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October 9, 2009

The Honorable Terri Lynn Land
Secretary of State
Michigan Department of State
Lansing, MI 48918

Re: Declaratory Ruling – Transfer of Unexpended Funds to Charitable Organization

Dear Secretary Land,

Section 45(2) of the Michigan Campaign Finance Act, Public Act 388 of 1976, as amended (the "Act"), provides that, upon termination of a candidate committee, unexpended funds in the candidate committee may be "given to a tax exempt charitable organization, as long as the candidate does not become an officer or director of or receive compensation, either directly or indirectly, from that organization." We respectfully request a declaratory ruling or interpretative statement pursuant to Section 15 of the Act as to whether a candidate committee may give unexpended funds to an organization that is tax exempt under Section 501(c)(4) of the Internal Revenue Code ("IRC") and that compensates a spouse or child of the candidate for services performed on behalf of the organization.

As stated in its charter, the tax-exempt organization is formed for "charitable" purposes. The charter also provides that the organization is formed for the "promotion of social welfare."

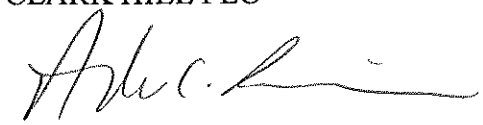
Section 501(c)(4) of the IRC provides an exemption from federal income taxes for: "[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare . . . ." Internal Revenue Service Regulation 1.501(c)(3)-l (d)(2) defines "promotion of social welfare" as a charitable purpose within the meaning of IRC 501(c)(3), which provides a specific exemption for organizations organized for charitable purposes, among others. Therefore, an organization formed for the purpose of promoting social welfare would be considered a charitable organization. In fact, the same organization may simultaneously qualify under both categories of tax exemption." Bruce R. Hopkins, *The Law of Tax-Exempt Organizations* §12.4 (8th ed. 2003) (*citing* Rev. Rul. 74-361, 1974-2 C.B. 159; Reg. §1.501(c)(40-1)(a)(2)(i)).

With respect to employment arrangements with family members of the candidate, we note that section 501(c)(4) organizations are subject to laws requiring reasonable compensation and prohibitions against private inurement. *Id.* § 12.1 and §§19.1-19.5.

Please do not hesitate to contact us with any questions.

Respectfully submitted,

CLARK HILL PLC



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