

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

October 4, 1985

Robert S. LaBrant
 Michigan State Chamber of Commerce
 200 N. Washington Square
 Lansing, MI 48933

Dear Mr. LaBrant:

This is in response to your request for a declaratory ruling concerning applicability of the Campaign Finance Act (the Act), 1976 PA 388, as amended, to the Michigan State Chamber of Commerce, a non-profit corporation, and its separate segregated fund, the State Chamber PAC. Specifically, you ask whether the corporation (hereinafter, the State Chamber) may use its treasury funds "to provide State Chamber PAC contributors of \$200 or more with a lapel pin, featuring the State Chamber PAC's logo, at a cost . . . not to exceed \$5.00 each."

Corporate involvement in Michigan elections is governed by sections 54 and 55 of the Act (MCL 169.254 and 169.255). Section 54 continues the longstanding prohibition against the use of corporate money in candidate elections but allows a corporation to make contributions or expenditures to support or oppose ballot questions. In addition, section 55 provides, in pertinent part:

"Sec. 55. (1) A corporation or joint stock company formed under the laws of this or another state or foreign country may make an expenditure for the establishment and administration and solicitation of contributions to a separate segregated fund to be used for political purposes. A fund established under this section shall be limited to making contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, and independent committees.

* * * *

(3) Contributions for a fund established under this section by a corporation which is nonprofit may be solicited from any of the following persons or their spouses:

- (a) Members of the corporation who are individuals.
- (b) Stockholders of members of the corporation.
- (c) Officers or directors of members of the corporation.
- (d) Employees of the members of the corporation who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities."

It is your position that the cost of providing lapel pins to those persons solicited under subsection (3) is a fundraising expense permitted under this section and an October 26, 1983, declaratory ruling to Mr. James Barrett. In Barrett, the Department stated:

"A corporation may pay for the cost of office space, phone, salaries, utilities, supplies, legal and accounting fees, fundraising and other expenses incurred in setting up and running a separate segregated fund established by the corporation."

Subsequently, however, the Department indicated in an October 4, 1984, interpretative statement issued to Mr. Jack Schick that section 55 does not allow a corporation to build its separate segregated fund by using corporate dollars to purchase entertainment, premiums or raffle prizes.

You contend Schick prohibits the State Chamber from purchasing lapel pins with money from its corporate treasury, and as such is inconsistent with the Barrett declaratory ruling. However, upon careful analysis, it appears your contention is invalid.

The specific question posed in Schick was whether a corporation could "underwrite an entire fundraising event" for the purpose of raising money for its separate segregated fund. Section 55 strictly limits the use of corporate dollars to three purposes: the establishment of a separate segregated fund, administration of the fund, and solicitation of contributions to the fund. Section 54 restricts corporate contributions and expenditures to ballot question issues. Therefore, a corporation may not make contributions to its separate segregated fund. If a corporation paid for the entire cost of a fundraising event, the corporation would in effect be making an indirect contribution to the fund. Mr. Schick was advised that such a result was not permitted under the Act.

Historically, corporate political participation has been absolutely prohibited. Although sections 54 and 55 made a change in that policy, they are narrowly drawn and strictly limit the use of corporate money in the electoral process. As noted previously, section 55 allows a corporation to make expenditures only for the establishment, administration or solicitation of contributions to a separate segregated fund. Thus, to preserve the integrity of candidate elections, the drafters of section 55 apparently intended to keep corporate dollars out of a separate segregated fund's treasury.

The Federal Election Commission has by rule specifically authorized a corporation to build its separate segregated fund by using "a raffle or other fundraising device which involves a prize, so long as state law permits and the prize is not disproportionately valuable." 11 CFR 114.5(b)(2). This rule goes on to create a presumption that corporate funds are not being exchanged for contributions to a separate segregated fund if the fundraising costs paid by the corporation do not exceed one-third of the money contributed at the fundraiser.

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A similar rule has not been promulgated under the Michigan Act. However, the general principle expressed in 11 CFR 114.5(b)(2) is useful in responding to the question you raise. That is, if the cost of the lapel pins awarded to State Chamber PAC contributors is not "disproportionately valuable", there is little risk that paying for the lapel pins with State Chamber treasury funds will result in the exchange of corporate dollars for contributions to the separate segregated fund.

You indicate in your statement of facts that:

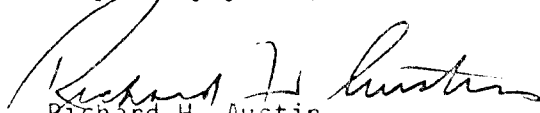
Commencing January 1, 1985, the State Chamber intends to provide mementos, paid for with State Chamber treasury funds, to contributors to the State Chamber PAC.

The State Chamber intends to provide State Chamber PAC contributors of \$200 or more with a lapel pin, featuring the State Chamber PAC's logo, at a cost to the State Chamber not to exceed \$5.00 each."

A lapel pin which costs \$5.00 or less is not disproportionate in value to a \$200 contribution. In these circumstances, purchasing the lapel pins with corporate dollars cannot result in trading corporate money for contributions to the separate segregated fund. Thus, in answer to your question, the Michigan State Chamber of Commerce may purchase lapel pins from its corporate treasury, at a cost not to exceed \$5.00 each, to be given to persons who contribute \$200 or more to the State Chamber PAC.

This response is a declaratory ruling concerning the specific facts and questions presented.

Very truly yours,


Richard H. Austin
Secretary of State

RHA/jep