



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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June 5, 2009

Rebecca Peluso
25 Lee Terrace
Dedham, MA 02026

Jonathan Diamond
120 Colburn Street
Dedham, MA 02026

Re: CPF-09-24

Dear Ms. Peluso and Mr. Diamond:

This office has completed its review of Jonathan Diamond's use of the Academy of the Pacific Rim Charter School's automated telephone system in support of Dedham Library Trustee candidate Rebecca Peluso, prior to the April 11, 2009, Dedham town election.

In Anderson v. City of Boston, 376 Mass. 178 (1978), the Supreme Judicial Court concluded that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence a ballot question. The court stated that the campaign finance law demonstrates an intent to "assure fairness of elections and the appearance of fairness in the electoral process" and that the law should be interpreted as prohibiting the use of public funds "to advocate a position which certain taxpayers oppose." 376 Mass. at 193-195.

Based on our review, it is our understanding that Mr. Diamond, a high school administrator at the Academy of the Pacific Rim, a Boston Charter School, offered the use of the school's automated telephone system to Ms. Peluso. Such use was not authorized by Mr. Diamond's superiors at the Academy of the Pacific Rim. Ms. Peluso prepared a tape-recorded message asking for Dedham residents' support at the polls and provided Mr. Diamond, via e-mail, a spreadsheet of 2,300 phone numbers. On April 10, 2009, Mr. Diamond downloaded the phone numbers into the automated phone system and the calls were placed that day. The Academy of the Pacific Rim pays a \$1,500 flat fee per year to Saf-T-Net ALERTNOW for the automated telephone system.

Public resources, namely the use of the school's automated telephone system, were used to make these phone calls. This activity did not comply with the campaign finance law and the Anderson opinion. Public resources include the use of a public school's automated telephone system.



Rebecca Peluso and Jonathan Diamond

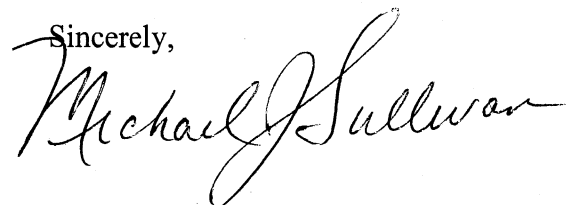
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In response to inquiries from this office, Ms. Peluso acknowledged the receipt of this in-kind contribution and has made a payment to the Commonwealth in the nature of a civil forfeiture in the amount of \$250 from her personal funds. Further, Mr. Diamond has acknowledged his unauthorized use of the school's automated phone system and has made a payment to the Commonwealth in the nature of a civil forfeiture in the amount of \$100 from his personal funds. In accordance with OCPF advice, Ms. Peluso reported the in-kind contribution from the Academy of the Pacific Rim in the amount of \$350 in her thirty-day-after election report filed with the Dedham Town Clerk.

Because both Ms. Peluso and Mr. Diamond have taken the remedial action specified above, and as we believe the guidance in this letter will ensure future compliance with the campaign finance law, this office considers this matter closed.

In accordance with the opinion of the Supervisor of Public Records, this letter is a public record. A copy is being provided to the person(s) who brought this matter to our attention. Thank you for your cooperation in resolving this matter.

Sincerely,


Michael J. Sullivan
Director

MJS/sh

cc: Paul M. Munchbach, Dedham Town Clerk
Rebecca Bryant, Esq.