

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

September 21, 1983

Mr. David A. Lambert
639 N. Hayford
Lansing, Michigan 48912

Dear Mr. Lambert:

You have requested an interpretative statement under the Campaign Finance Act (the "Act"), 1976 PA 388, as amended.

You referred to an interpretative statement issued to Mr. Timothy Downs on October 12, 1982, which indicates a corporation may not purchase an advertisement in an independent committee's newsletter and asked:

"Does this prohibition apply if a political party committee places said corporate receipts in a separate (sic), segregated administrative account which is not used for making contributions to or expenditures on behalf of candidates for public office?"

Political party committees are unlike other committees in that they have functions which are outside the ambit of the Act. The Department issued an interpretative statement to Philip Van Dam on April 12, 1982, a copy of which is attached, which indicated a political party committee may receive contributions from corporations for the purpose of affecting the legislative reapportionment process as long as the money is not commingled with money subject to the Act. Therefore, the answer to your first question is a qualified yes. A political party committee may receive money from corporations, place the money in an account separate from the account used for expenditures made under the Act, and spend the corporate money in such a way as to not be a contribution or expenditure under the Act.

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The second question you asked is:

"Can a political party committee use corporate funds (such as those received from the sale of advertising in party newsletters) in order to cover the costs of those administrative functions not directly related to the election of candidates to public office?"

The Act does not use the concept of costs being or not being "directly related to the election of candidates." The definition of "expenditure" in section 6 of the Act (MCL 169.206) states, in part:

"(1) 'Expenditure' means a payment, donation, loan, pledge, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question"
(emphasis added)

The "in assistance of" language in section 6 is much broader than the "directly related" language in your question. Funds received from corporations cannot be used in assistance of a candidate. Because the purchase of an advertisement assists the recipient, a corporation may not purchase an advertisement in a program book, ad book, or newsletter which supports or opposes candidates. While it is conceivable a political party committee could publish a newsletter which does not support or give assistance to a candidate ("candidate" includes all incumbents), this seems unlikely. If a political party committee wants to designate a specific fundraiser or method of fundraising as being for non-campaign purposes, it may do so and accept corporate contributions. But it may not merely pull corporation contributions out of the receipts for a fundraiser (or for newsletter ads), and put the corporate funds into a separate account. If a newsletter which does not support a candidate or ballot question could somehow be published, a political party committee could designate all advertising income for a separate account for non-campaign purposes.

Your third question is:

"What would the Department of State consider to be those administrative costs that could be paid for with corporate funds?"

It is impossible for the Department to answer this question in a factual vacuum. As the Van Dam letter indicated, reapportionment is one area where corporate money may be used. At this time, however, these activities are the only ones for which the use of corporate money has been approved by the Department. The Department will continue to consider specific fact situations on a case by case basis.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Phillip T. Frangos". The signature is fluid and cursive, with a long horizontal stroke at the end.

Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw

Enc.