

AO-1985-04



The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352

Dennis J. Duffin  
Director

April 9, 1985  
AO-1985-04

Mr. Phillip S. Jackson, Treasurer  
Committee to Elect Martin Rosenthal  
59 Griggs Road  
Brookline, MA 02146

Dear Mr. Jackson:

This is in response to your recent request for an advisory opinion relative to the application of M.G.L. c. 55, the campaign finance law, to the following facts as set forth in your letter.

You state that your wife, Anne A. Jackson, has acted as a consultant to the Brookline Health Department relative to its Pre-School Vision and Hearing Program. She has no prescribed work hours, but spends approximately fifteen hours each year doing this work. At the end of each year she submits a bill to the Brookline Health Department, which has ranged between \$1,500 and \$2,000 for each of the past several years. No withholding of taxes, either federal or state, is made by the Town in paying her bill, nor is any deduction made for social security.

In January, 1985, Mrs Jackson filed the prescribed form with the Clerk of the Town of Brookline, indicating her acceptance of the office, of co-treasurer with you of the Committee to Elect Martin Rosenthal Selectman. All literature seeking funds requests that contributions be sent to the Committee to Elect Martin Rosenthal, to the attention of you and Mrs. Jackson at your Brookline home. However, you have assumed sole responsibility for recording and depositing contributions, as well as signing checks in payment of bills. You have both made contributions to that committee, as well as other political committees.

On April 5, 1985, Mrs. Jackson submitted her written resignation as co-treasurer of the Committee to the Clerk of the Town of Brookline you state that by the time we received your letter she had removed her name as co-treasurer in the bank where the funds received have been deposited.

Mrs. Jackson has been appointed a Trustee of the Massachusetts College of Art by the Governor, and is to be sworn in on Wednesday, April 10, 1985 at 1:00 p.m.

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G.L. c. 55 contains several provisions which prescribe appropriate campaign finance activity for public employees as well as other persons in public service. Section 13 imposes an absolute prohibition on persons employed for compensation by the commonwealth or any county, city or town, other than an elected officer from directly or indirectly soliciting or receiving "any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees." This section would prohibit such a person employed for compensation from being Treasurer of a political committee. However, in my opinion Mrs. Jackson's serving as a Consultant to the Town of Brookline in a manner and to the extent described above does not make her a "person employed for compensation" by the town. While she receives compensation from the town for services rendered, the amount of service performed and compensation received, as well as other characteristics of her work for the Town of Brookline indicate that she is not "employed" by the Town, and in this capacity is therefore not prohibited from engaging in the type of activity described in Section 13. In addition, serving as Trustee of the Massachusetts College of Art would not subject her to the prohibitions contained in Section 13, provided that, as you indicated, she receives no compensation for that position.

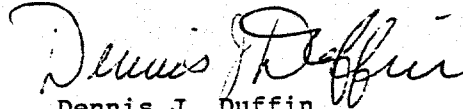
There are, however, other provisions of the campaign finance law which impose constraints on Mrs. Jackson's campaign finance activity while serving as either a Consultant to the Town of Brookline or as a Trustee of the Massachusetts College of Art. Section 15 of c. 55 provides, in relevant part, that "no officer, clerk or other person in the service of the commonwealth or of any county, city or town shall directly or indirectly, give or deliver to an officer, clerk or person in said service, or to any councillor, member of the general court, alderman, councilman or commissioner, any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever." Therefore, while your wife may continue to make political contributions, she may not actually give any such contribution to those persons described above. Furthermore, she may not receive any such contribution from any other officer, clerk or other person in service of the commonwealth. Section 16 provides that "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

The above shall serve as a response to your inquiries relative to G.L. c. 55. You have also inquired as to the legality of Mrs. Jackson serving as a Consultant once she has been sworn in as a Trustee to the

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Massachusetts College of Art. As that particular question does not fall within the jurisdiction of this office, I would suggest that you contact the State Ethics Commission for their response to this question.

Very truly yours,



Dennis J. Duffin  
Director

DJD/rep

Overruled.