

M I C H I G A N D E P A R T M E N T O F S T A T E

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

January 10, 1979

Honorable Jack Faxon
Michigan State Senate
State Capitol
Lansing, Michigan 48909

Dear Senator Faxon:

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"), as amended, to a waiver of a service charge fee for overdrafts on an account of a candidate committee.

You state that the National Bank of Detroit, "as a usual part of its business, extends to its depositors a waiver of service charge fees."

Your question is whether the above waiver would constitute an illegal corporate contribution to your candidate committee?

Section 4 (MCLA §169.204) states in pertinent part that "contribution" means anything of ascertainable monetary value given to a committee for the purpose of influencing an election; "contribution" includes "the granting of discounts or rebates not available to the general public."

The implication of the preceding definition is that discounts or rebates available to the general public are not contributions. Accordingly, if the waiver of the fee in question is available to the general public, the waiver is not a contribution. However, it is not clear from your letter whether this is the case in your situation. You state "as a usual part of its business the bank waives the service fee." It is not clear that the waiver is available for all depositors or only for those the bank arbitrarily chooses.

In summary, if the waiver is merely a favor to your committee then it is a contribution and is prohibited by the Act as a corporate contribution to a candidate committee. However, if every depositor may receive this benefit then it is not a contribution.

Since your request does not contain a specific factual situation as required by Rule 169.6 of the Administrative Rules promulgated by the Department of State to implement the Act, this response does not constitute a declaratory ruling.

Very truly yours,

A handwritten signature in cursive script that reads "Phillip T. Frangos".

Phillip T. Frangos, Director
Office of Hearings & Legislation

PTF/jmp