MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

August 6, 1980

Mr. Wayne M. Deering
1511 Portage Street
Kalamazoo, Michigan 49001

Dear Mr. Deering:

This is in response to your request for an interpretation of the Campaign Finance Act ("the Act"), 1976 PA 388, as amended.

You ask four questions:

1) Does the definition of "candidate committee" include a federal candidate committee?

2) Is a state candidate committee prohibited from contributing to a federal candidate committee?

3) Does the Act prohibit the transfer of funds by one individual's candidate committee to another individual's candidate committee for the purpose of reimbursing the latter committee for joint expenditures, or for the purchase of materials and/or services from the latter committee?

4) Is the answer to the third question the same, if one of the committees is a federal candidate committee?

In response to your first question, section 3 of the Act (MCL 169.203) provides an individual holding or seeking an elective office is required to form a candidate committee. Section 5(2) (MCL 169.205(2)) defines "elective office" to mean public office filled by an election, except for federal offices. Consequently, a candidate for federal office, if not holding or seeking an "elective office" as defined in the Act, is not required to form a candidate committee pursuant to the Act. In the instance where an individual seeks both federal and state office, Rule 27 (1977 AACS R169.27) states that "a committee supporting a candidate for federal office and a candidate for office in this state shall file a statement of organization for the committee of the candidate for office in this state." Therefore, the definition of "candidate committee" does not include a federal candidate committee.

Regardless of whether a state candidate committee and a candidate committee registered pursuant to federal law support the same person or different people, funds may not be transferred from the former to the latter. "Contribution" is defined in section 4 of the Act (MCL 169.204) as a transfer "made for the purpose of influencing the nomination or election of a candidate." "Expenditure" is defined similarly in section 6 (MCL 169.206). Section 3(1) (MCL 169.203(1)) ties the definition of "candidate" to "elective office." As noted previously, "elective office" does not include a federal office. Because a disbursement from a state candidate committee to a federal candidate committee is not an "expenditure" under section 6 and is not a transfer upon dissolution of the committee pursuant to section 45 of the Act (MCL 169.245), it cannot be made by a Michigan "candidate committee." A previous declaratory ruling made to State Senator Mitch Irwin (May 29, 1979) discusses this issue in detail. A copy is attached for your convenience.

As to your third question, in a September 20, 1978 letter to Mr. Michael W. Hutson, the Department indicated the Act permits joint fund raising events in which expenses relating to the fund raising event are payable through reimbursements of one participating candidate committee by another participating candidate committee. Guidelines to which joint fund raising events are subject were detailed in that letter. Enclosed you will find a copy of the Hutson letter. The same considerations which apply to joint fund raising events also apply to joint expenditures such as shared advertising.

It should be emphasized section 44(2) of the Act (MCL 169.244(2)) prohibits a candidate committee from making a contribution to another candidate committee. Consequently, it is imperative that no candidate bear a disproportionate share of a joint expenditure. Such a disproportionate share could constitute an illegal contribution to each of the participating candidate committees. Reimbursement must be made promptly within the period specified in the written agreement.

The second part of your third question concerns the purchase of materials and/or services from a candidate committee by another candidate committee. There is nothing in the Act which prohibits such a transaction. However, it must be emphasized the sale and purchase must be at fair market value so as to avoid the making of any illegal contribution from one candidate to another.

With respect to your fourth question, the answer depends upon which committee is being benefited by the arrangement. As indicated in the answer to your second question, it is improper for a state candidate committee to make a contribution to or an expenditure for a federal committee. Therefore, a state candidate committee may not pay more than its fair proportion of joint expenses and a federal committee may not receive more than its fair proportion of the benefits of the joint venture. But the Act does not prohibit a federal committee from contributing to a state candidate. Section 52 of the Act (MCL 169.252) limits the amount any person, including a committee, may contribute to candidates

for state elective offices. In addition, sections 28(3) and 42(2) of the Act (MCL 169.228(3), MCL 169.242(2)) require a state committee which receives out of state funds in excess of $20.00 to obtain a certified statement which includes certain information from the contributor. And if the contribution or expenditure by the federal entity totals $200.00 or more in a calendar year, the entity must register as a committee pursuant to the Act. Of course, federal law should be examined for its ramifications on a transfer from a federal committee to a state candidate committee.

Thus if federal law permits contributions to state candidate committees, the federal committee may pay more than its fair proportion of joint expenses, receive less than its fair proportion of benefits, or sell materials or services at less than fair market value as long as these contributions are properly reported and do not exceed the section 52 limitations.

This response is informational only and does not constitute a declaratory ruling.

Very truly yours,

Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF:lr

Enclosure