



RICHARD H. AUSTIN
SECRETARY OF STATE

MICHIGAN
DEPARTMENT
OF STATE

LANSING, MICHIGAN 48918

April 9, 1991

Mr. Gary C. Peters
931 Standford Circle
Rochester Hills, Michigan 48309

Dear Mr. Peters:

This is in response to your request for a declaratory ruling concerning the applicability of the Michigan Campaign Finance Act (the Act), 1976 PA 388, as amended, to a refund owed to your dissolved candidate committee, Gary Peters for State Senate. Specifically, you ask how to accept the refund, whether the refund may be used to reimburse yourself for loans you had forgiven, and how you may dispose of the remaining funds.

On January 28, 1991, your request for a ruling was made available to the public as required by section 15(2) of the Act (MCL 169.215). There have been no written comments submitted by interested persons as authorized by that section.

According to your letter and the records of the Department, during the 1990 election campaign you made loans of \$5,000, \$2,000 and \$1,300, or a total of \$8,300, to the Gary Peters for State Senate committee. Each loan was properly reported in campaign statements filed by the committee, and the outstanding balances were disclosed in separate schedules filed with subsequent campaign statements as required by section 28(2) of the Act (MCL 169.228). These statements indicate that the committee made no loan payments to you before December 24, 1990.

The committee's campaign statements further indicate that from October 4 through October 29, 1990, Gary Peters for State Senate paid Comcast Cable Advertising a total of \$15,486 for "cable spots". These expenditures were also reported in a timely and appropriate manner.

On January 2, 1991, Gary Peters for State Senate filed its final campaign statement. The campaign statement indicates that after paying its campaign workers, the committee had assets of \$5,451.17 and outstanding loans of \$8,300. Pursuant to rule 28(3) of the administrative rules promulgated to implement the Act (1982 AACS R 169.28), a committee may not dissolve if it has

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assets or outstanding debts. Therefore, the \$5,451.17 was given to you as payment for the \$5,000 loan and in partial payment of the \$2,000 loan. The balance of that loan, or \$1,548.83, and the \$1,300 loan were forgiven, and the committee was dissolved.

Subsequently, a representative of Comcast Cable informed you that Gary Peters for State Senate was owed a refund because the company had failed to comply with certain federal regulations. Specifically, in a memorandum dated February 26, 1991, Lee Kanaan, a senior account executive, stated:

"Comcast Cablevision of Southeast Michigan, in accordance with Federal Regulations, will refund a total of \$4,942 to [Peters for Senate Committee] because of the lack of computer generated affidavits that would identify [the] number of specific commercials aired in our Pontiac/Waterford cable system."

"Somehow, these 'proofs of performance' affidavits did not appear on the computer discs. The other quantity of commercials did air and are documented."

Since the committee is dissolved, you ask how to accept the refund, whether the refund may be used to reimburse you for the \$2,848.83 in forgiven loans and, if so, what may be done with the remaining \$2,093.17.

If the refund in question had been paid to the committee before a dissolution statement was filed, the committee would have been required to deposit the refund in its official depository and report the \$4,942.00 as an "other receipt" when filing its next campaign statement. There is no question that the refund could then have been used to repay you for the outstanding loans. Upon filing a dissolution statement, disbursement of the unexpended \$2,093.17 would have been governed by section 45(2) of the Act (MCL 169.45). This section provides:

"Sec. 45(2) Unexpended funds in a campaign committee that are not eligible for transfer to another candidate committee of the person, pursuant to subsection (1), shall be given to a political party committee, or to a tax exempt charitable institution, or returned to the contributors of the funds upon termination of the campaign committee."

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The question raised by your inquiry is whether the Act permits or requires a different result where a candidate committee has been dissolved prematurely. While the statute does not specifically address this issue, a review of the Act and rules suggests that funds that are returned to a committee after the committee has dissolved must be reported and disposed of in the same manner as if the committee remained in existence.

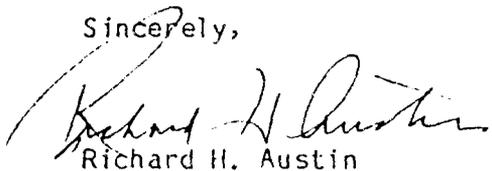
As stated previously, rule 28(3) prohibits a committee from dissolving if it has any remaining assets. With the refund from Comcast Cable, Gary Peters for State Senate has an asset which is subject to the Act's requirements.

The procedure for correcting errors and omissions in campaign statements is found in section 16 of the Act (MCL 169.16). Section 16(7) provides that a "filer shall make any corrections in the statement or report filed with the appropriate filing official" within nine business days after the filing deadline. Since the Act does not impose a filing deadline for dissolution statements, the Department interprets the Act as requiring corrections in a dissolution statement to be reported when they are discovered.

Thus, in answer to your questions, the \$4,942 refund from Comcast Cable may be used to reimburse you for the previously forgiven loan balance of \$2,848.83. Pursuant to section 45(2) of the Act, the remaining \$2,093.17 must be given to a political party committee or a charitable institution or returned to the committee's contributors. The receipt and disposition of the refund must be reported by filing an amended dissolution statement. The forms needed to amend that statement are enclosed for your convenience.

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

Sincerely,



Richard H. Austin