



Commonwealth
of Massachusetts

OCPF Online
www.state.ma.us/ocpf
Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

March 23, 1999
AO-99-04

Douglas J. Howard
P.O. Box 64
Arlington, MA 02474

Re: Candidate Committee Treasurer - Vacancy

Dear Mr. Howard:

This letter is in response to your email transmission received February 19, 1999 requesting an advisory opinion.

You have stated that there is no financial activity including receiving contributions, making expenditures or accumulating assets being undertaken by the Doug Howard Committee (the "Committee"). The Committee is organized as a candidate committee on your behalf. Nevertheless, you do not wish to dissolve the Committee because there is a substantial liability¹ from the Committee to you, personally. At the present time, however, the Committee does not have a treasurer and you state that "[t]here is no current viable prospect for a trustworthy Treasurer at this time." Consequently, you have asked if there is an "absolute requirement" for a political committee to have a treasurer at all times. Alternatively, you ask this office to waive any such requirement until such time as a committee becomes financially active.²

Question: Must a political committee have a treasurer "at all times" even if the committee is not financially active, i.e. the committee does not receive contributions, make expenditures, incur liabilities or acquire or dispose of assets?

Answer: No. A political committee may not, however, continue in existence indefinitely without a treasurer.

Discussion

The campaign finance law provides that each political committee must organize by filing a

¹ The Committee's most recent campaign finance report filed on January 9, 1999 discloses a liability to you in the amount of \$57,496.70.

² Political committees with outstanding debts or liabilities may not dissolve, with one exception that you may wish to consider. A candidate committee, which has a liability **only** to the candidate on whose behalf it was organized and **no** liabilities to any other third party, may dissolve if the candidate assumes the entire liability of the committee to the candidate and simultaneously releases the committee of its obligations. The candidate would continue to file disclosure reports with OCPF as a candidate without a committee. If you wish to discuss this option, please contact OCPF.

statement of organization. See M.G.L. c. 55, s. 5. In addition, section 5 states:

Each political committee **shall** have a treasurer who shall qualify for his office by filing a written acceptance thereof with the director, or if organized for the purpose of a city or town election only, with the city or town clerk.

The law is not unrealistic or impractical, however, and recognizes that a treasurer may decide to resign. Hence, section 5 provides that a treasurer “remain[s] subject to all the duties and liabilities imposed by [the campaign finance law] **until** his written resignation of the office is received [by OCPF or the city or town clerk or election commission] or his successor's written acceptance is filed as aforesaid.” If a committee has no treasurer, however, section 5 restricts absolutely the committee’s campaign finance activity by providing that:

No person acting under the authority of, or on behalf of, any political committee shall receive any money or anything of value, or expend or disburse the same, or incur expenses while it has no treasurer qualified as aforesaid . . .

The campaign finance law does not, however, contemplate that a committee may continue without a treasurer indefinitely. As previously noted, the fundamental provision of section 5 provides that “[e]ach political committee **shall** have a treasurer.” By law, the treasurer is responsible for maintaining committee records. In addition, the campaign finance law requires “each candidate **and** each treasurer” to file campaign finance disclosure reports at least once a year on or before January 20th. See M.G.L. c. 55, s. 18. The treasurer **must** sign this report.

For all of the above reasons, therefore, it is incumbent upon a political committee to find an individual who will serve as treasurer as soon as possible. A treasurer may be “compensated in a reasonable manner” for work performed for a political committee. 970 CMR 2.05(2)(i) and 2.06(3).

There are only two restrictions on who can serve as a treasurer that apply to all political committees. First, no person employed for compensation by the commonwealth or one of its subdivisions or authorities in an appointed rather than an elected position may serve as a treasurer. See AO-95-25. Second, since a treasurer must have the legal capacity to make contracts and transact business including filing, signing and attesting to the completeness and accuracy of campaign finance reports, a treasurer must be at least 18 years of age or older. See M.G.L. c. 4, s. 7, clauses forty-ninth through fifty-first and M.G.L. c. 231, ss. 85O and 85P. In addition, a candidate may not serve as treasurer of the committee organized on his or her behalf. See M.G.L. c. 55, s. 5.

This office appreciates your interest in the campaign finance law. Please contact us if you have further questions regarding this opinion or any other campaign finance matter.

Sincerely,



Michael J. Sullivan
Director