

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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February 6, 2009

Marlene B. Chused, Town Clerk
Town of Sharon
90 South Main Street
Sharon, MA 02067

Re: CPF-08-54

Dear Ms. Chused:

This office has completed its review of a complaint we received concerning a flyer, which was distributed to town residents prior to the May 20, 2008, Town of Sharon election. The flyer's dual purpose was to support certain Charter Commission candidates and oppose ballot question number one.

You have told our office that a ballot question committee was not organized with your office to oppose question number 1, nor were campaign finance reports filed with your office to reflect financial activity as a result of this flyer being mailed. Our review revealed that Alice Cheyer was the individual who distributed this flyer. We have been unable to reach Ms. Cheyer as it is our understanding that she is presently relocated out of state. Additionally, however, we did learn that she paid Copy Inks, a printing and mailing house located in Stoughton, \$644 to have the 1,500 flyers copied, folded and mailed. It appears that since the candidates did not disclose in-kind contributions from Ms. Cheyer in their campaign finance reports, that Ms. Cheyer distributed these flyers independent of their knowledge.

Independent expenditures are defined, in part, as expenditures that expressly advocate the election of a candidate not made in consultation or cooperation with a candidate or the candidate's committee. See M.G.L. c. 55, § 18A. Section 18A requires disclosure of independent expenditures supporting or opposing a candidate that exceed \$100 during a calendar year. Independent expenditures, unlike contributions, may be made without limit. See Buckley v. Valeo, 424 U.S. 1 (1976). Ms. Cheyer did not comply with Section 18A when she failed to file reports disclosing this expenditure.

On the other hand, if this flyer had been distributed solely to influence a ballot question, no disclosure of the expenditure would have been necessary. Section 22 of the campaign finance law states that "[t]he treasurer of a corporation, association, organization or other group of persons, other than a political committee organized under section 5, which has given, paid, expended or contributed, or promised to give, pay expend or contribute, any money or other

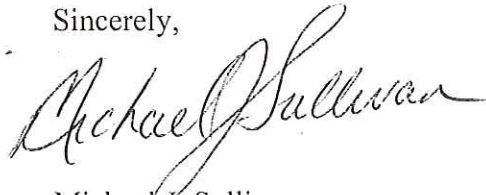


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thing of value in order to influence or affect the vote on any question submitted to the voters shall file reports setting forth the amount or value of every gift, payment, expenditure or contribution or promise to give, pay expend or contribute, together with the date, purpose and full name and address of the person to whom it was made." In this case, it appears that Ms. Cheyer was acting as an individual, and not as part of any group. Therefore, no disclosure would have been required under Section 22.

We anticipate that the guidance provided as the result of this review will assist in ensuring future compliance with the campaign finance law. 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.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned above the printed name and title.

Michael J. Sullivan
Director

MJS/sh