



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MICHAEL J. SULLIVAN
DIRECTOR

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Jordan H. F. Fiore
Attorney at Law
63 Winthrop Street
P.O. Box 2331
Taunton, MA 02780

Dear Mr. Fiore:

I received your fax after I had already responded to your earlier letter and our telephone conversation. Hence, this second letter. You have asked if a member of Taunton's local board of registrars, who is paid a "stipend," may serve as treasurer. For the reasons set forth below, this office would advise against serving in both positions.

M.G.L. c. 55, s. 13 provides that no person "employed for compensation" may directly or indirectly, solicit or receive contributions or other things or value for the political campaign purposes of any candidate or for any political purpose whatsoever. By its terms, section 13 does not apply to elected officials.

Since 1990, the office has advised that a person employed for any amount of compensation by the commonwealth or one of its subdivisions is subject to section 13. See AO-94-06, AO-92-01, AO-90-10 and AO-90-05. M.G.L. c. 51, s. 23 also provides that a registrar shall "receive such compensation as the . . . selectmen may determine. . . (emphasis supplied).

The office realizes that such advice imposes harsh consequences on certain individuals which the legislature may not have intended. A small amount of compensation, it may be argued, should not subject an individual to the restrictions imposed by section 13. Prior to 1990, this office had a very different approach to this issue, ruling that a "de minimus" payment did not constitute "compensation" for purposes of section 13. See AO-88-18 (\$1,000 was "de minimus") and AO-89-10 (\$200 was "de minimus"). In fact, in AO-89-10, the office concluded in an advisory opinion that a \$200 payment received by the chairperson of a board of registrars was not compensation. The 1990 advisory opinions, however, effectively overruled OCPF's previous guidance.

Notwithstanding the arguments supporting the office's pre-1990 position, we are concerned that determining what, if any amount, constitutes "de minimus" compensation, absent further guidance, is somewhat arbitrary. Is \$200 or \$1,000 per year "compensation" or should the threshold amount be raised to

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\$2,500 or \$5,000? In addition, since the legislature has used the term "compensation" in both section 13 of chapter 55 and section 23 of chapter 51, should this office focus on an arguably arbitrary amount rather than the statute's language?

For these reasons, we would advise against a compensated member of a board of registrars serving as treasurer of a political committee pending further clarification of section 13 by the legislature.

If you have further questions regarding this matter or any other campaign finance matter, please do not hesitate to contact this office.

Sincerely,

Peter Sturges

Peter Sturges *CP*
General Counsel