



RICHARD H. AUSTIN
SECRETARY OF STATE

**MICHIGAN
DEPARTMENT
OF STATE**

LANSING, MICHIGAN 48918

April 25, 1994

Mr. Robert S. LaBrant
Vice President and General Counsel
Michigan Chamber of Commerce
600 S. Walnut Street
Lansing, Michigan 48933-2200

Dear Mr. LaBrant:

This is in response to your request for a declaratory ruling under the Michigan Campaign Finance Act (the Act) 1976 PA 388, as amended. You ask what amount a committee which makes an in-kind contribution of the results of a poll to a candidate committee must report in its triennial report.

Specifically your question states:

"Will the Michigan Chamber of Commerce Political Action Committee be correct in reporting a \$270.00 in-kind contribution made to the Mike Rogers for State Senate Committee for providing the candidate committee with the polling results on March 1, 1994 for a survey which was done between November 3-5, 1994 [sic] when it files its tri-annual campaign statement by April 25, 1994?"

The \$270.00 figure is based upon the application of a rule promulgated by the Federal Election Commission for committees that report under the Federal Election Campaign Act. The rule assumes that after a period of time the value of polling results declines. You point out that this devaluation results from the fact that a poll is a snapshot of voter attitudes that may change rapidly in a short period of time.

As indicated in your letter, the Department of State has looked for guidance to the Advisory Opinions and regulations of the Federal Election Commission to respond to requests that have no direct answer in the Act or its rules. Although neither the Act nor the rules specifically address the issue of the valuation of an in-kind contribution of poll results there is a rule that establishes the principles to be used. R 169.34 provides:

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"Rule 34. The value of an in-kind contribution is the amount which could usually be received in the open market for goods and services. The value of an in-kind contribution which is loaned or permitted to be used is the fair market rental value of the item or services. A committee which is charged less than the fair market value or fair rental value of an item or services shall report the difference between the amount charged and the fair market value or fair rental value as an in-kind contribution."

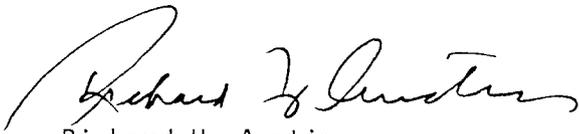
In applying the provisions of the rule a determination must be made with respect to the fair market value of the goods or services contributed. For most in-kind contributions there are regular transactions in same or similar items that establish a market value that is easily determined. In the case at hand the difficulty is that there is no widespread market in poll results.

The federal rule that you attached to your request is one source that can be used in determining the value of poll results. However, there may be other methods that a contributor could apply.

Since the committee appears to be utilizing a reasonable method for valuing the in-kind contribution of the poll results described in your letter, the Department agrees with the valuation that you have proposed to report.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard H. Austin".

Richard H. Austin