MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

April 6, 1978

Reproduced by the State of Michigan

Mr. Michael L. Harper, Chairman
Stroh PAC
909 E. Elizabeth Street
Detroit, Michigan

Dear Mr. Harper:

This is in response to your letter of March 6, 1978, concerning the Campaign Finance Act, P.A. 388 of 1976 ("the Act"). You make the following request:

> "The sponsoring company of STROH PAC is The Stroh Brewing Company. Please let us know if STROH PAC is permitted to solicit employees of Stroh subsidiaries, within the scope of the Michigan Campaign Finance Act."

Your letter does not contain any additional information or materials. It is devoid of any clarifying explanation as to your usage of the term "subsidiaries" as it relates to the Stroh Brewing Company.

Section 63 of the Michigan Administrative Procedures Act (MCLA § 24.263), which establishes the criteria for requesting and issuing a declaratory ruling, requires a person requesting a ruling to accompany the request with a precise statement of facts. The Department, therefore, cannot at this time respond to your request for a declaratory ruling.

Your attention, however, is directed to Section 55 of the Act (MCLA § 169.255) which provides "A corporation...formed under the laws of this or another state or foreign country may make an expenditure for the establishment and administration and solicitation of contributions to a separate segregated fund to be used for political purposes." The provision proceeds to indicate that contributions for the fund may be solicited from the following persons or their spouses:

> "(a) Stockholders of <u>the</u> corporation.
> (b) Officers and directors of <u>the</u> corporation.
> (c) Employees of <u>the</u> corporation who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities." (Emphasis supplied)

The statute expressly relates persons who may be solicited for contributions to a separate segregated fund to the corporation which established the fund.

The exclusive relationship existing between a separate segregated fund and the establishing corporation is also identified in an Opinion of the Attorney General, OAG No. 5279, issued March 22, 1978. In discussing a fund of this type, the Attorney General stated:

> "It must be noted that the administration of such a fund and the authorization of expenditures from the fund must be by the board of directors of the corporation or by a committee authorized by the board of directors of the corporation."

As indicated previously, this response may be considered as informational only and not as constituting a declaratory ruling.

Very truly yours,

Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF:pk

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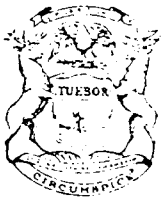
STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

April 6, 1978

Honorable Robert Holmes Bell
Michigan District Judges Association
407 N. Cedar Street
Mason, Michigan 48884

Dear Judge Bell:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act, P.A. 388 of 1976 ("the Act"), to the Michigan District Judges Association.

The facts you present concerning the Association's activities are limited. In a September 12, 1977, letter to Glorietta Hill of the Department's staff, you state the Association has from time to time purchased fundraising tickets for benefits sponsored by committees established by state legislators. You indicate in a November 8, 1977, letter to John T. Turnquist, also a member of the Department's staff, the Association does not in any form attempt to influence the actions of voters in any matter concerning a candidate or any ballot proposal.

Section 63 of the Michigan Administrative Procedures Act (MCLA § 24.263), which established the criteria for requesting and issuing a declaratory ruling, requires a person requesting a ruling to accompany the request with a precise statement of facts. The lack of information accompanying your inquiry precludes a response by the Department at this time to your request for a declaratory ruling. However, several sections of the Act are directed to your attention.

Section 4 of the Act defines "contribution" as "a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, donation, pledge or promise of money or anything of ascertainable monetary value, whether or not conditional or legally enforceable, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question." The provision proceeds to state "Contribution includes the purchase of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and similar fund raising events..."

Section 6 of the Act (MCLA § 169.206) defines "expenditure" as "a payment, donation, loan, pledge, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question." This provision also states that "Expenditure includes a contribution or a transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of any candidate..."

"Committee" is defined in Section 3 of the Act (MCLA § 169.203) as "a person who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question, if contributions received total $200.00 or more in a calendar year or expenditures made total $200.00 or more in a calendar year. An individual, other than a candidate, shall not constitute a committee."

Section 3 indicates an elected officeholder is a candidate for reelection to the same office for purposes of the Act. Section 21 of the Act (MCLA § 169.221) requires a candidate to form a committee and designate an official depository into which all receipts for his or her campaign must be deposited, and from which all campaign disbursements must be withdrawn.

In view of the foregoing definitions, the purchase of a ticket to a fundraiser sponsored by the candidate committee of a state legislator is a contribution to the candidate committee made for the purpose of influencing the legislator's reelection. The recipient candidate committee must report the ticket purchase as a contribution pursuant to the provisions of Section 26 of the Act (MCLA § 169.226).

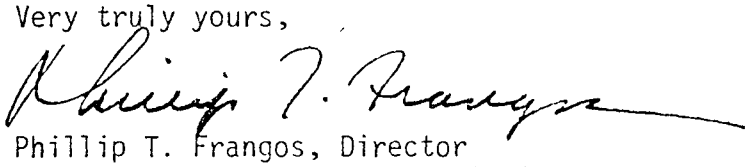
An organization which purchases tickets to fundraisers sponsored by legislators' candidate committees is itself a committee for purposes of the Act provided such expenditures total $200.00 or more in a calendar year. As a committee, the organization must report the purchase of tickets as an expenditure consistent with the reporting requirements of Section 26.

Monies received by the organization from its individual members must be identified as to source only with respect to that portion which is used by the organization for expenditures pursuant to the Act. Section 26 requires the reporting committee to identify in total amount those contributions to it of $20.00 or less. The makers of individual or aggregate contributions exceeding $20.00 must be identified as to name, street address, amount contributed, date on which each contribution was received by the committee, and cumulative amount contributed for the election covered by the report. The Act requires the occupation, employer, and principal place of business to be stated for each maker of an individual or aggregate contribution in excess of $200.00. Section 26 imposes several additional reporting requirements.

An individual member of a committee who makes a contribution to the committee is not himself or herself a committee solely by virtue of the contribution, even though it may total $200.00 or more in a calendar year. Section 3, quoted previously, expressly indicates an individual, other than a candidate, shall not constitute a committee.

As indicated previously, this response may be considered as informational only and not as constituting a declaratory ruling.

Very truly yours,



Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF:pk

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

April 6, 1978

Mr. Robert A. Binkowski
28111 Hoover Road
Suite 10A
Warren, Michigan 48093

Dear Mr. Binkowski:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act, P.A. 388 of 1976 ("the Act"), to certain political advertisements appearing in newspapers.

You state you were a candidate for the Warren City Council in the primary election held in August, 1977. You paid The Macomb Daily to print the following advertisement in the period preceding the primary election:

ROBERT BINKOWSKI
FOR WARREN COUNCIL
PD. POL. ADV.

The advertisement, which was one column of newsprint wide and consisted of three lines of type, was run on the newspaper's front page at the bottom of a column.

Immediately after the primary election, you contacted The Macomb Daily to reserve the space for the period preceding the general election in November, 1977. However, on October 20, 1977, The Macomb Daily advised you the advertisement would not be printed because addition of the identification requirement provided in Section 47 of the Act (MCLA § 169.247) would increase the advertisement size beyond that allowed on the front page.

You request that advertisements similar to the one in question be exempted by the Department from the identification requirements of Section 47. You cite the small size of the printed matter as the basis for the proposed exemption.

As noted previously, Section 47 of the Act requires printed matter having reference to a candidate to bear the name and address of the person paying for the matter. The provision states, however, that rules may be promulgated to exempt items from the required identification. Rule 169.36 of the General Rules, promulgated by the Secretary of State pursuant to authority conferred

by Section 15 of the Act (MCLA § 169.215) and having the effect of law, exempts campaign items, the size of which makes it unreasonable to add an identification.

In a letter to Ms. Georgia M. Boewe, dated September 8, 1977, the Department stated the identification required by Section 47 must include the words "Paid for by" followed by the full name of the person paying for the material. If the purchaser is a committee, the full name of the committee must be stated. The identification must also indicate the person's street address including the street number or post office box, city or town, state, and zip code.

In exempting items from the identification requirements of Section 47, the Department has generally identified items which have an unusual shape or material composition, or which are produced as the result of a special process. Exempted items range from ashtrays and brushes to whistles and yo-yo's.

The Act is intended to provide disclosure of the sources of financing of political campaigns. Generally, it is not intended to eliminate the usage of traditional types of political advertising.

In order to reconcile these objectives, the Department determines advertisements similar to the one in question are exempt from the identification requirements of Section 47 provided they are modified as follows:

ROBERT BINKOWSKI
FOR WARREN COUNCIL
PD. BY CAND. COMM.

The modified identification is consistent with the purposes of the Act. Moreover, its length is similar to that of the identification statement used in the subject advertisement, which was utilized previously by the printed media.

Sincerely,

Richard H. Austin
Secretary of State

RHA:pk

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 4891

May 23, 1978

Mr. Zolton Ferency
P.O. Box 20
East Lansing, Michigan 48823

Dear Mr. Ferency:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act, P.A. 388 of 1976 ("the Act"), to a political fundraising event held on tax-exempt property.

You state that your candidate committee requested Michigan State University authorities for permission to conduct a fundraising event on campus property. In response to the request, University officials advised that Section 913 of P.A. 116 of 1954, prohibits the solicitation of political contributions on tax-exempt property.

You question whether Section 81 of the Act (MCLA § 169.281) repealed Section 913 of P.A. 116 of 1954?

Section 913 states (in part):

> "Except for religious, charitable or educational purposes, no person, firm, association or corporation or any person working in their behalf shall ask, request or demand within any building or on any property which is exempt from the general property tax of this state, any donation, gift, contribution, pledge, purchase of tickets or similar demand for the purpose of furthering or defeating the candidacy of any candidate for public office or any proposed law, or other measure that may be submitted to popular vote."

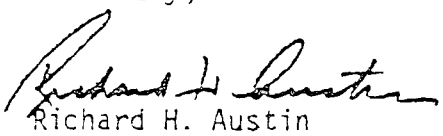
Section 81 of the Act states:

> "(1) Sections 901 to 929 of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.901 to 168.929 of the Compiled Laws of 1970, are repealed.
>
> (2) Subsection (1) shall not take effect until June 1, 1977."

Accordingly, Section 913 of P.A. 116 of 1954 was repealed on June 1, 1977. Therefore, it no longer constitutes a legal restriction on solicitation of political contributions on tax-exempt property.

This response constitutes a declaratory ruling concerning the applicability of the Act to the factual situation detailed in your request.

Sincerely,



Richard H. Austin
Secretary of State

MICHIGAN DEPARTMENT OF STATE

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STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

April 7, 1978

Mr. J. Edward Wyszynski, Jr.
Macomb County Republican Committee
Two Crocker Boulevard
Mt. Clemens, Michigan 48043

Dear Mr. Wyszynski:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act, P.A. 388 of 1976 ("the Act") to a credit card system for acceptance of contributions.

You indicate the Macomb County Republican Committee ("the MCRC") has been contemplating implementation of a credit card system for acceptance of contributions. A bank, other than the one in which the MCRC's official depository is located, has offered the organization better collection rates. You state it will be necessary to open and maintain a checking account at the second bank in order to avail the MCRC of the better offer.

You question whether it is permissible to maintain an auxiliary checking account provided all funds prior to their expenditure are deposited in the MCRC's official depository as recorded on the MCRC's statement of organization.

Section 21 of the Act (MCLA § 169.221) provides "secondary depositories shall be used for the sole purpose of depositing contributions and promptly transferring the deposits to the committee's official depository." Section 24 of the Act (MCLA § 169.224) indicates a committee's statement of organization must include "the name and address of each financial institution in which a secondary deposit is or is intended to be located."

An auxiliary account of the type contemplated in your letter may be considered a secondary depository. However, a committee which establishes a secondary depository must file an amendment to its statement of organization within 10 days if a statement has been filed.

In accepting contributions made through credit cards, the committee treasurer should obtain all information concerning the contributor required by the reporting provisions of the Act. For example, Section 29 of the Act (MCLA § 169.229) requires a political committee to state the full name, address, occupation, employer, and principal place of business for each person who contributed more than $200.00 to the committee.

In view of the fact your letter was general in nature and lacked the specificity required by Section 63 of the Michigan Administrative Procedures Act (MCLA § 169.263), which establishes the criteria for requesting and issuing a declaratory ruling, this response may be considered as informational only and not as constituting a declaratory ruling.

Very truly yours,

Phillip T. Frangos

Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF:pk