

SUPREME JUDICIAL COURT  
FOR THE COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

CIVIL ACTION  
No. SJC-08677

KELLY BATES, RON BELL, DEREK BOK, BRIAN CORR, MARC D. DRAISEN, RICHARD ELRICK, ROBERT A. FEUER, KATHLEEN E. GRADY, ARNOLD S. HIATT, FRANK N. JONES, SUMNER Z. KAPLAN, GIOVANNA NEGRETTI, GALEN NELSON, WILLIAM O'CONNELL, GIBRAN X. RIVERA, DAVID C. ROBBINS, ALICE C. SWIFT, JOHN W. SEARS, JOHN J. TEMPLETON, NANCY TURNER, ERNEST WINSOR, SARAH CANNON HOLDEN, JAMES O'KEEFE, DOUGLAS PETERSEN, EVAN SLAVITT, STEPHEN SPAIN, JILL STEIN, WARREN TOLMAN, COMMON CAUSE MASSACHUSETTS, MASSACHUSETTS VOTERS FOR CLEAN ELECTIONS, MASSACHUSETTS REPUBLICAN STATE COMMITTEE, and MASSACHUSETTS GREEN PARTY

v.

MICHAEL J. SULLIVAN, in his official capacity as the Director of the Office of Campaign and Political Finance, and WILLIAM FRANCIS GALVIN, in his official capacity as the Secretary of the Commonwealth of Massachusetts

ON A RESERVATION AND REPORT

**Order for Monetary Judgment and Other Relief**

After hearing and consideration of the merits of this case and the submissions regarding appropriate relief,

IT IS HEREBY ORDERED, ADJUDGED AND DECLARED that

1. Under art. 48 of the amendments to the Massachusetts Constitution, the Legislature was obligated to appropriate the funds necessary to

implement the Massachusetts Clean Elections Law, M.G.L. c. 55A, for the current election cycle, because it did not repeal the Clean Elections Law prior to August 1, 2001.

2. On November 30, 2001, the Defendant Director of the Office of Campaign and Political Finance (OCPF) certified Plaintiff-Appellant Warren Tolman as a participating candidate in the Massachusetts Clean Elections system, in accordance with M.G.L. c. 55A, §

5. On that same day, the Defendant Director of OCPF issued a payment voucher to the Office of the Comptroller in the amount of \$811,050 to be processed against the Massachusetts Clean Elections Fund and to be distributed to Mr. Tolman within five business days after certification, in accordance with M.G.L. c. 55A, §§ 7(a)(1), 8(a)(1) and 13. To date, Mr. Tolman has not received the \$811,050 to which he has been entitled under the Massachusetts Clean Elections Law.

3. Judgment shall enter for Plaintiff-Appellant Tolman in the amount of \$811,050. The Defendant Director of OCPF is hereby ordered to satisfy immediately - by the close of business today -- this judgment. It is further ordered that this judgment be collected, in the first instance, out of the judgments

and settlements account, St. 2001, c. 177, § 2, item 1599-3384.

4. If, upon collecting the funds to satisfy this judgment, the Defendant determines that said fund lacks sufficient money, the Defendant is ordered to collect such funds out of the Massachusetts Clean Elections Fund. If the Defendant determines that said fund lacks sufficient money, the Defendant is ordered to collect such funds out of the General Fund, M.G.L. c. 29, § 2. If the Defendant determines that said fund lacks sufficient money, the Defendant is ordered to collect such funds out of the Commonwealth Stabilization Fund, M.G.L. c. 29, § 2H(1).

5. A single justice of this court shall retain jurisdiction over this case for the following purposes:

- a) The single justice shall ensure full compliance by the Defendant Director of the OCPF with this court order;
- b) If the Defendant fails to comply, the single justice shall permit Plaintiff-Appellant Warren Tolman to place immediately a levy of execution of this judgment upon

property of the Commonwealth, such property including, but not limited to, the Massachusetts Clean Elections Fund, the General Fund, and the Commonwealth Stabilization Fund;

- c) The single justice shall hear all other claims for monetary judgments from certified participating candidates in the Massachusetts Clean Elections system and shall issue such monetary judgments immediately upon a participating candidate's showing of certification by the Defendant Director of OCPF. Such monetary judgments shall ensure disbursement of all funds to which a certified participating candidate becomes entitled at any time under the provisions of the Massachusetts Clean Elections Law.
- d) The Defendant Director of OCPF shall be ordered that such judgments be collected, in the first instance,

out of the judgments and settlements account, St. 2001, c. 177, § 2, item 1599-3384. If, upon collecting the funds to satisfy such judgments, the Defendant determines that said fund lacks sufficient money, the Defendant shall be ordered to collect such funds out of the Massachusetts Clean Elections Fund. If the Defendant determines that said fund lacks sufficient money, the Defendant shall be ordered to collect such funds out of the General Fund, M.G.L. c. 29, § 2. If the Defendant determines that said fund lacks sufficient money, the Defendant shall be ordered to collect such funds out of the Commonwealth Stabilization Fund, M.G.L. c. 29, § 2H(1).

- e) The single justice shall ensure that such judgments are satisfied without unreasonable delay. For the purposes of this order, if a

monetary judgment is not satisfied by the end of the time periods set forth in the Massachusetts Clean Elections Law, M.G.L. c. 55A, §8, for the distribution of funds, it shall constitute unreasonable delay and shall result in the levying of execution of such judgment upon property of the Commonwealth, such property including, but not limited to, the Massachusetts Clean Elections Fund, the General Fund, and the Commonwealth Stabilization Fund;

- f) The single justice shall determine which additional parties, if any, should be added as defendants;
- g) The single justice shall grant the Plaintiffs-Appellants leave to amend their complaint as a class action with an accompanying motion for class certification. Such amendment and motion shall not delay in any way the granting of monetary

judgments for certified candidates and all necessary actions to ensure that such judgments are satisfied;

h) The single justice shall hear any other claims brought by aggrieved parties regarding the implementation of the Massachusetts Clean Elections Law;

i) The single justice shall have the authority to order the postponement of the 2002 elections for state office, with a requisite injunction on the Defendant Secretary of the Commonwealth, if it is determined that such postponement is necessary to ensure the full implementation of the Massachusetts Clean Elections Law, including, but not limited to, the timely satisfaction of all monetary judgments for all certified candidates; and

j) The single justice has the authority to issue any other orders that may

be necessary to effectuate the relief ordered in this decree.

6. Subject to the strict time constraints set forth in this decree, all executive branch officials are under the same duty to satisfy monetary judgments resulting from this decree as they are with all other monetary judgments.

An opinion of this court, including disposition of other forms of relief not discussed in this order, will follow.

By the Court,

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Clerk

Dated: