



Commonwealth
of Massachusetts

OCPF Online
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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

July 19, 2007
AO-07-07

David Slater
6 Rock Street
Middleborough, MA 02346

Re: Formation of CasinoFacts group

Dear Mr. Slater:

This letter is in response to your recent request for guidance.

You have stated that you are in the process of forming an organization “to be involved in community outreach and educating the public on issues” in your community. The group, which filed a Statement of Organization as a political action committee on June 12, 2007 with the Middleborough Town Clerk,¹ plans to support candidates and ballot initiatives that take a position on the issue of casino gambling. The group plans to raise funds to create signs and bumper stickers, hire speakers, and contribute to candidates who support your position. Currently, members of your community are collecting signatures for a recall of three selectmen, and the group would like to make contributions to candidates in the recall election. In addition, the group would like to ensure that funds raised currently are available to support a position on a question that you anticipate being on the ballot in the future.

QUESTION: How may the group achieve its goals within the context of the organizational requirements of the campaign finance law?

ANSWER: By registering as a political action committee, the group has already taken the first step necessary to being able to undertake the various tasks described in your letter.

¹ You provided a copy of the Statement of Organization. The name of the PAC is not included (in the space provided for the name of the group, you inserted the name of the chairman of the committee). In addition, the purpose of the group is listed as “community outreach and education,” and the specific issues and interests are stated to be “casino gambling in Middleborough.” You should provide the Middleborough Town Clerk with a letter amending the form to state the name of the group and to more clearly indicate its purpose and issues/interests (e.g., to indicate that the group’s interests include supporting or opposing casino gambling in Middleborough).

A political action committee is a political committee organized to support or oppose candidates. A recall election contains elements of both a referendum question and an election of candidates. See AO-90-31, in which the office stated that because stricter limits are placed on PACs than on ballot question committees, a group that is raising or spending money to support or oppose candidates who are subject to a recall effort must organize as a political action committee by filing a statement of organization with the local election official (in Middleborough, the town clerk). The PAC must also disclose all contributions, expenditures, and other financial activity, including activity in connection with the gathering of voter signatures, on reports filed with the town clerk.

Although a PAC is organized to support or oppose candidates, including candidates in a recall election, it may also make expenditures for a broader political purpose, such as your stated goals of “supporting community outreach” and “educating the public on issues” in your community. In addition, the PAC may make expenditures to influence a ballot question. The only limit on expenditures made to support issues or a ballot question is that such expenditures must “enhance the principle for which the committee was organized” and not be made primarily for any person’s personal use. See M.G.L. c. 55, § 6. If the group intends to *solicit* contributions to support or oppose a ballot question it must first organize a separate ballot question committee for this purpose. See AO-94-28. Again, a ballot question committee may not be used to support or oppose candidates in a recall election.

Forming a PAC allows you to conduct activity related to both candidates and ballot questions. Such dual activity is not possible with a ballot question committee, due to a statutory prohibition on ballot question committees expending any funds to support candidates. See M.G.L. c. 55, § 6B.

While a PAC may be the sole political committee that may undertake both ventures, however, it is subject to two restrictions concerning the size and source of its contributions that are not present in the case of ballot question committees. First, while donations to a ballot question committee are not limited, contributions to a PAC by an individual are restricted to \$500 per calendar year. Second, unlike ballot question committees, PACs may not accept contributions from corporations. See M.G.L. c. 55, §§ 7A and 8.

If the group forms a separate ballot question committee, it would need a segregated account, separate from the PAC’s account. The ballot question committee, like the PAC, would be required to register with the local election official and file periodic campaign finance reports. Unlike the PAC, however, the ballot question committee would be required to dissolve after the final determination is made by the voters on the question for which the committee was organized, and all residual funds remaining in the committee’s account at the time of dissolution would need to be donated to a charitable organization or other entity specified in Section 18 of the campaign finance law.

Ultimately, after the group has completed all election-related activity, i.e., after the group has completed its efforts to support or oppose candidates and the ballot question, it may form a separate “issues group.” The issues group would have no filing requirements with the town clerk

as long as it is not involved in election-related activity. An ongoing issues group, that does not raise or spend money to influence a ballot question or candidate's nomination or election, would not be subject to the campaign finance law. See AO-06-05. It should be noted, however, that it is not possible for a PAC or ballot question committee to transfer its remaining funds to such a group upon dissolution.

We appreciate your interest in the campaign finance law. This opinion is based on the representations in your correspondence and is issued solely within the context of the Massachusetts campaign finance law.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Michael J. Sullivan
Director

MJS/gb

cc: Eileen Gates, Middleborough Town Clerk