

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

48918-2110

July 27, 1992

Karen Holcomb-Merrill
 Executive Director
 Common Cause in Michigan
 109 East Oakland
 Lansing, Michigan 48906

Dear Ms. Holcomb-Merrill:

This is in response to your request for an interpretive statement under the Michigan Campaign Finance Act (the Act), 1976 PA 388, as amended.

Your request was made available to the public as required by section 15(2) of the Michigan Campaign Finance Act (MCL 169.215). There have been no written comments submitted by interested persons pursuant to that section.

You ask the following questions:

"Is it a violation of the Act when a trade association, corporation, or school reimburses an employee for campaign contributions made by the employee?"

Is it a violation of the Act when a trade association, corporation, or school gives an employee additional salary for the purpose of making campaign contributions?"

Is it a violation of the Act when a lobbyist charges his or her client(s) for campaign contributions made by the lobbyist?"

Section 41(6) (MCL 169.241) is one of several anti-laundering provisions found in the Act. This section prohibits a person from making a contribution in another person's name. Specifically, section 41(6) provides:

"Sec. 41. (6) A contribution shall not be made, directly or indirectly, by any person in a name other than the name by which that person is identified for legal purposes. A person who violates this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00, or imprisoned for not more than 90 days, or both, and if the person is other than an individual the person shall be fined not more than \$10,000.00."

An employer who reimburses an employee for contributions made by the employee or who pays additional salary to an employee for the purpose of making

contributions is actually making an indirect contribution to the committee receiving the contribution. The indirect contribution is not disclosed, however, because it was made in the employee's name. Section 41(6) prevents this circumvention of the Act's reporting requirements by prohibiting the employer from making a contribution in a name other than its own, including a contribution in an employee's name.

A client who is charged by a lobbyist for contributions made by the lobbyist is also making indirect contributions "in a name other than the name by which [the client] is identified for legal purposes." Section 41(6) prohibits such contributions. Therefore, a lobbyist or lobbyist agent may not seek reimbursement or additional fees from a client for contributions made by the lobbyist or lobbyist agent.

While section 41(6) applies to trade associations, corporations, schools and other entities, corporations and their employees are subject to additional restrictions. Pursuant to section 54(1) of the Act (MCL 169.254), a corporation is prohibited from making a contribution or expenditure with respect to candidate elections. In addition, section 54(2) prohibits contributions or expenditures by any person acting on behalf of a corporation. Section 54 states, in pertinent part:

"Sec. 54. (1) Except with respect to the exceptions and conditions in subsection (2) and section 55, and to loans made in the ordinary course of business, a corporation may not make a contribution or expenditure or provide volunteer personal services which services are excluded from the definition of contribution pursuant to section 4(3)(a).

(2) An officer, director, stockholder, attorney, agent, or any other person acting for a corporation or joint stock company, whether incorporated under the laws of this or any other state or foreign country, except corporations formed for political purposes, shall not make a contribution or expenditure or provide volunteer personal services which services are excluded from the definition of contribution pursuant to section 4(3)(a)."

An employee who receives reimbursement from a corporation or who is paid additional salary by a corporate employer for the purpose of making contributions is clearly a "person acting for a corporation." In these circumstances, the employee is prohibited from making a contribution to a committee authorized to support or oppose candidates, including a candidate committee, an independent committee (often referred to as a "PAC"), a political committee or a political party committee.

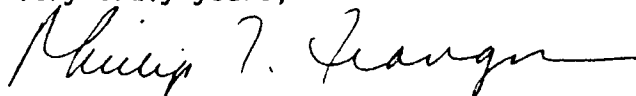
Section 54(1) also prohibits a corporation from paying or reimbursing an employee for a contribution or expenditure in a candidate election, regardless of the application of section 54(2). Section 54(1) continues the longstanding prohibition in Michigan law against corporate involvement in candidate elections. This section cannot be avoided by allowing a corporation to indirectly make a contribution that it is directly prohibited from making. A

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corporation is therefore precluded by section 41(6) and section 54(1) from paying additional salary or a reimbursement to an employee for a contribution made to influence the nomination or election of a candidate.

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

Very truly yours,

A handwritten signature in cursive script, appearing to read "Phillip T. Frangos", with a long horizontal flourish extending to the right.

Phillip T. Frangos
Deputy Secretary of State
State Services