



Dennis J. Duffin  
Director

The Commonwealth of Massachusetts

Office of  
Campaign & Political Finance

One Ashburton Place, Boston 02108

727-8352

AO-87-05

June 17, 1987

Dudley H. Willis, Esquire  
Simonds, Winslow, Willis & Abbott  
50 Congress Street  
Boston, MA 02109

Dear Mr. Willis:

This is in response to your recent request for an advisory opinion, under M.G.L.c. 55, inquiring as to whether a M.G.L.c. 180 non-profit corporation may make contributions to a political committee.

You state that the goal of the non-profit corporation is to publish a local telephone directory which will be distributed free to all residents of the community. The publication will be funded mainly through the sale of advertising space to local merchants and businesses. The profits from the publication will be donated to various charitable and civic organizations in the community.

You wish to know the extent, if any to which the M.G.L.c. 180 non-profit corporation may make monetary contributions to a political committee.

At the outset, it appears that some of the funds received from the sale of advertising space will necessarily be from business corporations.

The campaign finance law prohibits business corporations from giving, paying, expending or contributing any money or other valuable thing directly or indirectly, for the purpose of aiding, promoting or preventing the nomination or election of any person to public office. As we stated in OCPF-Interpretive Bulletin-104, March 3, 1986, amended June 9, 1986, "Therefore, business corporations cannot use contributions to an organization which, though not a political committee does make incidental expenditures for campaign finance purposes, as a means of making indirect corporate contributions to candidate and multi-candidate committees." In Opinion of the Attorney General, November 6, 1980, the Attorney General articulated this same reasoning when he stated, "If a corporation cannot directly provide facilities to a candidate or committee by virtue of the statute, it may not do so indirectly through the associations to which it belongs." See Footnote 10.

The use of corporate advertising to financially support the publication you describe results in the business corporation paying money to the non-profit corporation. Section 8 of chapter 55 prohibits business corporations from making any payments to a candidate or multi-candidate committee either directly or indirectly. Therefore, the non-profit corporation may not utilize proceeds from the telephone directory activity which include corporate monies to make contributions to candidate or multi-candidate committees or to make charitable contributions on behalf of such committees. It is my opinion, however, that if the general treasury of the non-profit corporation is void of corporate monies or proceeds from corporate supported activities, it could make contributions, in an incidental manner, to candidate and multi-candidate committees (see Interpretative Bulletin 104, a copy of which I have enclosed). This would require that the accounts relative to the telephone directory, including all proceeds and all related activities and expenses, or any other source of corporate monies, are maintained in a manner completely separate and distinct from the general treasury accounts and activities of the non-profit corporation.

Furthermore, because of the limitation on individual contributions to candidate and multi-candidate committees the transaction involved may not result in any contribution of an individual of more than one thousand dollars per calendar year to any candidate or multi-candidate committee.

I note that the law does not restrict corporate or individual contributions to ballot question committees. However, Section 22 or M.G.L.c.55 provides that any contributions by a non-profit corporation to a ballot question political committee must be disclosed.

"The treasurer of any corporation, which has given, paid, expended or contributed, or promised to give, pay, expend or contribute, any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters shall file reports with the director, and copies of said reports with the city or town if made to influence the vote on any question submitted to the voters at a city or town election, 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.

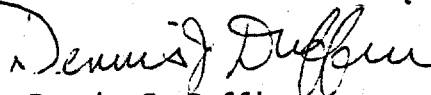
Such report shall be filed as follows: (1) the sixtieth day prior to the election complete as of the preceding fifth day; on or before (2) the fifth day and twentieth day of each month complete as of the preceding first and fifteenth day of the month, until the election, and thereafter; (3) the fifth day of each month until all declared liabilities have been discharged.

Any corporation violating any provision of this section shall be punished by a fine of not more than fifty thousand dollars and any officer, director or agent of the corporation violating

any provision thereof or authorizing such violation, or any person who violates or in any way knowingly aids or abets the violation of any provision thereof, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than one year, or both."

Please feel free to contact us if you have any further questions.

Very truly yours,



Dennis J. Duffin  
Director

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Partially Overruled.