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MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING

MICHIGAN 48918

October 8, 1990

Mr. Dick M. Jacobs
1016 Forest Hills Drive
Holland, Michigan 49423

Dear Mr. Jacobs:

This is in response to your request for a declaratory ruling regarding running a "write-in" campaign for governor and lieutenant governor. In your letter you ask for rulings pursuant to both the Michigan Election Law, 1954 PA 116, as amended, and the Michigan Campaign Finance Act (the "Act"), 1976 PA 388, as amended.

The questions you raise with respect to the Election Law will be responded to, under separate cover, by the Department of State's Bureau of Elections. The remainder of this letter will be limited to a discussion of the questions you raise regarding the application of the Act to write-in candidates for the offices of governor and lieutenant governor.

The fundamental question you raise is whether write-in candidates running as a team for governor and lieutenant governor are required by the Act's provisions to each form a candidate committee.

The Act requires an individual to file a statement of organization within 10 days of becoming a candidate (MCL 169.221). Section 20(2) of the Act (MCL 169.220) specifically sets forth the circumstances under which a write-in candidate becomes a candidate pursuant to the Act, as follows:

> "Sec. 20. (2) An individual who receives votes at an election solely by the write-in method as provided by law is considered a candidate under this act as follows:
>
> (a) An individual who receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with a view to bringing about the individual's receiving write-in votes at an election is a candidate under this act at the time of receiving the contribution or making the expenditure or giving consent to another person to receive the contribution or make the expenditure
>
> (b) An individual who is not a candidate by reason of subdivision (a), but who is certified as a nominee as a result of write-in votes received at a primary election and does not withdraw as a nominee as provided by law is a candidate under this act as of 5 days following the certification of the nomination by the board of canvassers canvassing the primary.
>
> (c) An individual who is not a candidate by reason of subdivision (a) or (b), but who is elected to an office by receiving write-in

> votes in an election is a candidate under this act at the time the individual qualifies for the office."

A person running for either governor or lieutenant governor as a write-in candidate is required to file a Statement of Organization when he or she receives a contribution, makes an expenditure or allows another person to do so on their behalf.

As you indicated, candidates for governor and lieutenant governor run as a team. This is specifically recognized in section 3(1) of the Act (MCL 169.203), which provides in relevant part:

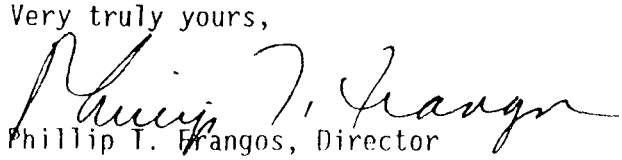
> "For purposes of sections 61 to 71, 'candidate' only means, in a primary election, a candidate for the office of governor and, in a general election, a candidate for the office of governor or lieutenant governor. However, the candidates for the office of governor and lieutenant governor of the same political party in a general election shall be considered as 1 candidate."

The reference to sections 61 to 71 clarifies that candidates for governor and lieutenant governor are considered to be a single candidate for purposes of public funding. The last sentence of this subsection extends this principle to other provisions of the Act. Thus, even though candidates for governor and lieutenant governor are required to form separate candidate committees, each committee may make expenditures on behalf of the ticket in a general election without regard to section 44(2) of the Act (MCL 169.244), which otherwise prohibits one candidate committee from contributing to or making expenditures on behalf of another candidate committee.

Although write-in candidates for governor and lieutenant governor who are running together are not party nominees, it is reasonable to treat them as 1 candidate for the general election. Therefore, in answer to your question, write-in candidates for the office of governor and lieutenant governor must form separate candidate committees as required by section 20(2). However, pursuant to section 3(1), expenditures supporting both members of the write-in team may be made from either candidate committee.

This response is informational only and does not constitute a declaratory ruling because your request for a ruling does not include an actual statement of facts.

Very truly yours,



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