55, § 18A; 970 Code Mass. Regs. 1.04(12), n. 1. In fact, Plaintiffs can fund and operate one – and use it to tell the world about which candidates each entity supports or opposes.

L. Rev. __, *14-15 (2018), available at <https://goo.gl/ngmj4d>.

B. Interpretive Bulletin 88-01.

Instead, Plaintiffs' complaint is that they may not contribute to candidates (directly or through a PAC that they control). And that is true. The extent to which business corporations may contribute to candidate committees and PACs is settled by G.L. c. 55, § 8: they cannot, not directly nor indirectly.

By contrast, the extent to which nonprofit entities may donate to candidate committees and PACs is not addressed in G.L. c. 55. They are not banned from doing so — that much is clear. The plain text of G.L. c. 55, § 1, however, suggests that any time a nonprofit entity expends money to support a candidate, it becomes a PAC. As the statute reads: a "'Political committee' [is] any . . . organization or other group of persons . . . which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate." G.L. c. 55, § 1.⁴ Becoming a political committee has significant consequences. As noted above, there are record keeping, filing, and disclosure requirements. Most importantly, there is also a complete bar on using the organizations' resources for anything that does

⁴ A PAC, in turn, is a "political committee which is not a candidate's committee, a political party committee nor a ballot question committee." G.L. c. 55, § 1.

not "enhance the political future of the candidate or principle on whose behalf the committee was organized." 970 Code Mass. Regs. § 2.06(6)(b).

If the plain text of the statute is enforced literally, a nonprofit entity becomes a PAC by virtue of a single donation to a candidate committee — or even upon the making of a single independent expenditure on behalf of a candidate. Under that construction, nonprofit entities would not do either because the consequences are too great. That dynamic could create a constitutional concern, but only as far as independent expenditures are concerned. In Federal Election Comm'n v. Massachusetts Citizens for Life, Inc. ("MCFL"), the Supreme Court held that a nonprofit entity must be allowed to make de minimis independent expenditures in support of candidates without triggering extensive regulatory requirements. 479 U.S. 238, 263-64 (1986). MCFL expressly did not apply to direct donations to candidates, though. Id. at 259-60. Indeed, federal law entirely prohibits nonprofit corporations from contributing to candidate committees. 52 U.S.C. § 30118.

That is the context into which the Interpretive Bulletin fits. As it states, a "strict application of" the definition of a PAC "would . . . place an extraordinary burden, not intended by the Legislature, on non-political organizations

making only incidental expenditures for a political purpose." Addendum ("ADD") at 3. But OCPF chose a remedy not limited to independent expenditures. Instead, OCPF chose to "consider[] groups and organizations that make contributions or independent expenditures but do not solicit or receive funds for any political purpose differently than groups and organizations that actively engage in political fundraising." ADD 3 (emphasis added). So, OCPF draws a line between: (i) those nonprofit entities that engage in political fundraising, and (ii) those that do not. Id.⁵

Organizations that fundraise for political purposes must register as PACs. Id. Organizations that do not engage in political fundraising must register as PACs only if their political spending (i.e., contributions to candidates or independent expenditures in support or opposition to them) is "more than incidental." ADD 3. And OCPF defines "more than incidental" as political spending that exceeds "in the aggregate, in a calendar year, either \$15,000 or 10 percent of the organization's gross revenues for the previous year." ADD 4.

⁵ As addressed further infra § II-C, this distinction is atextual because G.L. c. 55, § 1 defines political committees as organizations that "receive[] contributions or make[] expenditures for the purpose of influencing the nomination or election of a candidate." (Emphasis added).

Thus, the Interpretive Bulletin creates a category of nonprofit entities that may contribute to candidates or PACs without becoming a closely-regulated PAC. For present purposes, let us call that type of entity an "Interpretive Bulletin entity." Where an Interpretive Bulletin entity fits in the broader framework of G.L. c. 55 is unclear. For example, donations to candidate committees by individuals are limited by G.L. c. 55, § 7A (to \$1,000 annually); and donations to candidate committees by PACs are limited by G.L. c. 55, § 6 (to \$500 annually). But there is no limit for Interpretive Bulletin entities, because those entities are not individuals or PACs and are not mentioned at all in G.L. c. 55. So, not only may an Interpretive Bulletin entity spend up to \$15,000 without having to register as a PAC, it may also donate all \$15,000 to one candidate. See Interpretive Bulletin, ADD 4-6. Unlike a PAC, however, an Interpretive Bulletin entity need not make comprehensive filings about its fundraising or spending. Id., ADD 7. The result is that, even though an Interpretive Bulletin entity is less transparent than a PAC, it may donate 30 times more than a PAC to a single candidate. See id.

The Interpretive Bulletin was first issued in September 1988, and it remains materially the same today.⁶

C. Proceedings Before the Superior Court.

In their complaint, Plaintiffs set up the contrast that they have continued to emphasize throughout this action: (i) G.L. c. 55, § 8 bars for-profit corporate donations to candidates; and (ii) the Interpretive Bulletin permits nonprofit entities (including unions) to donate up to \$15,000 (to one candidate or cumulatively among numerous candidates) without triggering any of the regulatory requirements set by G.L. c. 55 (these are the Interpretive Bulletin entities referenced above). See JA I. 6-8 (¶¶ 11-13, 22-24); JA I. 15-21.

In their briefing in the Superior Court, however, Plaintiffs did not directly challenge whether the Interpretive Bulletin properly interprets G.L. c. 55. Because it was not challenged, OCPF understandably did not preemptively defend why, in its view, the Interpretive Bulletin is a correct statement of the law.

Instead of challenging the Interpretive Bulletin, Plaintiffs asked the Superior Court to declare OCPF's

⁶ The Interpretive Bulletin was most recently revised in May 2014 to reflect 2014 amendments to the law governing independent expenditure PACs.

enforcement of G.L. c. 55 unconstitutional, skipping right over the threshold question of OCPF's enforcement of G.L. c. 55 actually adheres to the text of G.L. c. 55. And, in fact, the Superior Court did skip right over that issue. See JA V 409-439.

D. Briefing Before This Court.

This Court does not have the luxury of skipping over a question of state law that is antecedent to the federal constitutional questions Plaintiffs seek to pursue. The Supreme Judicial Court has the final word on what state law is before Plaintiffs' can seek a ticket to Washington, D.C., to argue over that state law's purported flaws. The same holds true if this Court finds Plaintiffs' constitutional concerns to have merit; under the well-established doctrine of constitutional avoidance, it must first evaluate whether there is a construction of state law that addresses those concerns. Langone v. Secretary of the Commonwealth, 388 Mass. 185, 190 (1983) ("It is [the Court's] duty to construe statutes so as to avoid . . . constitutional difficulties, if reasonable principles of interpretation permit it") (internal quotation marks and citation omitted); see School Comm. of Greenfield v. Greenfield Educ. Ass'n, 385 Mass. 70, 79 (1982) (same).

But in briefing before this Court, the parties have continued the approach of assuming that the Interpretive Bulletin is controlling, without pausing to evaluate whether it accurately states the law. Plaintiffs stress that "Massachusetts businesses alone face a total prohibition on political contributions to candidates," while nonprofit organizations including "[u]nions . . . benefit from special rules that allow them to vastly exceed ordinary contribution limits." Plaintiffs' Brief ("P. Br.") at 30. But they ask not for the "special rules" to be stricken; they use them as a rhetorical cudgel to seek "rel[ief] . . . from the [purportedly] unconstitutional constraints of Section 8."

Id.

For its part, OCPF neither elaborates on the statutory basis for the Interpretive Bulletin nor addresses whether it accurately reflects the law. Instead, OCPF states: "[t]o the extent the Bulletin gives rise to constitutional concerns . . . this Court should remand for the Superior Court to consider whether the Bulletin is compatible with the definition of 'political committee' in G.L. c. 55, § 1." D. Br. at 14, 37-39.

E. Litigation Tactics Cannot Dictate Constitutional Analysis.

From a tactical perspective, Plaintiffs' approach to this case makes sense: they seek the ability to donate to political candidates, and only a holding that G.L. c. 55, § 8 is unconstitutional yields that result. They view the comparison between G.L. c. 55, § 8, on the one hand, and the Interpretive Bulletin, on the other, as rhetorically useful to their desired goal.

From amici's perspective, the bar on corporate donations to candidates is a cornerstone of Massachusetts campaign finance law. Before subregulatory guidance is deployed in service of a constitutional challenge to that law, the guidance requires careful attention.

SUMMARY OF THE ARGUMENT

For more than a century and consistent with the constitution, the Commonwealth has banned corporate contributions to candidate committees. That ban is squarely targeted at preventing corruption and its appearance, which have been compelling interests since our government was framed. As George Mason warned his fellow delegates at the Constitutional Convention, "[I]f we do not provide against corruption, our government will soon be at an end." George Mason, 1 Records of the Federal Convention of 1787, 392

(1966); see Federalist No. 68 ("Nothing was more to be desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption"); Savage, "Corruption and Virtue at the Constitutional Convention," 56 J. Politics 174, 181 (1994) ("[T]here was near unanimous agreement [among delegates at the convention] that corruption was to be avoided, that its presence in the political system produced a degenerative effect, and that the new Constitution was designed in part to insulate the political system from corruption").

Where the law and the architects of our government have seen corruption or its potential, Plaintiffs purport to see speech. They have brought this lawsuit in service of that theory, seeking to strike down a ban on contributions to candidate committees by for-profit corporations on the basis that the same ban does not apply to nonprofit entities. As it turns out, the extent to which nonprofit entities may donate to candidate committees is a more complicated issue than it should be, because OCPF's subregulatory guidance departs from the text and structure of G.L. c. 55. Plaintiffs have accepted the subregulatory guidance without challenge. But this Court is not bound by that tactical decision. Whether the Commonwealth's enforcement of its campaign finance law is constitutional is a weighty question

that should be undertaken only after an analysis of whether the Commonwealth's enforcement of its campaign finance law is consistent with the actual text of the law.

ARGUMENT

I. A BAN ON FOR-PROFIT CORPORATE DONATIONS TO POLITICAL CANDIDATES IS CONSTITUTIONAL.

Controlling precedent establishes that the Commonwealth may ban corporate contributions to candidate committees in furtherance of its compelling interests of preventing corruption, the appearance of corruption, and the circumvention of contribution limits. See Federal Election Comm'n v. Beaumont, 539 U.S. 146 (2003).

Plaintiffs' attempts to distinguish Beaumont are unavailing for three reasons. First, each and every federal appellate court to address whether bans of corporate donations are permissible in the wake of Citizens United has concluded that they are. Second, that a corporate donation ban has limited corruption in Massachusetts is a reason for its persistence, not a basis on which to strike it down. The suggestion that the federal constitution requires still greater avenues for corporate political spending is folly. Third, Plaintiffs' suggestion that Massachusetts law allows lesser corporate participation in the electoral process than did federal law at the time Beaumont was decided is

incorrect. In the wake of Citizens United and SpeechNow.org, the public square is awash in corporate campaign spending and political speech.

A. Corporate Donations to Candidate Committees Are, At Most, Tangential to Political Speech.

In campaign finance cases, the Supreme Court has established a "basic premise . . . in setting First Amendment standards for reviewing political financial restrictions: the level of scrutiny is based on the importance of the 'political activity at issue' to effective speech or political association." Beaumont, 539 U.S. at 161. Whereas limits on expenditures to publicly communicate support for (or opposition to) particular candidates have drawn withering scrutiny, see Citizens United, 558 U.S. at 338-62, limits on contributions to candidates trigger lesser review. As the Beaumont Court explained: "[R]estrictions on political contributions have been treated as merely 'marginal' speech restrictions subject to relatively complaisant review under the First Amendment, because contributions lie closer to the edges than to the core of political expression." Beaumont, 539 U.S. at 161; see MCFL, 479 U.S. at 259-60.

To put it more directly, independent expenditures involve people or corporations speaking for themselves to communicate to political support; at least after Citizens

United and SpeechNow.org, government authority to limit these expenditures is sharply curtailed (though they may be conditioned on disclosure requirements, as they are in Massachusetts under G.L. c. 55, §§ 18A, 18F, and 18G). Contributions to candidate committees are different, because they involve monetary support for somebody else's speech. See Beaumont, 539 U.S. at 161-62 (quoting Buckley v. Valeo, 424 U.S. 1, 20-21 (1976)) ("While contributions may result in political expression if spent by a candidate or association . . . , the transformation of contributions into political debate involves speech by someone other than the contributor"). In addition, in an area of law not known for its consistency, the Supreme Court has been crystal clear on one point: direct contributions to candidates give rise to the greatest threat of corruption. E.g., MCFL, 479 U.S. at 260 ("In light of the historical role of contributions in the corruption of the electoral process" the "need for . . . prophylactic rules" is well established).

Contrary to Plaintiffs' suggestion that Citizens United changed the landscape in this area, the decision in fact repeatedly acknowledged and accepted the distinction between restrictions on contributions and restrictions on independent expenditures. See, e.g., 558 U.S. at 343 (observing that "[a]t least since the latter part of the 19th century, the

laws of some States and of the United States imposed a ban on corporate direct contributions to candidates," whereas prohibitions on independent expenditures were not enacted until years later); id. at 345 (describing Buckley's distinction between prohibitions on contributions and expenditures); id. 356-57 (same); id. 359 (observing that "contribution limits," "unlike limits on independent expenditures, have been an accepted means to prevent quid pro quo corruption"); see also id. at 379 (Roberts, C.J., concurring) (noting the "careful line that Buckley drew to distinguish limits on contributions to candidates from limits on independent expenditures on speech").⁷

In fact, as OCPF has pointed out, since Citizens United was decided, every single decision from the Federal Circuit Courts of Appeals that has considered the question in the context of a ban or limitation on contributions has concluded that Beaumont remains binding, and the Supreme Court has consistently declined to revisit that conclusion. E.g., Wagner v. Federal Election Comm'n, 793 F.3d 1, 6 (D.C. Cir.

⁷ Of course, direct corporate contributions to candidates were not at issue in Citizens United: "Citizens United has not made direct contributions to candidates, and it has not suggested that the Court should reconsider whether contribution limits should be subjected to rigorous First Amendment scrutiny." 558 U.S. at 359.

2015) (en banc) (Garland, J.) (upholding ban on contributions by government contractors and rejecting argument that Citizens United "'casts doubt' on Beaumont"), cert. denied sub nom. Miller v. Federal Election Comm'n, 136 S. Ct. 895 (2016); Yamada v. Snipes, 786 F.3d 1182, 1204-07 & n.17 (9th Cir. 2015) (upholding ban on contributions by government contractors), cert. denied sub nom., 136 S. Ct. 569 (2015).⁸

⁸ See Iowa Right to Life Committee, Inc. v. Tooker, 717 F.3d 576, 601 (8th Cir. 2013), cert. denied 134 S. Ct. 1787 (2014); Minn. Citizens Concerned for Life v. Swanson, 692 F.3d 864, 878-79 (8th Cir. 2012) (en banc); United States v. Danielczyk, 683 F.3d 611, 615 (4th Cir. 2012) ("Beaumont clearly supports the constitutionality of [the federal ban on corporate contributions] and Citizens United, a case that addresses corporate independent expenditures, does not undermine Beaumont's reasoning on this point."), cert. denied 568 U.S. 1193 (2013); Ognibene v. Parkes, 671 F.3d 174, 194-97 (2d Cir. 2012) ("Citizens United confirmed the continued validity of contribution limits, noting that they most effectively address the legitimate governmental interest, identified by Buckley, in preventing actual or perceived corruption."); Thalheimer v. City of San Diego, 645 F.3d 1109, 1125 (9th Cir. 2011) ("The [Citizens United] Court made clear that it was not revisiting the long line of cases finding anti-corruption rationales sufficient to support such limitations [on contributions]."); Green Party of Conn. v. Garfield, 616 F.3d 189, 198-99 (2d Cir. 2010) (describing the Supreme Court's "long line of cases" distinguishing "laws restricting campaign expenditures and campaign-related speech from laws restricting campaign contributions" and concluding that Beaumont remains good law).

B. The Commonwealth's Interests in Deterring Corruption, the Appearance of Corruption, and Circumvention of Donation Limits Remain as Compelling as Ever.

For the reasons set forth by OCPF, there is no question that banning donations by business corporations to candidates furthers the compelling state interests in preventing corruption, the appearance of corruption, and the circumvention of contribution limits. D. Br. at 18-26. Such bans have deep historical roots. See Beaumont, 539 U.S. at 162 n. 9 (quoting Federal Election Comm'n v. National Right to Work Comm., 459 U.S. 197, 209 (1982)) ("Judicial deference is particularly warranted where, as here, we deal with a [legislative] judgment that has remained essentially unchanged throughout a century of 'careful legislative adjustment'").⁹

In the wake of recent adventures by the Supreme Court, American democracy is more awash in for-profit corporate spending than it has been at any time in decades. See generally Richard L. Hasen, Plutocrats United: Campaign Money, the Supreme Court, and the Distortion of American

⁹ See Briffault, "The Uncertain Future of the Corporate Contribution Ban," 49 Valparaiso U. L. Rev. 397, 401-07 (2015) (discussing the history of federal and state bans of direct corporate donations to candidates).

Elections (2016).¹⁰ That this creates a system rife with the possibility of corruption – and the appearance of it that is so corrosive to democracy – requires nothing more than open eyes. The voters know. E.g., Robertson, et al., "The Appearance and the Reality of Quid Pro Quo Corruption," 8 J. Legal Analysis 375, 376-81 (May 2016) (collecting polling data, including that "[f]ive out of every six Americans say that 'money has too much influence' in politics today"). So, too, do elected officials. See Rosenbaum, "In Political Money Game, the Year of Big Loopholes," N.Y. Times (Dec. 26, 1996) (quoting then-Rep. Barney Frank stating "We are the only people in the world required by law to take large amounts of money from strangers and then act as if it has no effect on our behavior.>").¹¹

¹⁰ See, e.g., Weissmann, "The SpeechNow Case and the Real World of Campaign Finance Pt. I," Free Speech For People Issue Report 2016-02 (Oct. 2016), available at <https://goo.gl/SLXWNp>; Weissmann, "The SpeechNow Case and the Real World of Campaign Finance Pt. II," Free Speech For People Issue Report 2017-01 (May 2017), available at <https://goo.gl/VXYKMv>.

¹¹ See also Marcos, "GOP Lawmakers: Donors Are Pushing Me to Get Tax Reform Done," The Hill (Nov. 7, 2017) (regarding the recent federal tax reform bill, Rep. Chris Collins stated, "My donors are basically saying, 'Get it done or don't ever call me again.'"); Sen. Ted Cruz, "It's Time to Break the Washington Cartel" (Speech at the Heritage Foundation, Jun. 24, 2015) ("Lobbyists and career politicians make up what I call the Washington Cartel . . . [who] on a daily basis are conspiring against the American people

Even without the further spending that Plaintiffs seek to unleash, the current system is deeply corrosive:

"Avoidance of the appearance of improper influence 'is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.'"

Buckley, 424 U.S. at 29 (internal citation omitted).

The idea that the constitution requires still more corporate spending – in the form of direct corporate donations to candidates, which the courts have long recognized as potentially corrupting, e.g., MCFL, 479 U.S. at 259-60 – requires suspension of disbelief. One need not look further than the recent experience of Illinois and Virginia. One decade ago, each state allowed direct corporate donations to candidates.¹² And within the past decade, each state's governor was indicted for dispensing favorable treatment to his corporate donors. See U.S. Attorney's Office for the Northern District of Illinois, "Press Release: Former Illinois Governor Rod R. Blagojevich Sentenced to 14 Years in Prison for Corruption in Office" (Dec. 7, 2011) ("Blagojevich

. . . . [C]areer politicians' ears and wallets are open to the highest bidder.").

¹² See National Conference of State Legislatures, "State Limits on Contributions to Candidates By Election Cycle," available at <http://www.ncsl.org/research/elections-and-campaigns/state-limits-on-contributions-to-candidates.aspx>.

was . . . sentenced for shaking down the chief executive of a children's hospital for \$25,000 in campaign contributions in exchange for . . . an increase to pediatric reimbursement rates; [and] holding up the signing of a bill to benefit the Illinois horse race industry in an attempt to illegally obtain \$100,000 in campaign contributions"); Helderman & Vozella, "Va. Gov. McDonnell on Two-Way Street with Chief Executive of Struggling Company," Washington Post (Mar. 30, 2013) (describing "McDonnell's close relationship with [a businessman] and his company," which "made major contributions to McDonnell's campaigns").¹³ The ensuing political drama paralyzed the governments of each state.

Those experiences (and the many more collected by OCPF, including in Massachusetts, see JA V. 155-292) illustrate that prophylactic rules that mitigate the potential for corruption are essential, particularly in the in the context of direct contributions to candidates. See Wagner, 793 F.3d at 14-21. Quid pro quo corruption is difficult to prove. See id. at 20 (quoting Burson v. Freeman, 504 U.S. 191, 208

¹³ Cf. McDonnell v. United States, 579 U.S. --, 136 S. Ct. 2355, 2373-75 (2016) (describing McDonnell's conduct as "distasteful" though it fell short of a federal crime; per the Court's instruction the states must exercise their "prerogative to regulate the permissible scope of interactions between state officials and their constituents").

(1992), and Blount v. SEC, 61 F.3d 938, 945 (D.C. Cir. 1995))

("We are mindful that less direct evidence is required when, as here, the government acts to prevent offenses that 'are successful precisely because they are difficult to detect.' . . . 'No smoking gun is needed where . . . the conflict of interest is apparent, the likelihood of stealth great, and the legislative purpose prophylactic'"). And certain Legislative acts, even if undertaken with malintent, may be immunized by the state constitution. Mass. Const. Pt. I, art. 21 ("The freedom of deliberation, speech and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution"). If corruption is to be prevented, the prevention must target the quid and not just the quo.¹⁴

Plaintiffs attempt to elide the plain fact that prohibiting direct for-profit corporate donations to candidates mitigates the potential for corruption by suggesting that because there has been limited for-profit corporation-driven corruption in Massachusetts, the ban imposed by G.L. c. 55, § 8 is not needed at all. It is not

¹⁴ See Buckley, 424 U.S. at 26-27 ("[T]o the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined.).

the province of the judiciary to strike down a law on the basis that it is working. See Wagner, 793 F.3d at 14 ("Of course we would not expect to find – and we cannot demand – continuing evidence of large-scale quid pro quo corruption involving [corporate] contributions because such contributions have been banned since [1907]."). If the folly of such an approach was ever in doubt, recent experience has resolved it. Cf. Shelby County v. Holder, 570 U.S. --, 133 S. Ct. 2612, 2650 (2013) (Ginsburg, J., dissenting) ("Throwing out [Section 4 of the Voting Rights Act] when it has worked and is continuing to work . . . is like throwing away your umbrella in a rainstorm because you are not getting wet."); Ho, "Building an Umbrella in the Rainstorm: The New Vote Denial Litigation Since Shelby County" 127 Yale L.J. Forum 799, 800 (2015) ("And, sure enough, the rain came, as fifteen states passed or implemented new restrictions on voting" within a year after the decision).

C. Plaintiffs' Attempt to Distinguish Beaumont Collapses Under a Review of State Campaign Finance Law.

Faced with a mountain of precedent establishing that Beaumont remains controlling law, Plaintiffs attempt to distinguish the decision on the basis that the corporation barred from making direct contributions to a candidate in Beaumont had the option under federal law to pay the

administrative expenses of a separate, segregated political action committee (which could then make donations). P. Br. at 14-20. Plaintiff suggests that corporate donations may be banned only if the option of a separate, segregated political action committee is preserved. Id.

The argument cannot be reconciled with precedent and ignores the wholesale change in the law governing independent expenditures brought about by Citizens United and Speechnow.org. First, as the Supreme Court has instructed, a separate segregated political action committee is "a separate association from the corporation" that "does not allow corporations to speak." Citizens United, 558 U.S. at 337 (emphasis added); see Wagner, 793 F.3d at 29 ("A corporation is a separate legal entity from a PAC. As a consequence, the Supreme Court has said that the political expression of a PAC is not equivalent to that of its associated corporation") (internal citations omitted). Therefore, Plaintiffs' argument that a ban on corporate donations comports with the First Amendment only insofar as corporations may establish and administratively support separate, segregated PACs is flatly wrong. As the Supreme Court has held, such PACs do not provide an alternative outlet for corporate speech. See Citizens United, 558 U.S. at 337.

More importantly, there is presently a significant avenue for corporate political speech in Massachusetts that existed in a much more narrow form at the time Beaumont was decided, i.e., independent expenditure PACs. Under Massachusetts law, Plaintiffs may create (or give unlimited amounts to) independent expenditure PACs, which may spend freely for or against candidates (or political issues). G.L. c. 55, § 18A; OCPF Interpretive Bulletin 10-03 (Dec. 7, 2017 revision). The ability of corporations to make such unlimited independent expenditures more than makes up for the fact that corporations in Massachusetts may not pay the administrative expenses of a corporate controlled PAC. Nothing in Beaumont suggests that payment of the administrative expenses of a corporate controlled PAC is sacrosanct under the First Amendment. To the contrary, the Supreme Court merely pointed to that available option to highlight that the corporate contribution ban did not prohibit corporations from all forms of participation in political speech. The same is all the more true here. Though Plaintiffs do not even mention the term in their opening brief, the existence of independent expenditure PACs (with no contribution limits) provides Plaintiffs and other corporations with ample opportunity to engage in political speech, and refutes any suggestion that the corporation in

Beaumont had greater outlets for speech than do Plaintiffs here.

II. AN ADMINISTRATIVE BULLETIN OF UNCERTAIN PROVENANCE IS NO BASIS ON WHICH TO STRIKE DOWN A CENTURY-OLD BAN ON CORPORATE DONATIONS.

In light of voluminous precedent confirming the Commonwealth's right to ban direct for-profit corporate donations to candidate committees, the gravamen of Plaintiffs' challenge is that it is impermissible to treat them differently from nonprofit entities. Whether that argument sounds in equal protection or, instead, is a rarely-seen under-inclusivity First Amendment challenge is immaterial at this stage. See D. Br. at 32-37, 40.

The extent to which Massachusetts law treats for-profit corporations and nonprofit corporations differently in the context of direct contributions to candidate committees is an open question that requires resolution. The Interpretive Bulletin is the starting point of the analysis, and it cannot withstand judicial examination for at least four reasons addressed in greater detail below: (i) because it is a rule of general applicability, the Bulletin should have been promulgated as a regulation, see G.L. c. 30A, §§ 1-3; (ii) the concept of "more than incidental" spending cannot be tied back to the text of G.L. c. 55 and if it is intended to remedy overbroad statutory language, the remedy does not

reasonably address the ailment; (iii) even if the concept of "more than incidental" spending can be read into G.L. c. 55, OCPF has chosen an arbitrary benchmark for "incidental" spending that cannot be reconciled with other dollar limits in G.L. c. 55; and (iv) that an Interpretive Bulletin entity may donate up to \$15,000 to any one candidate or PAC lacks a statutory foundation and contradicts G.L. c. 55's careful calibration of contribution limits.

If, as amici believe, the Interpretive Bulletin is not a proper construction of G.L. c. 55, the question of what (if anything) will replace it follows. The answer to that question also must be developed — by OCPF, as contemplated by G.L. c. 55, § 3 — before the constitutional analysis demanded by Plaintiffs can be undertaken.

A. Plaintiffs' Concern About Unequal Treatment Should Have Been Addressed Through a Petition for Administrative Rulemaking.

If Plaintiffs' true concern were what they claim it to be — i.e., they are treated differently from non-profit entities when it comes to the ability to make direct contributions to candidate committees — this case would have been brought as a petition for rulemaking pursuant to G.L. c. 30A, § 4. Under that section, any interested entity "may petition an agency requesting the adoption, amendment or repeal of any regulation" Id. Plaintiffs could have

raised the issue that the Interpretive Bulletin misinterprets G.L. c. 55, and that rulemaking should be undertaken to develop a proper interpretation. If OCPF refused to undertake the requested rulemaking, Plaintiffs would have been afforded relief by G.L. c. 30A, § 7 and G.L. c. 55, § 3.

Plaintiffs chose a different road because their concern is not equal treatment, but an ability for corporations to contribute directly to candidates, regardless of the text of G.L. c. 55. In essence, what they ask the Court to do is take note of the Interpretive Bulletin and to hold that the constitution requires that the Bulletin apply to them, too. But before the Court may consider whether equal protection requires the Interpretive Bulletin to be expanded to for-profit corporations, it must first determine whether the Interpretive Bulletin is consistent with Massachusetts law.

B. As a Rule of General Applicability, the Interpretive Bulletin Should Have Been Promulgated as a Regulation and Therefore Should be Afforded Little if Any Weight.

As an initial matter, the Interpretive Bulletin should be discounted – or set aside entirely – on the basis that it should have been promulgated as a regulation. Massachusetts law provides that “every rule, regulation, standard or other requirement of general application and future effect” is a “regulation” that must be promulgated through the formal

regulatory process (with opportunity for notice and comment). G.L. c. 30A, § 1; see G.L. c. 30A, §§ 2-3 (setting forth the processes); Randazzo & Hitt, eds., Massachusetts Administrative Law & Practice § 2.04 (2014). The breadth of what is deemed a regulation reflects the "[j]udicial and legislative reluctance to allow a statutorily created body 'to impose binding rules which materially affect rights or liabilities without an opportunity to gain the benefit of the views of the parties affected.'" Trust Ins. Co. v. Commonwealth Auto Reinsurers, 46 Mass. App. Ct. 657, 662 (1999) (quoting Tinkham v. Department of Pub. Welfare, 11 Mass. App. Ct. 505, 513 (1981)). Where, as here, an agency issues (what it views to be) a controlling interpretation of a key statutory term, judicial review is inhibited by the absence of an administrative process (and the clear explication of the agency's thinking that it yields).¹⁵

Although OCPF's regulations are comprehensive, they do not address the Interpretive Bulletin's concept of "more than incidental" spending at all. The omission is striking. For example, 970 Code Mass. Regs. § 1.04 addresses contributions to candidate committees, but it is conspicuously silent on

¹⁵ There is no question that OCPF has the power to "issue interpretive bulletins" under G.L. c. 55, § 3, but the plain language of that statute also subjects OCPF to G.L. c. 30A — which governs when and how regulations are to be adopted.

the issue of whether (and to what extent) nonprofit entities may make such contributions. Other regulations, such as 970 Code Mass. Regs. § 1.22, make no sense at all unless the reader is aware of the Interpretive Bulletin; yet it is not referenced, nor is the concept of "more than incidental" spending. And 970 Code Mass. Regs. § 2.00, et seq., which governs spending by political committees, includes a lengthy definition section that notably omits any definition of a "political committee." Id. § 2.02. Were such a definition included, OCPF would be forced to confront whether to adopt (or reject) the "more than incidental" concept set forth in the Interpretive Bulletin. See id.

Because the Bulletin should have been issued via the regulatory process but was not, it should be afforded little if any weight. See Golchin v. Liberty Mut. Ins. Co., 460 Mass. 222, 231 (2011) (A "bulletin" is "persuasive (so far as it goes) but not as a promulgated regulation having the force of law"); id. at 230 ("Merely because [an agency] is possessed of authority regarding a particular topic does not render [its] every pronouncement regarding that topic a regulation possessing the full force and effect of a statute"). Accord Global NAPS, Inc. v. Awiszus, 457 Mass. 489, 496-97 (2010).

**C. The Interpretive Bulletin Cannot Be Reconciled
With the Text of G.L. c. 55.**

The Interpretive Bulletin cannot withstand analysis in light of the text of G.L. c. 55. See Duarte v. Commissioner of Revenue, 451 Mass. 399, 409 (2008) (“[A]n agency has no authority to promulgate rules and regulations which are in conflict with the statutes or exceed the authority conferred by the statutes under which the agency operates”) (internal citations omitted). There are four primary reasons why the Bulletin cannot be reconciled with G.L. c. 55.

First, G.L. c. 55, § 1 provides that any nonprofit entity that “receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate” is a political committee that must register as such (with the attendant close regulatory oversight). See infra Background §§ A-B. In the Interpretive Bulletin, OCPF creates a distinction between (i) entities that fundraise for political purposes (which must register), and (ii) entities that spend for political purposes (which need to register only if a spending threshold is met). ADD 2-4. The distinction has no basis in the statute. See G.L. c. 55, § 1.

Second, the Interpretive Bulletin purports to remedy potentially overbroad statutory language, but it goes further

than necessary to solve the problem it identifies. See ADD 3. As OCPF states, a strict application of G.L. c. 55, § 1's definition of "political committee" would "place an extraordinary burden, not intended by the Legislature, on non-political organizations making only incidental expenditures for a political purpose." ADD 3. The overbreadth issue, however, is limited exclusively to independent expenditures. See MCFL, 479 U.S. at 264. Yet, to address that issue, OCPF adopts a solution that involves both candidate contributions and independent expenditures: only "[i]f the total amount of the organization's financial activity, including contributions to political entities and independent expenditures made to support or oppose such entities becomes 'more than incidental,' does a nonprofit entity become a "political committee." ADD 1. If G.L. c. 55, § 1 is overbroad as it applies to nonprofit entities with de minimis independent expenditure spending, the agency's gloss on the statute should be limited to fixing that issue.

Third, OCPF's chosen interpretation of G.L. c. 55 effectively creates a new entity that does not exist in G.L. c. 55 (i.e., an Interpretive Bulletin entity). But Chapter 55's carefully calibrated contribution limits are expressed in terms of entities defined in the statute. E.g., G.L. c. 55, §§ 6, 7A (establishing \$1,000 annual contribution limits

for individuals, and \$500 annual contribution limits for PACs). So, by creating a new entity not mentioned in the statute - an entity that may make political contributions and expenditures but is not a "political committee" - OCPF also exempts it from statutory contribution limits. See ADD 4-6. This, too, is difficult to reconcile with G.L. c. 55. PACs, which are closely regulated and at least relatively transparent, may donate a maximum of \$500 to a candidate; but Interpretive Bulletin entities, which OCPF has unilaterally excused from its regulatory apparatus, may donate 30 times that amount. To further illustrate the issue, candidates for state representative may accept no more than a cumulative total of \$7,500 annually from all PACs; the Interpretive Bulletin allows each of the class of entities it creates to give twice that amount alone. See G.L. c. 55, § 6A(f).

Fourth, the threshold for what constitutes "more than incidental" spending is arbitrary. From where does the \$15,000 amount arise? OCPF does not say, and it surely is not grounded in G.L. c. 55. The statute suggests that far less spending should trigger oversight. For example, under G.L. c. 55, § 18A, as soon as a nonprofit entity spends more than \$250 on independent expenditures, it must file with OCPF. How is it that \$250 of independent expenditure spending triggers regulatory responsibilities, but \$15,000 of

direct contributions to a candidate committee does not?¹⁶

Again, OCPF is silent; as is G.L. c. 55, which says nothing about this at all.

Each of the foregoing standing alone is a sufficient concern to require OCPF to readdress the Interpretive Bulletin, yet the parties are mute on all of them.

D. What, If Anything, Should Replace the Interpretive Bulletin is a Question that Should Be Addressed in the First Instance by OCPF.

One straightforward way to address the Interpretive Bulletin would be to strike it down, at least insofar as it concerns donations to candidate committees. In its place would be G.L. c. 55, which requires registration as a political committee as soon as a nonprofit entity makes a donation. See infra Background §§ A-B. That would functionally eliminate direct contributions from nonprofit entities to candidates. See infra Background § B. In addition, G.L. c. 55 suggests a clear answer for nonprofit entities that make de minimis independent expenditures: if those expenditures exceed \$250, they must make the filings

¹⁶ This disparity is particularly notable in light of extensive Supreme Court precedent providing that direct contributions to candidates give rise to a greater specter of corruption than do independent expenditures. See infra § I-A; Citizens United, 558 U.S. at 360-61.

required by G.L. c. 55, § 18A; if not, they need not file at all.

These matters, however, are complicated, and the Legislature has granted OCPF the responsibility of addressing them in the first instance. See G.L. c. 55, § 3. The better course therefore would be a remand to the Superior Court, where the parties can brief these issues and any available administrative remedies can be considered. Cf. Smith v. Commissioner of Transitional Assistance, 431 Mass. 638, 651 (2000) ("Where a court contemplates . . . compel[ling] an agency to take specific steps, it must treat cautiously in order to safeguard the separation of powers mandated by art. 30 of the Declaration of Rights of the Massachusetts Constitution").

**E. With the Interpretive Bulletin Out of the Picture,
Any Constitutional Issues Would Be Resolved.**

If the Interpretive Bulletin is briefed by the parties and the Superior Court determines it to be inconsistent with G.L. c. 55, Plaintiffs' equal protection and under-inclusiveness claims could be dismissed summarily. In practice, G.L. c. 55 would treat for-profit corporations and nonprofit entities the same; the former would be barred from directly contributing to candidates, and the latter would have to become different entities (i.e., political

committees) to do so, which none would ever do. Any other purported differential treatment that Plaintiffs may claim would be more than justified by the significant differences between forprofit corporations and nonprofit entities. See D. Br. at 40-43. Ultimately, though, these matters are conjecture, which would benefit from further development before the Superior Court.

CONCLUSION

For the foregoing reasons, this case should be remanded to the Superior Court so that the Interpretive Bulletin may be addressed there, upon full briefing by the parties. Alternatively, this Court should strike down the Interpretive Bulletin (at least in part) as inconsistent with the statute it interprets and conclude that, without it, G.L. c. 55 easily comports with the First and Fourteenth Amendments.

RESPECTFULLY SUBMITTED,

COMMON CAUSE

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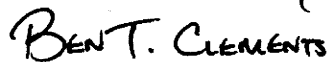
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Dated: February 21, 2018

CERTIFICATE OF COMPLIANCE WITH RULE 16(k)

I, M. Patrick Moore, Jr., hereby certify that this brief complies with the rules of court that pertain to the filing of briefs, including, but not limited to: Mass. R.A.P. 16(a) (6) (pertinent findings or memorandum of decision); Mass. R.A.P. 16(e) (references to the record); Mass. R.A.P. 16(f) (reproduction of statutes, rules, regulations); Mass. R.A.P. 16(h) (length of briefs); Mass. R.A.P. 18 appendix to the briefs); Mass. R.A.P. 20 (form of briefs, appendices, and other papers).



M. Patrick Moore, Jr.

CERTIFICATE OF SERVICE

I, M. Patrick Moore, Jr., counsel for the amici curiae, hereby certify that I have served a copy of this Brief by causing it to be delivered by mail and email to the following:

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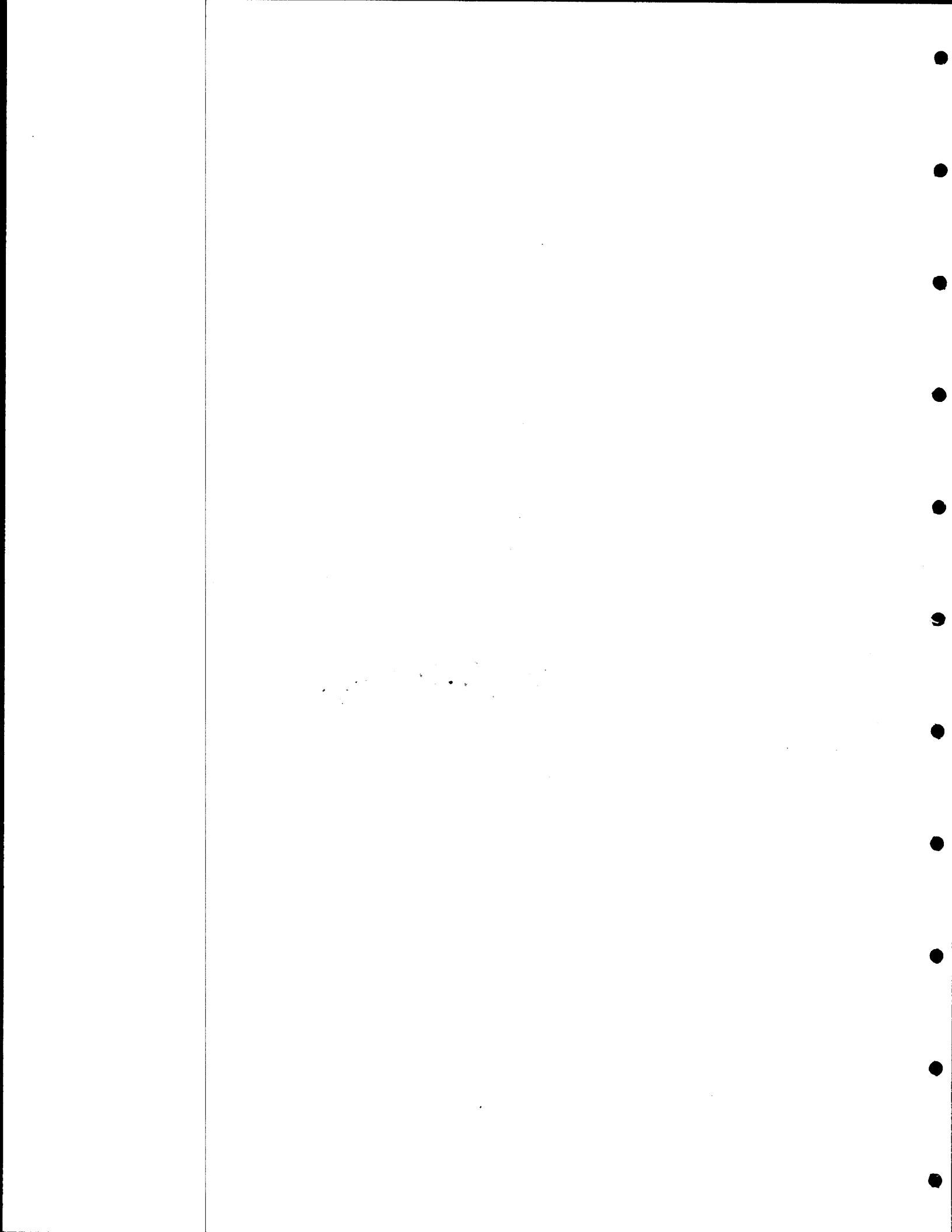
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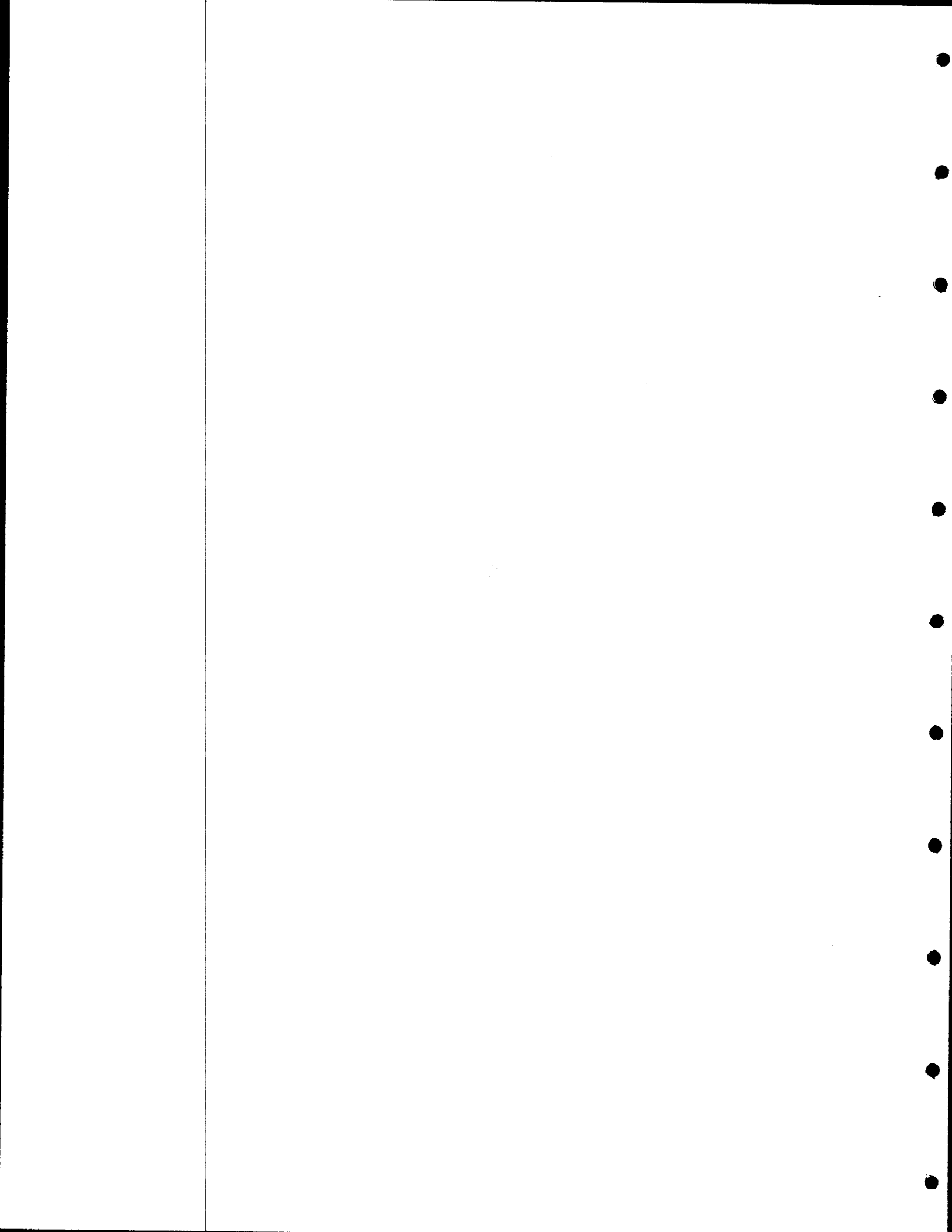


M. Patrick Moore, Jr.

DATED: February 21, 2018



ADDENDUM





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INTERPRETIVE BULLETIN

**The Applicability of the Campaign Finance Law to
Groups That Do Not Engage in Political Fundraising**

This bulletin defines when activity supporting or opposing Massachusetts candidates and candidate committees, PACs or political party committees by organizations that do not raise money for a political purpose becomes subject to the provisions of M.G.L. c. 55, the campaign finance law. In particular, where an organization makes expenditures, but does not raise funds to support or oppose candidates, political action committees or political parties, this bulletin defines (1) whether, when and to whom the organization must report its financial activities, (2) what the reporting obligations are, and (3) the relevant limitations on financial activities.

Summary

An organization that does not solicit or receive funds for any political purpose (i.e. to support or oppose candidates, political action committees, or political parties, whether in Massachusetts or elsewhere), does not need to organize a separate Massachusetts political committee to contribute to, or make independent expenditures to support or oppose, Massachusetts candidates and candidate committees, PACs and party committees ("political entities").

If the total amount of the organization's financial activity, including contributions to political entities and independent expenditures made to support or oppose such entities becomes "more than incidental," the organization becomes subject to limitations on what it may contribute to political entities, and to the reporting requirements that apply to PACs. The organization remains subject to these limitations and requirements until one year after the last year that the organization's financial activity does not exceed the incidental threshold. Financial activity is "more than incidental" if it exceeds, in the aggregate, in a calendar year, either \$15,000 or 10 percent of such organization's gross revenues for the previous calendar year, whichever is less.

Part I of this bulletin describes when a group or organization is considered a "political committee" under the campaign finance law. These guidelines apply to groups, unions, associations or other types of organizations, including non-profit corporations, "social welfare," i.e., "501(c)(4)," or other tax-exempt organizations established under Section 501(c) of the Internal Revenue Code, and also to political organizations created under Section 527 of the Internal Revenue Code.

The bulletin also provides guidance for organizations that make independent expenditures or contributions¹ to political entities, but do not engage in political fundraising, i.e., for organizations that do not solicit or receive funds to support or oppose the nomination or election of Massachusetts candidates, political parties, or political action committees. As discussed below, such an organization, even if it is not required to organize as a political committee, may become subject to limits on what it may contribute to political entities and also to the reporting requirements of the campaign finance law if the organization's financial activity is "more than incidental."

Organizations that receive any amount of money from entities that are prohibited from contributing to candidates may not use such funds to make contributions. The campaign finance law states that business and professional corporations, and LLPs, LLCs, and partnerships, may not contribute to candidates, PACs (other than independent expenditure PACs) or party committees. See M.G.L. c. 55, § 8. An organization which has a general treasury that contains funds derived from such entities may not make contributions to candidates, PACs or political parties.

Section 8 prohibits indirect as well as direct contributions by business or professional corporations, LLPs, LLCs, or partnerships to candidates, PACs (other than independent expenditure PACs), or political parties. This means that an entity that receives corporate or partnership funds may not, by segregating those funds into a separate account, make contributions from an account that does not contain the prohibited funds. See AO-98-18. Business corporations or other entities that may not contribute to candidates under Section 8, may, however, make independent expenditures to support or oppose candidates.

This bulletin does not address the disclosure requirements or limitations of political committees, whether organized in Massachusetts or elsewhere², or expenditures that may be made by groups to support or oppose ballot questions.³

I. When must a group or organization formally register as a Massachusetts political committee?

The Massachusetts campaign finance law defines a political committee, in part, as "any committee, association, organization or other group of persons, including a national, regional, state, county or municipal committee, which *receives contributions or makes expenditures* for the purpose

¹ "Contributions" include in-kind or monetary contributions, and also coordinated expenditures.

² Political committees are regulated by the campaign finance law and by regulations issued by this office. Unregistered political committees may not contribute to Massachusetts candidates and committees, other than ballot question committees, unless they do so through an affiliated Massachusetts PAC duly organized with OCPF and operated in accordance with M.G.L. c. 55 and 970 CMR. See IB-82-01.

³ See IB-90-02 for information on the disclosure and reporting of such expenditures.

of influencing the nomination or election of a candidate, or candidates."⁴ A strict application of this definition would, however, place an extraordinary burden, not intended by the Legislature, on non-political organizations making only incidental expenditures for a political purpose. Accordingly, *OCPF considers groups and organizations that make contributions or independent expenditures but do not solicit or receive funds for any political purpose differently than groups and organizations that actively engage in political fundraising.*

Any organization that intends to solicit or receive money or any other thing of value to influence the election of a Massachusetts state, county or municipal candidate or candidates, or to support or oppose a PAC or political party, must comply with the provisions of Chapter 55, formally organize a political committee, and appoint a treasurer prior to soliciting or receiving any funds for a political purpose. See M.G.L. c. 55, §§ 5 and 7. A determination of whether an organization is required to file campaign finance reports as a political committee depends on an assessment of various factors, including the timing and content of solicitations. See 970 CMR 1.22 (stating that a tax-exempt or other organization is considered a political committee if it solicits or receives funds for the purpose of making contributions or independent expenditures in Massachusetts).

In addition, groups or organizations that solicit or receive money or any other thing of value to influence elections in other states or nationwide or to support political parties, whether or not registered as a political committee in another jurisdiction, must comply with the provisions of Chapter 55 and formally organize a Massachusetts political committee, with a separate, segregated account, prior to making contributions to a Massachusetts candidate, candidate committee, PAC, or party committee. See IB-82-01.

For example, a union, like any group, may not solicit or receive funds for the purposes of influencing Massachusetts elections without first organizing a political committee in accordance with M.G.L. c. 55. It is not uncommon, however, for unions to use their general treasury fund to make contributions or independent expenditures to support or oppose candidates. For a union to make contributions or independent expenditures in Massachusetts without first organizing a separate political action committee, the union must make the expenditures from an account containing funds that were not raised for a political purpose, such as the union's general treasury fund.

Groups or organizations that do not plan on making contributions but wish to make *independent expenditures*, do not need to organize separate political committees if they do not solicit or receive contributions for that purpose. These groups will, however, as discussed below, become subject to certain provisions of the campaign finance law applicable to political committees once their political expenditures become "more than incidental."

An organization that raises funds to make only independent expenditures must organize as an "Independent Expenditure PAC." See 970 CMR 2.17 and IB-10-03. The requirement to organize an independent expenditure PAC exists for 501(c)(4) and other organizations that raise money to make independent expenditures, even if making such expenditures is not the primary purpose of the organization. As an independent expenditure PAC, such an organization will be required to disclose not only independent expenditures made, but also contributions received for that purpose.

⁴ The definition of "political committee" includes political party committees, PACs, independent expenditure PACs, people's committees and ballot question committees.

II. What are "more than incidental" political expenditures?

Contributions and independent expenditures made by an organization that is not a political committee are "more than incidental" if they are made (1) 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 action committee or political party and (2) they exceed, in the aggregate, in a calendar year, *either \$15,000 or 10 percent of such organization's gross revenues for the previous calendar year, whichever is less (the "incidental threshold").*⁵

This standard balances the public interest of disclosure and regulation of campaign finance activity in Massachusetts with the administrative and legal burdens imposed on organizations participating financially in the Commonwealth's political process.

All contributions (whether monetary or in-kind) and independent expenditures made during a calendar year are included in the determination of whether the incidental threshold has been exceeded. Contributions by an organization to candidates, PACs, and political party committees are included, as well as independent expenditures made by the organization to support or oppose candidates. In addition, any liability incurred by the organization on behalf of or to oppose a candidate or political committee (other than a ballot question committee) is included in the computation of whether the incidental threshold is exceeded for the calendar year in which the liability is incurred. Such liabilities are included even if the actual expenditure to discharge such liability is not made until a later calendar year, e.g., if a liability is incurred in 2014, but the amount owed is paid in 2015, the amount is counted only in 2014.

III. What expenditures are not counted in determining whether the incidental threshold is exceeded?

Expenditures not included in the incidental threshold analysis include (1) payments made or liabilities incurred, in connection with electioneering communications, (2) expenditures not related to the nomination or election of Massachusetts state, county or municipal candidates, (3) expenditures not made to or for the benefit of political committees organized in Massachusetts, (4) expenditures made to the federal account of a political committee of a political party, (5) expenditures made to discharge liabilities incurred in a previous calendar year and, (6) expenditures made for the purpose of opposing or promoting a ballot question, irrespective of whether such question appears on a Massachusetts ballot or elsewhere, and (7) donations to a legal defense, inauguration or recount fund. In addition, costs resulting from communications between a membership organization and its members and their families are not deemed to be "contributions" or "expenditures" for the purpose of the campaign finance law, and, therefore, are not included in the determination of whether an organization has exceeded the incidental threshold. See M.G.L. c. 55, § 1.

IV. What are the consequences of exceeding the incidental threshold?

Contributions made to political entities after exceeding the incidental threshold *shall be subject to the contribution limitations set forth in M.G.L. c. 55, § 6 applicable to political action committees*

⁵ For a new organization, i.e., an organization that has been in existence for less than a full calendar year, the incidental threshold is \$15,000 or 10 percent of the organization's gross revenues for the *current* calendar year, whichever is less.

making contributions to candidates, candidate committees and other political committees.

Independent expenditures and contributions to independent expenditure PACs, however, may continue to be made without limit, regardless of whether the incidental threshold has been exceeded. In addition, once the incidental threshold is exceeded, organizations must, as discussed below in Part IV(B), report all contributions to, and independent expenditures made to support or oppose, candidates, party committees or PACs.

A. Limit on Contributions.

Prior to exceeding the threshold, a group may contribute any amount up to the threshold to one or more candidates or committees without becoming subject to the limitations in M.G.L. c. 55, § 6. However, once the threshold is exceeded, contributions to any one candidate, candidate committee, or political action committee (not including an independent expenditure PAC) would be limited to an additional \$500 in the calendar year in which the limit was exceeded, and aggregate contributions to all committees of any one political party, including those on the state and local level, would be limited to an additional \$5,000 in the calendar year in which the limit was exceeded. These limitations would apply in subsequent calendar years until one year after the first calendar year in which the threshold is not exceeded.

For example, if an organization, whose incidental threshold is \$15,000, exceeds a total of \$15,000 in contributions and/or independent expenditures to candidates, PACs and political party committees in 2014, the organization would become subject to the limits that apply to PACs as of the date the threshold is exceeded. If the organization, prior to October 1, 2014, made contributions to candidates of \$7,000 and then on October 1 makes its first independent expenditure of the year, of more than \$8,000, the organization, as of October 1, will have exceeded the incidental threshold. The organization could contribute no more than an additional \$500 to any one candidate or PAC (other than an independent expenditure PAC), and no more than \$5,000 in the aggregate to committees of any one political party, between October 1, the date it exceeded the threshold in 2014, and December 31, 2014. In addition, the organization would then be subject to these same limitations during 2015, and every year thereafter until one year after the incidental threshold is not exceeded in a particular year. Therefore, if the organization's threshold is \$15,000 and its activity is \$15,000 or less in 2015, the organization would not be subject to the limitations in M.G.L. c. 55, § 6 in 2016, assuming the contributions and independent expenditures do not exceed the incidental threshold in 2016.

If an organization makes a contribution to a candidate or political committee in an amount that causes the organization to exceed the incidental threshold, the portion of the contribution over the incidental threshold would be subject to the contribution limits contained in M.G.L. c. 55, § 6. For example, after an organization whose incidental threshold is \$15,000 has made \$10,000 in contributions and independent expenditures in a calendar year, the most it could subsequently give to a single candidate during the remainder of that year (assuming no other contributions or independent expenditures were made) would be \$5,500, the balance of the incidental threshold plus the amount of the annual PAC limit to candidates.

B. Reporting requirements.

In addition to being subject to contribution limits, once an organization has exceeded the incidental threshold, it must submit reports in accordance with the schedule set forth in clause (e) of the

second paragraph of M.G.L. c. 55, § 18.⁶ Once the incidental threshold is exceeded, the organization must file a report disclosing the total amount of contributions and independent expenditures made by the organization during the reporting period, using Form CPF 111, including contributions and independent expenditures made prior to reaching the incidental threshold as well as all those made after the threshold is met. See Form CPF 111, *"Report of Association or Other Group Making Contributions to or Expenditures on Behalf of Candidates, PACs & Political Party Committees."*⁷

When the report reflects financial activity supporting or opposing candidates or committees that file with OCPF, the report is filed (in paper form) with OCPF, but it is scanned and posted on OCPF's website. If all financial activity in a report relates to local candidates in one municipality who do not file with OCPF, an organization must file the form with the city or town clerk or election commission in the city or town where such expenditures are made, in accordance with the schedule set forth in clause (b) of the second paragraph of M.G.L. c. 55, § 18.⁸

In any year prior to a year in which an organization initially exceeds the incidental threshold, an organization is not required to periodically report contributions or independent expenditures made on behalf of political action committees, party committees, or candidates on CPF Form 111. The obligation to file a report begins when the organization's expenditures exceed the incidental threshold and continues until one year after the next year that the organization's expenditures do not exceed the incidental threshold. For example, if an organization whose incidental threshold is \$15,000 makes political expenditures of more than \$15,000 in 2014, the reports must be filed for 2014, and in each year thereafter until one year after the incidental threshold is not exceeded. If in 2015 the organization makes political expenditures totaling \$10,000, the organization would still be required to file in 2015, but not in 2016, assuming the expenditures remain less than the incidental threshold in 2016.

Independent expenditures in amounts exceeding \$250 during a calendar year must, however, always be reported on a separate form, regardless of whether an organization has exceeded the incidental threshold. See M.G.L. c. 55, § 18A. If an organization makes an independent expenditure(s) over \$250 during any calendar year advocating the election or defeat of a clearly identified candidate or candidates, the organization must electronically file, within seven business days after such expenditure(s) exceed \$250 during a calendar year, a Form CPF 18A, *"Report of Independent Expenditures"* with this office. If expenditures are made to support or oppose a candidate who files with a local election official, a paper form M18A must be filed with the city, town or district clerk or election commission. In addition, the statute as amended by Chapter 28 of the Acts of 2009 requires the filing of reports of independent expenditures when independent expenditures exceeding

⁶ Such reports must be filed (in paper) on or before the eighth day preceding a primary or caucus, the eighth day preceding a biennial state election, and, as a final report, the twentieth day of January in the following year complete as to the thirty-first day of December of the prior year. In addition, the organization would be required to file midyear reports by July 20 of each odd-numbered year, in accordance with clause (h) of the second paragraph of M.G.L. c. 55, § 18. Completed forms are scanned by OCPF and posted on OCPF's website.

⁷ The report does not disclose the source of funds received by the organization since the organization has not received "contributions" subject to the campaign finance law, i.e., it has not received money or other things of value for the purpose of influencing the nomination or election of a candidate or candidates.

⁸ Such reports must be filed on or before the eighth day preceding a city or town preliminary or primary, including a caucus, the eighth day preceding a city or town election, and if a city election, by the twentieth day of January in the following year complete as to the thirty-first day of December of the prior year, and if a town election, by the thirtieth day following said election.

\$250 are made after the tenth day, but more than 24 hours, before the date of any election. These reports must be filed within 24 hours of making the independent expenditures. For organizations that have exceeded the incidental threshold, the Form CPF 18A must be filed in addition to the CPF Form 111 that is required to be filed periodically in accordance with the schedule set forth in clause (b) of the second paragraph of M.G.L. c. 55, § 18. As stated in Section II, above, independent expenditures count towards an organization's incidental threshold.

V. Forms.

Form CPF 111 is filed in paper form. A copy of the form is attached to this bulletin. Reports of independent expenditures that relate to expenditures made to promote the election or defeat of any candidate who files with OCPF must be electronically filed with this office.

VI. Verification and Record Keeping.

Each organization subject to the guidelines discussed in this bulletin shall keep records of its political expenditures for six years following the date of the relevant election.

In addition, although compliance with the reporting requirements and limits stated in this bulletin is primarily the responsibility of the organization making contributions and not the responsibility of the committee receiving a contribution, committees should exercise their best efforts to verify that the contribution complies with the campaign finance law. Committees may not knowingly accept contributions that are made in a manner that disguises the true source of the contributions. See M.G.L. c. 55, § 10, and 970 CMR 1.04(8)(requiring candidates and committees to exercise best efforts to determine whether contributions are legal at the time of receipt).

To demonstrate compliance with these requirements, OCPF strongly suggests that a committee receiving a contribution from an organization making a contribution in accordance with this bulletin to obtain an affidavit from the organization. The affidavit should affirm that the source of the funds contributed is the general treasury of the organization, that the funds were not solicited or received by the organization for the purpose of making a contribution, and that no part of the funds contributed was derived from business corporations or other entities prohibited from contributing by Section 8 of the campaign finance law.

VII. Conclusion.

Numerous and sometimes complex questions are raised when organizations other than political committees become involved in campaign finance activity. If you have questions or need further information regarding this bulletin or any other campaign finance matter, please call OCPF at 1-800-462-OCPP or 617-979-8300.


Michael J. Sullivan
Director



Commonwealth
of Massachusetts

Form CPF 111: REPORT OF ASSOCIATION OR OTHER GROUP
MAKING CONTRIBUTIONS TO OR EXPENDITURES ON BEHALF
OF CANDIDATES, PACS OR PARTY COMMITTEES

Office of Campaign and Political Finance

Reporting Period: from 01/01/2011 to 01/01/2011

Type of Report: ☐ 6th day preceding primary/preliminary ☐ 6th day preceding election ☐ 30th day after election ☐ January 20th

On behalf of: ☐ State / County Candidates, PACs & Party Committees or ☐ Municipal Candidates

Name of Association or Group: _____

Name & Title of Principal Officers: _____

Mailing Address: Street: _____ City/Town/Village: _____

DETERMINATION OF INCIDENTAL THRESHOLD:

1. Total gross revenues of previous calendar year: \$ _____
 2. 10% of line 1 or \$15,000, whichever is less: \$ _____
 3. Total expenditures, contributions to committees and liabilities incurred during previous calendar year: \$ _____
 4. Total expenditures, contributions to committees and liabilities incurred during current calendar year: \$ _____
- If line 3 or 4 exceeds line 2, Form 111 must be filed for the reporting period.

POLITICAL EXPENDITURES AND CONTRIBUTIONS TO CANDIDATES/COMMITTEES DURING REPORTING PERIOD:

1. Total contributions made (including in-kind contributions): \$ _____
2. Total independent expenditures made: \$ _____

I certify that this report is a true statement of the amount or value of every contribution or expenditure made, together with the date, purpose, and full name and address of the person to whom, or on whose behalf, it was made.

Signed under the penalties of perjury:

Signature of Officer: _____ Date: 01/01/2011 Name: _____

WHO NEEDS TO FILE THIS FORM?

Once an organization has made political contributions or expenditures to support candidates or political committees in excess of the "incidental threshold" (i.e., \$15,000 or 10% of such organization's gross revenues for the previous year, whichever is less), a duly qualified officer must file this report. The obligation to file a report continues for each year thereafter until the year after a year in which the incidental threshold is not reached.

WHERE SHOULD THIS FORM BE FILED?

State, county and municipal candidates and committees who file with OCPF: If contributions or expenditures are made to support or oppose candidates or committees who file with OCPF, this form should be filed with the Director of the Office of Campaign and Political Finance, One Ashburton Place, Room 411, Boston, MA, 02108.

Municipal candidates and committees who do not file with OCPF: If contributions or expenditures are made to support or oppose candidates or committees who file with local election officials, this form should be filed with the city or town clerk or local election commission.

WHERE CAN I GET MORE INFORMATION?

You can view or download OCPF Interpretive Bulletin IB-09-01 from the Legal Resources section of OCPF's website at www.ocpf.us.

Call OCPF at (617) 979-6300 or (800) 462-OCPF.

111 4/14

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 1

§ 1. Definitions

Effective: January 1, 2015

Currentness

For the purpose of this chapter, unless a different meaning clearly appears from the context, the following words shall have the following meanings:

“Ballot question committee”, a political committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters including, without limitation, a charter change, an initiative or referendum question or a constitutional amendment.

“Candidate”, any individual who seeks nomination or election to public office, whether or not such individual is nominated or elected. For the purpose of this chapter, an individual shall be deemed to be seeking nomination or election to such office if he has (1) received a contribution or made an expenditure, or has given his consent for any other person or committee to receive a contribution or make an expenditure, for the purpose of influencing his nomination or election to such office, whether or not the specific public office for which he will seek nomination or election is known at the time the contribution is received or the expenditure is made, or (2) taken the action necessary under the laws of the commonwealth to qualify himself for nomination or election to such office, or, if said individual holds elective public office, whether elected or appointed to such office, and he has (3) received any money or anything of value, or made any disbursement resulting from any purchases, made from said individual, or a committee, or a person acting on behalf of said individual or committee, whether through the device of tickets, advertisements, or otherwise, for any fund-raising activity, including a testimonial, regardless of the purpose of said activity, held on behalf of said individual at any time while he holds said public office.

“Candidate’s committee”, the political committee organized on behalf of a candidate, as provided in section five. The term “candidate’s committee” shall also apply to the campaign fund of a candidate who has not organized a political committee for the purpose of carrying out the election campaign of such candidate or who receives contributions or makes expenditures independently of said committee.

“Clearly identified candidate”, a candidate whose name, photo or image appears in a communication or a candidate whose identity is apparent by unambiguous reference in a communication.

“Contribution”, a contribution of money or anything of value to an individual, candidate, political committee, or person acting on behalf of said individual, candidate or political committee, for the purpose of influencing the nomination or election of said individual or candidate, or for the purpose of supporting or opposing a political party committee, or for the purpose of promoting or opposing a charter change, referendum question, constitutional amendment, or other question submitted to the voters, and shall include any: (1) gift, subscription, loan, advance, deposit of money, or thing of value, 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; (2) transfer of money or anything of value between political committees; (3) payment, by any person other than a candidate or political committee, or compensation for the personal services of another person which are rendered to such candidate or committee; (4) purchase from an individual, candidate, or political committee, or person acting on behalf of said individual, candidate, or political committee, whether through the device of tickets, advertisements, or otherwise, for fund-raising activities, including testimonials, held on behalf of said individual, candidate or political committee, to the extent that the purchase price exceeds the actual cost of the goods sold or services rendered; (5) discount or rebate not available to other candidates for the same office and to the general public; and (6) forgiveness of indebtedness or payment of indebtedness by another person; but shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, nor the payment by those rendering such services of such personal expenses as may be incidental thereto, nor the exercise of ordinary hospitality; provided, however, that a transfer of funds or payments by a depository candidate or his committee to the political committee of a party, for goods or services provided to a candidate or his committee by such political party shall not be considered to be a contribution.

"Director", the director of campaign and political finance.

"Election", any convention or caucus of a political party held to nominate a candidate, and any city, town or state preliminary, primary or election, and any special preliminary, primary or election.

"Electioneering communication", any broadcast, cable, mail, satellite or print communication that: (1) refers to a clearly identified candidate; and (2) is publicly distributed within 90 days before an election in which the candidate is seeking election or reelection; provided, however, that "electioneering communication" shall not include the following communications: (1) a communication that is disseminated through a means other than a broadcast station, radio station, cable television system or satellite system, newspaper, magazine, periodical, billboard advertisement, or mail; (2) a communication to less than 100 recipients; (3) a news story, commentary, letter to the editor, news release, column, op-ed or editorial broadcast by a television station, radio station, cable television system or satellite system, or printed in a newspaper, magazine, or other periodical in general circulation; (4) expenditures or independent expenditures or contributions that must otherwise be reported under this chapter; (5) a communication from a membership organization exclusively to its members and their families, otherwise known as a membership communication; (6) bonafide candidate debates or forums and advertising or promotion of the same; (7) email communications; and (8) internet communications which are not paid advertisements.

"Electioneering communication expenditure", any expenditure made or liability incurred by an individual, group, association, corporation, labor union or other entity as payment for an electioneering communication.

"Executive agent", an executive agent as defined in section thirty-nine of chapter three.

"Expenditure", any expenditure of money, or anything of value, by an individual, candidate, or political committee, or a person acting on behalf of said individual, candidate, or political committee, for the purpose of influencing the nomination or election of said individual or candidate, or of presidential and vice presidential electors, or for the purpose of promoting or opposing a charter change, referendum question, constitutional amendment, or other question submitted to the voters, and shall include: (1) any purchase, payment, distribution, loan, advance, deposit, or gift of money, or anything of value; and (2) any transfer of money or anything of value between political committees.

"Independent expenditure", an expenditure made or liability incurred by an individual, group, association, corporation, labor union, political committee or other entity as payment for goods or services to expressly advocate the election or defeat of a clearly identified candidate; provided, however, that the expenditure is made or incurred without cooperation or consultation with any candidate or a nonelected political committee organized on behalf of the candidate or an agent of the candidate and is

not made or incurred in concert with or at the request or suggestion of the candidate, a nonelected political committee organized on behalf of the candidate or agent of the candidate.

"Joint contribution", any contribution made by a check from more than 1 person to a candidate or political committee that includes either the signature or imprinted name of more than 1 individual contributor on a check.

"Legislative agent", a legislative agent as defined in section thirty-nine of chapter three.

"People's committee", a political committee which is not a candidate's committee, a political party committee or a ballot question committee, that: (i) only receives contributions from individuals; (ii) limits contributions received from any individual to the indexed amount provided for in the definition of "political action committee"; (iii) has been in existence for 6 months or more; and (iv) contributes to 5 or more candidates; provided, however, that a "people's committee" shall initially organize as a political action committee and may become a people's committee after 6 months.

"Political action committee", a political committee which is not a candidate's committee, a political party committee nor a ballot question committee; provided, however, that a political committee which only receives contributions from individuals in an amount or value of one hundred dollars or less in any calendar year, which has been in existence for six months or more and which contributes to five or more candidates shall not be a political action committee; provided, further, that said one hundred dollar amount shall be indexed biennially for inflation by the director, who, not later than December thirty-first of each odd numbered year, shall calculate and publish such index amount, using the federal consumer price index for the Boston statistical area.

"Political committee", any committee, association, organization or other group of persons, including a national, regional, state, county, or municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of a candidate, or candidates, or of presidential and vice presidential electors, or for the purpose of opposing or promoting a charter change, referendum question, constitutional amendment, or other question submitted to the voters.

"Political party committee", a political committee organized in accordance with chapter fifty-two on behalf of a political party, as defined in section one of chapter fifty, whether elected or non-elected.

Notwithstanding any other provisions of this chapter, any receipt or disbursement of any money or anything of value by an individual, or person acting on behalf of said individual, which is not otherwise a "contribution" or "expenditure" as defined in this section, resulting from any purchases from said individual, or any person acting on behalf of said individual, whether through the device of tickets, advertisements, or otherwise, for any fund-raising activity, including a testimonial, held on behalf of said individual, regardless of the purpose of said activity, shall be deemed to be a "contribution" or "expenditure" if said individual: (1) is a candidate in accordance with the provisions of clauses (1) or (2) of the definition of "Candidate" at the time of said receipt or disbursement; (2) holds elective public office, whether elected or appointed to such office, at the time of said receipt or disbursement, and thereby becomes a candidate in accordance with the provisions of clause (3) of said definition; or (3) becomes a candidate in accordance with said clauses (1) or (2) of said definition subsequent to such receipt or disbursement, and shall be reported as a contribution or an expenditure in accordance with the provisions of sections eighteen and nineteen.

Notwithstanding any other provisions of this chapter, communications from a membership organization, not including a corporation subject to section eight, to its members and their families on any subject shall not be deemed to be a contribution or expenditure.

§ 1. Definitions, MA ST 55 § 1

Credits

Added by St.1975, c. 151, § 1. Amended by St.1985, c. 522; St.1994, c. 43, §§ 9 to 15; St.1994, c. 292, §§ 4, 5; St.1998, c. 394, § 1; St.1998, c. 395, § 6; St.2009, c. 28, §§ 23 to 25, eff. Jan. 1, 2010; St.2014, c. 210, §§ 2 to 5, eff. Aug. 1, 2014; St.2014, c. 210, § 6, eff. Jan. 1, 2015.

M.G.L.A. 55 § 1, MA ST 55 § 1

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Title VIII. Elections (Ch. 50-57)

Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 2

§ 2. Accounts of contributions and expenditures; violations; penalties

Currentness

Every candidate shall keep detailed accounts of all contributions received by him, or by a person acting on his behalf, and of all expenditures made by him, or by a person acting on his behalf. Said accounts may be kept by an agent duly authorized thereto, but the candidate shall be responsible for said accounts, which shall be kept separate and distinct from all other accounts and shall include contributions made by the candidate from his own personal funds or otherwise. Said accounts shall include:

- (1) the full name and residential address of each person who has made a contribution, in an amount or value in excess of fifty dollars in a reporting period, and such information for each contribution of less than or equal to the sum of fifty dollars, if the aggregate of all contributions received from such contributor within said reporting period is in excess of fifty dollars, and the amount of value and date of the contribution;
- (2) the amount or value and date of each contribution made in a reporting period, which is not otherwise included under clause (1);
- (3) the full name and address of each person to whom an expenditure is made in excess of fifty dollars in a reporting period, a receipted bill stating the particulars of each such expenditure, including the amount or value, date and purpose of each such expenditure;
- (4) the amount or value, date and purpose of each expenditure made in a reporting period, which is not otherwise included under clause (3).

The candidate shall preserve all receipted bills and accounts relative to all contributions received, expenditures made and any other campaign finance activity, which shall include the full name and residential address of all persons who have made a contribution to said candidate regardless of the amount of said contribution. The candidate shall preserve said receipted bills and accounts for six years from the date of the relevant election.

In addition to the information otherwise required by this section, a candidate shall keep and preserve accounts including the occupation and employer or employers of each person who has made a contribution in an amount or value of two hundred dollars or more in any one calendar year, and such information for each contribution of less than two hundred dollars, if the aggregate of all contributions received from such contributor within any one calendar year is two hundred dollars or more;

§ 2. Accounts of contributions and expenditures; violations; penalties, MA ST 55 § 2

provided, however, that a candidate shall satisfy such requirement of including said occupation and employer by requesting a contributor's occupation and employer at the time a contribution is solicited and making one additional written request. A candidate shall be allowed to keep any such contribution if such candidate has complied with the provisions of this paragraph.

Violation of any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or both.

Credits

Added by St.1975, c. 151, § 1. Amended by St.1980, c. 329, § 102; St.1986, c. 345, §§ 1, 2; St.1994, c. 43, §§ 16 to 18; St.1994, c. 292, § 6.

M.G.L.A. 55 § 2, MA ST 55 § 2

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Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 3

§ 3. Director of campaign and political finance; selection; term; powers and duties; judicial review of decisions; procedure for violations; penalties; disclosure of fund transfers

Effective: August 1, 2014

Currentness

The state chairman of each of the two leading political parties, the state secretary, and a dean of a law school located in the commonwealth, to be appointed by the governor as provided hereinafter, shall serve as a commission for the purposes of selecting the director of campaign and political finance. The term of the dean of a law school shall be six years but shall expire if he should cease to act as dean; a successor shall be appointed within thirty days after the occurrence of a vacancy in said office. The state secretary shall act as chairman of said commission. Meetings of the commission may be called by the state secretary or by any two other members.

Selection of the director, who shall be a resident of the commonwealth, shall be by unanimous vote of the members of the commission. The commission shall select a successor director no later than thirty days prior to the expiration date of the term of the director and no later than sixty days after the occurrence of a vacancy in said office; provided, however, in the event that a vacancy shall exist in the office of director for ten days beginning with the date of the primary election at which a candidate for any statewide office is nominated and ending one hundred and twenty days after the election, the chairman of the commission shall appoint a director pro tem, who shall serve until a successor director is appointed in accordance with the provisions hereof. An incumbent director may be selected for a succeeding term or terms.

The director shall serve for a term of six years and, unless removed, until his successor has been selected and has assumed the office. He may not be removed from office except upon an affirmative vote of all of the members of the commission then serving. Removal of the director shall be at the discretion of the commission, and shall not be reviewable.

The director shall devote full time to his duties during normal business hours. Subject to appropriation, he shall receive a salary to be determined from time to time by a majority of the members present and voting at a duly-called meeting of the commission, a quorum being present. He shall not, during the term he serves as director, engage in any political activities of any nature, nor shall he hold any other public office; provided, however, that he shall be free to advise and consult with legislative committees, the members of the general court and other persons affected by the laws under his jurisdiction, and to advocate and sponsor legislation.

The director shall appoint such employees as the work of the office may require. The director shall establish the salaries, duties, and personnel regulations of all employees as he deems necessary to perform the duties of the office, provided however, the salaries of such employees shall not exceed the sum annually appropriated by the general court. The provisions of sections nine A and forty-five of chapter 30 and of chapter 31 shall not apply to the employees of the office.

The director shall make available to investigative, accounting and law enforcement agencies of the commonwealth all

information necessary or advisable to fulfill their duties, with respect to this chapter. He shall, from time to time as he deems necessary or advisable, issue rules and regulations in conformity with the provisions of this chapter and chapter thirty A, and shall also issue interpretative bulletins and respond with reasonable promptness to requests for information, interpretations and advice presented by candidates, state committees, political committees and members of the public.

All acts, decisions and rulings of the director shall be subject to judicial review under the provisions of chapter thirty A upon the application of any interested person.

The director shall inspect all statements and reports of candidates, or nonelected political committees supporting such candidates, filed with him, within thirty days of the reporting dates required by this chapter, and all other statements and reports within sixty days of the reporting dates required by this chapter. If upon examination of the records it appears that any candidate or political committee has failed to file a statement or report as required by law, or if it appears to the director that any such statement or report filed with him does not conform to law, or upon written complaint by five registered voters that a statement or report does not conform to law, or that any candidate or political committee has failed to file a statement or report required by law, the director shall, in writing, notify the delinquent person. Such complaint shall state in detail the grounds of objection, shall be sworn to by one of the subscribers, and shall be filed with the director within ten days after the required date for filing a statement or report, or within ten days after the actual filing of a statement or report, or an amended statement or report. Upon failure to file a statement or report within ten days after receiving notice under this section or if any statement filed after receiving such notice discloses any violation of any provisions of this chapter, the director shall notify the attorney general thereof and shall furnish him with copies of all papers relating thereto, and the attorney general, within two months thereafter, shall examine every such case, and if satisfied that there is cause, he shall in the name of the commonwealth institute appropriate civil proceedings or refer the case to the proper district attorney for such action as may be appropriate in the criminal courts. The name of a candidate who is required to file campaign finance reports with the director, and who fails to file any statement or report after the initiation of civil proceedings under this section to compel the filing, shall not be printed on any municipal preliminary, state primary or general or special election ballot unless the statement or report is timely filed pursuant to chapter 53 or any charter or special law establishing the filing deadline. The director shall notify the state secretary or, for municipal candidates, the registrars of the city or town, of the names of those candidates against whom civil proceedings for failure to timely file have been initiated and shall do so within 72 hours of the filing deadline for nomination papers for the candidate. Any candidate who is disqualified from appearing on any municipal preliminary, state primary or general or special election ballot as set forth above shall be ineligible to be nominated or elected as a write-in or sticker candidate unless the candidate shall have filed the statements or reports which are the subject of the civil litigation by the date of the municipal preliminary, state primary or general or special election in which the candidate is seeking nomination or election. If civil proceedings are initiated against a state or county candidate for failure to timely file the campaign finance report or statement and the candidate files the report or statement before the primary, the director shall notify the state secretary not later than 24 hours after the date of the primary. If civil proceedings are initiated against a municipal candidate who is required to file with the director and the candidate files the campaign finance report or statement prior to the preliminary or, if no preliminary is held, prior to the date the preliminary for the office sought would have been held, the director shall notify the registrars not later than 24 hours after the date of the preliminary or the date the preliminary would have been held.

The director shall have the power and authority to investigate the legality, validity, completeness and accuracy of all reports and actions required to be filed and taken by candidates, treasurers, political committees, and any other person pursuant to this chapter and any other laws of the commonwealth pertaining to campaign contributions and expenditures. He may require, by summons, the attendance and testimony under oath of witnesses and the production before him of books and papers relating to any matter being investigated by him. Such summons shall be served in the same manner as summonses for witnesses in criminal cases issued on behalf of the commonwealth and all provisions of law relative to summonses issued in such cases shall apply to summonses issued under this section so far as applicable. Any justice of the supreme judicial court or of the superior court may upon application by the director compel the attendance of witnesses summoned as aforesaid and the giving of testimony under oath before said director in furtherance of any investigation in the same manner and to the same extent as before said courts.

The director shall establish rules of procedure governing the conduct of his hearings and investigations which shall be made available in printed form to each witness prior to his testimony. Witnesses shall have the right to be represented by counsel and shall before testifying be sworn. Witnesses shall testify only at private hearings and the same provisions with reference to secrecy which govern proceedings of a grand jury shall govern all proceedings before the director. Violations of such provisions with regard to secrecy shall be punished by a fine of up to one thousand dollars and imprisonment for not more than one year, or both. Upon conviction for any such violation said director shall be removed and the office of director deemed vacant.

The director shall inform any person or committee under investigation by said director by registered mail, return receipt requested, by personal delivery, by leaving a copy of the notice at the person's last and usual place of residence or by delivering a copy of the notice to an attorney who has appeared on behalf of the alleged violator, of his intention to present to the attorney general evidence of any alleged violation of this chapter. Within ten days of receipt of said notice said alleged violator may request a hearing before the director for the purpose of presenting evidence to the contrary. Said director shall not present evidence of any such alleged violation to the attorney general until after said hearing. Evidence of any such violation of this chapter which has come to the director's attention shall be presented by the director to the attorney general not later than 120 days before or 3 years after the relevant election or, if the evidence does not relate to an identifiable election, not later than 3 years after the violation.

The director shall assess a civil penalty for any report, statement or affidavit required to be filed with him, or with any city or town clerk upon written notice to him from such clerk, pursuant to the provisions of this chapter which is filed later than the prescribed date. Said civil penalty shall be in the amount of \$25 per day; provided, however, that the maximum penalty the director may assess shall be no greater than \$5,000 for any one report, statement or affidavit which is filed later than the prescribed date. The director may waive all or part of any civil penalty for good cause; provided, however, that such finding and the reasons therefor are in writing. In the case of failure to file by a candidate or a candidate's committee, the civil penalty shall be assessed against the candidate; and in all other instances, the civil penalty shall be assessed against the treasurer of the political committee or other person or persons required to file such report, statement or affidavit.

The director shall not disclose publicly any correspondence or communication to a candidate, political committee, or ballot question committee which contains a deadline for response until the deadline has passed or until the director has received a response, whichever is earlier. Notwithstanding the forgoing notices of future filing requirements and notices of failure to file, a required report shall be a public record when issued.

The director shall adopt regulations regarding electioneering communication expenditures and independent expenditures that involve the disclosure of any transfers of money or anything of value from 1 individual, group, association, corporation, labor union or other entity to another individual, group, association, corporation, labor union or other entity to make an electioneering communication expenditure or independent expenditure to ensure that the origin of the funds used to make the expenditure is disclosed in the manner and on the schedule for reports of the expenditures provided for in this chapter.

Credits

Added by St.1975, c. 151, § 1. Amended by St.1977, c. 234, §§ 126A to 126C; St.1977, c. 872, §§ 121 to 123; St.1978, c. 204; St.1981, c. 699, §§ 78, 79; St.1986, c. 631, § 2; St.1993, c. 110, § 107; St.1994, c. 43, § 19; St.2009, c. 28, §§ 26 to 30, eff. Jan. 1, 2010; St.2014, c. 104, eff. May 15, 2014; St.2014, c. 210, § 7, eff. Aug. 1, 2014.

M.G.L.A. 55 § 3, MA ST 55 § 3

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Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 5

§ 5. Political committees; statement of organization; officers; duties; expenditures; incorporation; penalties

Effective: January 1, 2010

Currentness

Each political committee shall organize by filing with the director or, if organized for the purpose of a city or town election only, with the city or town clerk, a statement of organization.

The statement of organization shall include: (1) the full name of the political committee, which, if organized on behalf of a candidate, shall include the name of the candidate in said name; which, if not organized on behalf of a candidate, shall include the full words represented by any abbreviations, initials or acronyms in said name; and which, if a political action committee, shall include the words "Political Action Committee" in said name; (2) the address of the political committee; (3) a statement of the purpose for which the political committee is organized which shall include, except for political party committees and candidate's committees, a list of specific issues in which the committee takes an interest, and a list of specific interests, including but not limited to business, charitable, educational, or other interests represented by the committee, or by a significant proportion of its officers, members or donors; (4) the name and residential address of the chairman and the treasurer; (5) the name, residential address, and position of other principal officers, including officers and members of the finance committee, if any, and; (6) the name and address, if known, and party affiliation of each candidate the political committee is supporting; provided, however, that if a candidate is nominated without reference to a political party, the name of his political party shall not be required.

The statement of a political committee organized on behalf of a candidate shall also include the written consent of said candidate. No candidate shall give his consent to more than one such committee.

Whenever a statement of organization of a political committee is filed on behalf of a candidate who became a candidate after the deadline for filing nomination papers, the director shall at the time of the filing notify the candidate or his representative of the requirements of clause (a) of section five of chapter two hundred and sixty-eight B and he shall also forward the name and address of such candidate to the state ethics commission within three days after the filing of a political committee with his office.

Any change in information previously submitted in a statement of organization shall be reported to the director, or if organized for the purpose of a city or town election only, to the city or town clerk, within ten days following the change.

Each political committee shall have a treasurer who shall qualify for his office by filing a written acceptance thereof with the director, or if organized for the purpose of a city or town election only, with the city or town clerk. Said treasurer shall remain subject to all the duties and liabilities imposed by this chapter until his written resignation of the office is received or his successor's written acceptance is filed as aforesaid. No person acting under the authority of, or on behalf of, any political committee shall receive any money or anything of value, or expend or disburse the same, or incur expenses while it has no

§ 5. Political committees; statement of organization; officers; duties;..., MA ST 55 § 5

treasurer qualified as aforesaid, or while the name and address of any of its officers or members, as originally or subsequently chosen, is not filed in accordance with the provisions of this section or chapter fifty-two, as the case may be.

Each treasurer of a political committee shall keep and preserve detailed accounts, vouchers and receipts as prescribed for a candidate by the provisions of section two. Each treasurer of a political committee shall keep said records for a period of six years following the date of the relevant election. A candidate may not be the treasurer of the political committee which has been organized on his behalf.

The secretary of each ward, city and town committee shall file with the director a list of the officers of the committee, together with the addresses of such officers, within ten days after its organization under the provisions of chapter fifty-two, and within ten days of any change of said officers.

No expenditure shall be made for, or on behalf of, a political committee without the authorization of the chairman or treasurer, or their designated agents. No person who is authorized to make such expenditures shall sign a committee check payable to himself or herself.

All funds of a political committee shall be kept separate from any personal funds of officers, members or associates of such committee.

A state committee referred to in section one of chapter fifty-two may incorporate pursuant to the provisions of chapter one hundred and eighty; provided, however, that such incorporation shall not relieve any person, including the chairperson or treasurer, from any responsibility imposed by this chapter or other election law or from any civil or criminal penalty imposed thereby. Prior to filing the articles of incorporation with the state secretary, the articles shall be submitted to the director, who shall examine the same within sixty days. The director may require such amendment thereof or additional information as he considers necessary. If he finds the articles comply with law he shall so certify and endorse his approval thereto. Any amendment to the articles of organization shall be approved in like manner.

The state secretary, a city or town clerk, or a member of a board of registrars of voters or election commission in any city or town shall not serve as the chairman, treasurer, or other principal officer of any political committee, but any such public officer may serve as the chairman or principal officer, other than treasurer, of the political committee organized on his own behalf. This paragraph shall not apply to city or town clerks who do not administer elections.

Violation of any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or both.

Credits

Added by St.1975, c. 151, § 1. Amended by St.1983, c. 286; St.1986, c. 631, § 4; St.1993, c. 328, § 1; St.1994, c. 43, §§ 20, 21; St.2006, c. 299, § 8, eff. Sept. 19, 2006; St.2009, c. 28, § 31, eff. Jan. 1, 2010.

M.G.L.A. 55 § 5, MA ST 55 § 5

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Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 6

§ 6. Restrictions on expenditures; penalties

Effective: January 1, 2015

Currentness

A political committee organized or operating on behalf of a candidate for the office of governor, lieutenant governor, attorney general, state secretary, treasurer and receiver general or state auditor may receive, pay and expend money or other things of value for reasonable and necessary expenses directly related to the campaign of the candidate but shall not make any expenditure that is primarily for the candidate's or any other person's personal use. Any other political committee duly organized on behalf of a candidate may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate or the principle for which the committee was organized; provided, however, that the expenditure shall not be primarily for the candidate's or any other person's personal use. The director shall establish reasonable rules and regulations concerning the expenditures.

Any political committee duly organized on behalf of a candidate may contribute to other political committees and may contribute to the campaign fund of a candidate; provided, however, that the aggregate of all contributions made by a committee organized on behalf of a candidate to another nonelected political committee organized on behalf of a candidate shall not exceed \$100 in any 1 calendar year.

Notwithstanding the second paragraph, a political committee organized on behalf of a candidate for statewide office that receives public financing under chapter 55C may not contribute to another political committee or the campaign fund of a candidate in the calendar year in which the political committee receives public financing; provided, however, that a committee that receives public financing may expend funds to a political party committee for goods or services provided by the political party committee to the political committee organized on behalf of a candidate.

Except as otherwise provided in section six A or six B, a political committee not organized on behalf of an individual candidate may contribute to another political committee not organized on behalf of an individual candidate; provided, however, that the aggregate of all such contributions for the benefit of the political committees of any one political party shall not exceed in any one calendar year the sum of five thousand dollars; and provided, further, that the aggregate of all such contributions for the benefit of any one such political committee other than a political party committee shall not exceed in any one calendar year the sum of five hundred dollars. A political committee not organized on behalf of an individual candidate, other than a political party committee, may contribute to the campaign fund of a candidate; provided, however, that the aggregate of all such contributions for the benefit of any one candidate and such candidate's committee shall not exceed the sum of five hundred dollars in any one calendar year. The political committee of a political party may contribute to the campaign fund of a candidate; provided, however, that the aggregate of all contributions of money for the benefit of any one candidate and the non-elected political committee organized on such candidate's behalf shall not exceed in any one calendar year the sum of three thousand dollars in the case of the state committee and the sum of one thousand dollars in the case of each town or ward committee. For the purposes of the limitations established by this section, all campaign contributions made by political committees established, financed, maintained or controlled by any person, including any parent committee of a subsidiary committee or any person other than a natural person, shall be considered to have been made by a single political committee. Nothing in this section shall

§ 6. Restrictions on expenditures; penalties, MA ST 55 § 6

be construed to permit contributions to political committees which are otherwise prohibited by this chapter.

Such committee may place such funds in a savings account or money market to earn interest thereon but may not invest its funds or other things of value in any other manner.

For the purposes of this section the term "personal use" shall not include expenses relating to the provision of constituent or legislative services or to the opening or maintaining of a legislative district office, provided that (a) said expenses are not otherwise paid, provided or reimbursed by the commonwealth or any other governmental body.

For purposes of this section the term "personal use" shall include the payment of fines, penalties, restitution or damages incurred for a violation of chapters 268A and 268B, but shall not include payments made in relation to allegations of violations of such chapters.

Violation of any provision of this section or section six A or six B shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars.

Credits

Added by St.1975, c. 151, § 1. Amended by St.1975, c. 774, § 2; St.1982, c. 59; St.1987, c. 519, §§ 1, 2; St.1992, c. 133, § 379; St.1994, c. 43, §§ 23 to 25; St.2009, c. 28, § 32, eff. Jan. 1, 2010; St.2014, c. 210, § 9, eff. Jan. 1, 2015.

M.G.L.A. 55 § 6, MA ST 55 § 6

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Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 6A

§ 6A. Contributions from political action committees; limitations

Currentness

A candidate and such candidate's committee shall not accept any contribution from a political action committee if such contribution would result in such candidate and such committee together receiving from all political action committees aggregate contributions in any calendar year in excess of the following amounts:

- (a) a candidate for governor, including contributions jointly to such candidate for governor and a candidate for lieutenant governor in a state election--one hundred and fifty thousand dollars;
- (b) a candidate for lieutenant governor--thirty-one thousand, two hundred and fifty dollars;
- (c) a candidate for attorney general--sixty-two thousand, five hundred dollars;
- (d) a candidate for state secretary, state treasurer, and state auditor--thirty-seven thousand, five hundred dollars;
- (e) a candidate for state senator, county commissioner, governor's councillor, district attorney, clerk of courts, register of probate, registrar of deeds or any other county officer--eighteen thousand, seven hundred and fifty dollars;
- (f) a candidate for state representative--seven thousand, five hundred dollars.

Credits

Added by St.1994, c. 43, § 26.

M.G.L.A. 55 § 6A, MA ST 55 § 6A

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Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 7A

§ 7A. Campaign contributions to candidates from individuals; limitation; contributions from legislative and executive agents; contributions from gaming licensee

Effective: July 22, 2016

Currentness

(a)(1) An individual may make campaign contributions to candidates or candidates' committees. The aggregate of all such contributions for the benefit of any 1 candidate and that candidate's committee shall not exceed the sum of \$1,000 in a calendar year; provided, however, that the aggregate of contributions by an individual for the benefit of any 1 candidate and the candidate's committee seeking election to the office of state senator or state representative in a state election who previously, in the same calendar year, sought election to the office of state senator or state representative in a special election, shall not exceed the sum of \$1,000 during the period beginning on the first day of January and ending on the day of the special election and an additional \$1,000 during the period that begins on the day after the special election and ends on the last day of December following the special election.

(2) An individual may in addition make campaign contributions for the benefit of elected political committees or non-elected political committees organized on behalf of a political party; provided, however, that the aggregate of such campaign contributions for the benefit of the political committees of any one political party shall not exceed in any one calendar year the sum of five thousand dollars.

(3) An individual may in addition make campaign contributions to any political committee not specified in paragraph (1), (2) or (4); provided, however, that the aggregate of such campaign contributions to any one such political committee shall not exceed in any one calendar year the sum of five hundred dollars.

(4) An individual may in addition make contributions without limitation to ballot question committees.

(b) Notwithstanding any other provision of this chapter, the aggregate of all contributions by a legislative or executive agent for the benefit of any one candidate and such candidate's committee shall not exceed the sum of two hundred dollars in any one calendar year. Notwithstanding any other provision of this chapter, the aggregate of all contributions by a legislative or executive agent to any other political committee, other than a ballot question committee, shall not exceed the sum of two hundred dollars in any one calendar year.

(c) The aggregate of all contributions by a person who holds a license issued by the Massachusetts gaming commission, who was required to apply for that license under section 14 of chapter 23K, for the benefit of any 1 candidate and such candidate's committee shall not exceed \$200 in a calendar year. The aggregate of all contributions by a person who holds a license issued by the Massachusetts gaming commission, who was required to apply for that license under said section 14 of said chapter 23K, for the benefit of any other political committee, other than a ballot question committee, shall not exceed \$200 in a calendar year.

Credits

Added by St.1994, c. 43, § 27. Amended by St.2011, c. 194, § 24, eff. Nov. 22, 2011; St.2014, c. 210, § 11, eff. Jan. 1, 2015; St.2014, c. 210, § 12, eff. Aug. 1, 2014; St.2016, c. 156, eff. July 22, 2016.

M.G.L.A. 55 § 7A, MA ST 55 § 7A

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Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 18

§ 18. Reports of contributions and expenditures; persons required to file; contents; reporting periods; time limits; penalties

Effective: October 12, 2016

Currentness

Each candidate and each treasurer of a political committee shall, except as provided in this section and section 24, file with the director reports of contributions received and expenditures made. A candidate and a committee organized on behalf of candidates seeking public office at a municipal election shall file such reports with the director, if the candidate is seeking the office of mayor in a municipality or if the committee is required to file such reports with the director pursuant to section 19. All other candidates seeking public office at a city or town election shall file reports with the city or town clerk. A committee organized under section 5 to favor or oppose a question submitted to the voters shall file its reports with the director if the question appears on ballots at a state election, or with the city or town clerk if the question appears on ballots at a city or town election or for use in a city or town at a state election. Reports of contributions received and expenditures made shall be filed using forms prescribed by the director.

Such reports shall be filed as follows:

(a) by each candidate for nomination or election to the state senate or house of representatives, and by the non-elected political committee organized on behalf of such candidate, on or before: (1) the eighth day preceding a primary, the eighth day preceding a biennial state election, and, as a final report, the twentieth day of January in the following year complete as to the thirty-first day of December of the prior year; (2) the eighth day preceding a special primary, including a convention or a caucus, the eighth day preceding a special election, the thirtieth day following a special election, and, as a final report, the twentieth day of January in the following year complete as to the thirty-first day of December of the prior year.

(b) by each candidate for nomination or election to city or town office, and by the non-elected political committee organized on behalf of such candidate, except a candidate required to designate a depository by section nineteen or a candidate seeking election as a member of a representative town meeting or of a town or city ward committee, and any non-elected political committee organized on behalf of such candidate, on or before: (1) the eighth day preceding a city or town preliminary or primary, including a caucus, the eighth day preceding a city or town election, and if a city election, as a final report, the twentieth day of January in the following year complete as to the thirty-first day of December of the prior year, and if a town election, as a final report, the thirtieth day following said election; (2) the eighth day preceding a special primary, including a caucus, the eighth day preceding a special election, and, as a final report, the thirtieth day following a special election.

(c) by each candidate and each non-elected political committee required to designate a depository by section nineteen on or before: (1) the third business day following the designation of such depository, and (2) as a final report, the twentieth day of

January of the year following the election, complete as to the thirty-first day of December of the prior year.

The reporting period of the initial report shall commence on the day following the preceding election for the office sought by the candidate, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the day such depository is designated.

The reporting period of the second report shall commence on the day following the designation of the depository and shall end as of the thirty-first day of December of the year of the election.

(d) by the treasurer of each state committee referred to in section one of chapter fifty-two and required to designate a depository by section nineteen, on or before: (1) the third business day following the designation of such depository, and (2) as a final report, the twentieth day of January of the year following the election complete as to the thirty-first day of December of the prior year.

The reporting period of the initial report shall commence on the day following the preceding biennial state election, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the day such depository is designated.

The reporting period of the second report shall commence on the day following the designation of the depository and shall end as of the thirty-first day of December of the year of the election.

(e) by all other non-elected and elected political committees which are not required to file reports as aforesaid other than political action committees and people's committees as defined in section 1 and independent expenditure PACs organized pursuant to section 18A, on or before: (1) the same days and in accordance with the same schedule as set forth in clause (a), if the political committee is aiding or promoting the success or defeat of one or more candidates in a state primary, special or general election; (2) the same days and in accordance with the same schedule as set forth in clause (b), if the political committee is aiding or promoting the success or defeat of one or more candidates, or is favoring or opposing a question submitted to the voters, in a city or town preliminary, primary general or special election or for use on ballots in a city or town at a state election.

(f) by each political committee organized under the provisions of section five to favor or oppose a question submitted to the voters, if the question appears on the ballot at the state election on: (1) the day of the organization; and (2) the sixtieth day prior to the election complete as of the preceding fifth day; on or before (3) the fifth and twentieth day of each month complete as of the preceding first and fifteenth day of the month, until the election, and, thereafter; (4) the twentieth day of November following such election complete as of the fifteenth day of the month; and (5) the twentieth day of January of each year complete as of the thirty-first day of December of the prior year until all declared liabilities of such committee have been discharged.

The reporting period of the initial report shall commence on the day following the preceding biennial state election, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the day of organization.

The reporting period of the second report shall commence on the day following said day of organization and shall end as of the sixtieth day prior to the election.

The reporting period of all subsequent reports shall commence on the day following the end of the reporting period of the last report filed and shall end as of the first or fifteenth day of each month, as the case may be.

<[There is no clause (g).]>

(h) by all candidates and all political committees, except those candidates seeking election as members of a representative town meeting, or of a city ward or town committee, and non-elected political committees organized on behalf of such candidates, on or before the twentieth day of January in each year in which they are not otherwise required to file a report on or before the twentieth day of January; provided, however, that candidates for the state senate or house of representatives, the nonelected political committees organized on behalf of such candidates, and political action committees, that file with the director, shall also file mid-year reports on or before the twentieth day of July in each year in each odd-numbered year.

For candidates, and non-elected political committees organized on behalf of such candidates for whom said report would be an initial report, the reporting period shall commence on the day following the preceding election for the office sought by such candidate and shall end as of the thirty-first day of December of the year prior to the last day for filing; and for all other political committees for which said report would be an initial report, the reporting period shall commence on the day following the preceding state, city or town election, as the case may be, and in accordance with the provisions of this section governing said initial report of such committees, and shall end as of the thirty-first day of December of the year prior to the last day for filing said report. For all candidates and all political committees, if said report is not an initial report, the reporting period of such reports required to be filed on or before the twentieth day of July in each odd-numbered year shall commence on the first day of January of that year, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the thirtieth day of June of said year. The reporting period for the report required to be filed on or before January 20 in each odd-numbered year shall commence on the day following the end of the reporting period of the last report filed and shall end as of December 31 of the prior year.

The reports required to be filed in accordance with the provisions of clauses (a) and (b), except for the report to be filed in accordance with said provisions on or before the twentieth day of January of the year following the election, shall not be required of a candidate, or of the non-elected political committee organized on behalf of said candidate, if the candidate is not a candidate as defined in clause (2) of the definition of candidate of section one.

Notwithstanding the provisions of clauses (a), (b), (c) and (d), for those contributions received subsequent to the end of the reporting period of the last report filed, which was identified in said clauses as a final report, by a candidate or political committee, and intended for application to the preceding election of said candidate or of said reporting political committee, an additional report, which shall be the final report for such candidates and committees shall be required. This report shall be filed on or before the twentieth day of January following the last day for filing said final report of clauses (a), (b), (c) and (d), and shall be complete as of the thirty-first day of December of the prior year. The reporting period of said report shall commence on the day following the end of the reporting period of the last report, or final report required to be filed by said clauses.

Except as otherwise provided, each candidate and the non-elected political committee organized on behalf of said candidate, shall, upon the filing of the initial report, include all contributions received and expenditures made since the day of the preceding election for the office sought by the candidate, or since the end of the reporting period of the last report filed, if any, whichever reporting period is shorter, and all other political committees shall, upon the filing of their initial report, include all contributions received and expenditures made since: (1) the day of the preceding biennial state election, or the end of the reporting period of the last report filed, if any, whichever period is shorter, if the political committee is either aiding or promoting the success or defeat of one or more candidates, or is favoring or opposing the adoption or rejection of a question submitted to the voters, at a state primary or election, or (2) the day of the preceding city or town election, or the end of the reporting period of the last report filed, if any, whichever period is shorter, if the political committee is either aiding or promoting the success or defeat of

one or more candidates, or is favoring or opposing the adoption or rejection of a question submitted to the voters, at a city or town preliminary, primary or election.

Except as otherwise provided, the end of the reporting period of each report required to be filed under the provisions of this section shall be as of the tenth day preceding the last day for filing. The beginning of the reporting period for each report subsequent to the initial report shall be the day following the end of the reporting period of the last report filed.

The reports required to be filed by this section shall be cumulative during the calendar year to which they relate.

Where there has been no change in an item included in a previous report, only the amount of the item need be carried forward.

Whether or not a contribution has been received or an expenditure has been made during any reporting period as described in this section, a candidate or political committee shall file the required report for said reporting period.

Each report required to be filed under the provisions of this section by a candidate or political committee shall disclose:

(1) the amount of money on hand at the beginning of the reporting period;

(2) the full name and residential address, listed alphabetically, of each person who has made a contribution, except for those contributions identified in clauses (4), (5) and (6) and which shall be reported therein, in an amount or value in excess of fifty dollars in the reporting period, and such information for each contribution of less than or equal to the sum of fifty dollars, if the aggregate of all contributions received from such contributor within said reporting period is in excess of fifty dollars, as the case may be, and the amount or value and date of the contribution and the total of all contributions listed;

(3) the total amount or value of contributions made in the reporting period, and not otherwise reported under clause (2);

(4) the name and address, listed alphabetically, of each candidate or political committee from which was received any money or anything of value in a reporting period, together with the amount or value thereof and the date received;

(5) the name and address of the principal officers of any trust, foundation and association from which was received a contribution, as provided in section ten;

(6) the amount or value and date of each loan to or from any person, in the reporting period, together with the name and residential address of the lender and endorser, if any, listed alphabetically;

(7) the total sum of all contributions received, in the reporting period, which is the sum of clauses (2), (3), (4), (5) and (6);

(8) the full name and address, listed alphabetically, of each person to whom an expenditure is made, in the reporting period, except for those identified in clause (10), and shall report therein, for each amount or value in excess of \$50, the amount and value, date and purpose of each expenditure and the total of all expenditures listed, and in the case of a political party committee organized in accordance with chapter 52 or a political committee supporting more than 1 candidate, the name and address, the elective office held, if any, and office sought by each candidate on whose behalf the expenditure was made;

(9) the total amount or value of expenditures made in the reporting period, and not otherwise reported under clause (8);

(10) in the case of a candidate or political committee, the name and address, listed alphabetically, of each candidate or political committee to which was transferred any money or anything of value, in the reporting period, together with the amount or value thereof and the date of such transfer;

(11) the total sum of expenditures made, in the reporting period, which is the sum of clauses (8), (9) and (10);

(12) the amount and date of each then existing liability remaining unfulfilled and in force when the report is made, the name and address of the person to whom the liability exists, and a clear statement of the purpose for which it was incurred;

(13) a listing of all banks or other financial institutions used;

(14) in the event of a dissolution of a political committee, a statement of such dissolution detailing the intended or actual disposition of any residual funds; and

(15) in the event of a dissolution of a political action committee, a statement that the political action committee has not received contributions pursuant to section nine A or, if it has received such contributions, a statement that the political action committee has given sixty days written notice of its intended dissolution to any contributor and said contributor's bank or other financial institution currently making contributions pursuant to said section nine A.

In addition, each report required to be filed under the provisions of this section shall also include the name, residential address, and amount contributed in that reporting period, of each person whose contributions in the aggregate exceed more than fifty dollars in the calendar year, for those contributions where said information does not otherwise appear on the report.

In addition, each report required to be filed under the provisions of this section shall also include the occupation and name of employer or employers for each person whose contribution or contributions in the aggregate equals or exceeds the sum of two hundred dollars within any one calendar year; provided, however, that no candidate or political committee shall be required to include such occupation and employer if, upon compliance with the requirements of section two concerning the inclusion of such occupation and employer, said candidate or political committee has not been able to obtain such information.

Each year-end campaign finance report filed by a candidate or non-elected political committee required to designate a depository by section 19 and who also maintains or who has maintained a savings account or money market account, shall disclose, for each reporting period, all activity in any such account. Nothing in this section shall authorize a transfer made from any such savings or money market accounts to an account other than the depository account established by a candidate or committee in accordance with said section 19.

Every political committee organized on behalf of a candidate that files with the director, and every ballot question committee that files with the director, which receives and deposits a contribution in the amount of \$500 or more after the eighteenth day, but more than 72 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.

In addition, the report required to be filed on or before the twentieth day of January shall contain a statement detailing the intended or actual disposition of any residual funds. Such residual funds shall not be converted to the personal use of the candidate or any other person except as provided in this paragraph.

Such residual funds shall be donated to:

(i) the General Fund;

(ii) an entity which is subject to chapter sixty-seven or section eight of chapter twelve; provided, however, that the candidate, treasurer or any official of the political committee shall not be related by consanguinity or affinity to any trustee, officer, principal or beneficiary of said entity either at the time of the gift or within ten years from the date of such gift; provided, further, that no entity may employ as a trustee, officer, principal or beneficiary any person related by consanguinity or affinity to the candidate, treasurer or any official of the political committee either at the time of the gift or within ten years from the date of such gift;

(iii) a scholarship fund; provided, however, that the candidate, treasurer or any official of the political committee shall not participate in the selection of the beneficiary of any scholarship awarded from such fund; and, provided further, the beneficiary of any scholarship awarded from such fund shall not be related by consanguinity or affinity to the candidate, treasurer or any official of the political committee; or

(iv) the general fund of any city or town in the commonwealth.

The director may petition the supreme judicial court for the dissolution of a political committee, if (i) such political committee fails to comply for two consecutive years with provisions of this section requiring the filing of reports of contributions received and expenditures made; (ii) the candidate on whose behalf such political committee has been organized has died; or (iii) such political committee was organized for the purpose of favoring or opposing the adoption or rejection of a question submitted to the voters and there has been a final determination made as to the adoption or rejection of such question.

By such petition, the director may request the court to authorize the administration of any funds held by such political committee in accordance with the provisions of this section regarding residual funds. The court, after notice by mail or otherwise as it may

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order, may dissolve such political committee. The director may include more than one political committee in a single application.

Any person nominated by the governor for a position that requires confirmation by the executive council shall, within 6 months of the date of confirmation, dissolve any political committee organized on behalf of such person and disperse all funds remaining in such committee's account in accordance with this section.

Violation of any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or both.

The provisions of this section requiring candidates to file reports shall not apply to candidates who during any reporting period have not received contributions, incurred any liabilities, nor made expenditures on their own behalf independent from the political committee organized on their behalf. Said candidates shall sign an affidavit under the pains and penalties of perjury that they have not received any contributions, incurred any liabilities, nor made any expenditures on their own behalf during that reporting period. Said affidavit shall be made on the report filed by the candidate's political committee for that reporting period.

Candidates who have no political committee organized on their behalf and who have not received any campaign contributions, incurred any liabilities, nor expended money on their behalf during any reporting period need only sign an affidavit on a form provided by the director stating that they have not received a campaign contribution, incurred any liabilities, nor made any expenditure on their own behalf. Said statement shall be signed under the pains and penalties of perjury.

The provisions of this section requiring city, town and ward committees established under the provisions of chapter fifty-two to file reports shall not apply to any city, town or ward committee which has not received contributions or made expenditures in excess of one hundred dollars during any reporting period, nor incurred liabilities or acquired or disposed of assets in excess of one hundred dollars during any reporting period.

Credits

Added by St.1975, c. 151, § 1. Amended by St.1979, c. 335, § 1; St.1980, c. 329, § 102; St.1986, c. 345, §§ 3, 4; St.1986, c. 631, §§ 8 to 10; St.1989, c. 598; St.1990, c. 121, § 21; St.1990, c. 489, §§ 1, 2; St.1991, c. 175, §§ 1, 2; St.1994, c. 43, §§ 31, 32; St.1994, c. 292, §§ 9 to 12; St.1996, c. 44, § 3; St.1996, c. 450, § 105; St.1998, c. 394, §§ 4 to 6; St.2009, c. 28, §§ 35 to 40, eff. Jan. 1, 2010; St.2014, c. 210, §§ 18, 19, eff. Jan. 1, 2015; St.2016, c. 152, § 1, eff. Oct. 12, 2016.

M.G.L.A. 55 § 18, MA ST 55 § 18

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Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VIII. Elections (Ch. 50-57)

Chapter 55. Disclosure and Regulation of Campaign Expenditures and Contributions (Refs & Annos)

M.G.L.A. 55 § 18A

§ 18A. Reports of independent expenditures

Effective: August 1, 2014

Currentness

(a) Every individual, group, association, corporation, labor union, political committee or other entity that makes independent expenditures in an aggregate amount exceeding \$250 during any calendar year for the express purpose of promoting the election or defeat of a candidate shall file with the director, except as provided in subsection (b), within 7 business days after the goods or services for which the independent expenditure was made are utilized to advocate for the election or defeat of a clearly identified candidate, on a form prescribed by the director, a report stating: (i) the name and address of the individual, group, association, corporation, labor union, political committee or other entity making the expenditure; (ii) the name of the candidate whose election or defeat the expenditure promoted; (iii) the name and address of any person to whom the expenditure was made; (iv) the total amount or value; and (v) the purpose and the date of the expenditure.

(b) In addition to any reports required by subsection (a), any individual, group, association, corporation, labor union, political committee or other entity that makes an independent expenditure in an aggregate amount exceeding \$250 after the tenth day, but more than 24 hours before the date of any election, shall file a preliminary report within 24 hours after the goods or services for which the independent expenditure was made are utilized that discloses: (i) the name and address of the individual, group, association, corporation, labor union, political committee or other entity making the expenditure; (ii) the name of the candidate whose election or defeat the expenditure promoted; (iii) the name and address of any person to whom the expenditure was made; and (iv) the purpose and the date of the expenditure.

(c) The reports required by this section shall be filed with the director as provided in section 18C if expenditures are made to promote the election or defeat of any candidate who files with the director. Reports required by this section shall be filed with the city or town clerk if the expenditures are made to promote the election or defeat of any candidate seeking public office at a city or town election who does not file with the director.

(d) For purposes of this section, an "independent expenditure PAC" shall be a political committee or other entity that receives contributions to make independent expenditures. An independent expenditure PAC shall organize in accordance with section 5 and file reports in accordance with the schedules in subsections (a) and (b) to disclose expenditures. The reports shall, in addition to disclosing expenditures, disclose contributions received and all campaign finance information required to be disclosed by other political action committees as listed in section 18. The reporting period for the first report filed by an independent expenditure PAC shall commence on the day the independent expenditure PAC was organized and shall be complete through the date of the expenditures disclosed in the report. The reporting period for the next report shall commence on the date following the last date included in the previous report and shall be complete through the date of the expenditures disclosed. An independent expenditure PAC shall also file a year-end report by January 20 of each year the independent

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expenditure PAC remains in existence and shall file a final report on dissolution. The reporting period for the year-end report shall be cumulative for the calendar year, commencing on January 1 and ending on December 31 of each calendar year. The director shall adopt regulations regarding independent expenditure PACs.

(e) A violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in a house of correction for not more than 1 year.

Credits

Added by St.1986, c. 631, § 11. Amended by St.2009, c. 28, § 41, eff. Jan. 1, 2010; St.2014, c. 210, § 20, eff. Aug. 1, 2014.

M.G.L.A. 55 § 18A, MA ST 55 § 18A

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