

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



24-84-LI

LANSING
MICHIGAN 48918

June 4, 1984

Mr. Ralph J. Gerson, Director
Michigan Department of Commerce
P.O. Box 30004, Law Building
Lansing, Michigan 48909

Dear Mr. Gerson:

This is in response to your inquiry concerning the application of the lobby act (the "Act"), 1978 PA 472, to the Detroit Grand Prix which you describe as a "major international event" offering an opportunity "to promote the state's opportunities and potential to myriad individuals and companies." You point out that this promotional campaign "involves the help of individuals and firms already doing business in this State. As part of their participation, these individuals or firms contribute substantial sums of money and/or services." As examples, you indicate "some corporations or individuals defray the cost of food and beverages served to attendees at social functions held during the event. Others provide lodging or meeting rooms to various individuals or groups." You further advise that "It is likely that some of the contributors will be 'registered lobbyists' or 'lobbyist agents,' while others will not be so registered . . . (and) many of those attending the events will be 'public officials' of both State and local governments." You indicate that " . . . the expenditures are not being made for 'lobbying' as that term is defined in 1978 PA 472" and specifically ask "Is a person or group required to register and/or report as lobbying expenditures, any contribution made solely for the purpose of supporting the Detroit Grand Prix?"

In a declaratory ruling issued to S. Don Potter, on February 7, 1984, it was noted that:

"'Lobbying' is defined in section 5(2) of the Act, MCL 4.415, as 'communicating directly with . . . an official in the legislative branch of state government for the purpose of influencing legislative or administrative action.' The purpose of holding (a) reception includes creation of good will and providing a place for members and associate members to meet with each other and with Legislators. This is an annual event which is scheduled regardless of whether there are bills

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pending in the Legislature of concern to MMEA or its members and associate members. While some lobbying may well take place at the reception, the event itself is not lobbying."

Rather than a reception, the Detroit Grand Prix is an event created and governed by the City Motor Vehicle Racing Act, 1981 PA 178, section 8 (MCL 257.1708) or which provides in pertinent part:

"Sec. 8. A racing event held under the act . . . shall be considered as being for public purposes including the promotion of commerce and tourism and for the benefit of the citizens of the city and state."

The Detroit Grand Prix is not lobbying, because an event or function cannot, in and of itself, lobby. It does however create opportunities where lobbying can occur. You have described a general event (the Grand Prix) and a number of subordinate events, but you failed to provide any detail about the subordinate events. You do not disclose who actually puts on the event, what these functions are and who attends them. This response will therefore be general in nature.

In a letter to Joseph P. Bianco, Jr. dated February 3, 1984, the Department indicated, in the context of a "corporate good citizen," that:

"The economic connection between (J.L.) Hudson's business as a retailer and the charitable and booster activities of these organizations is so indirect the Legislature could not have intended that these pro bono activities be lobbying. This intention is supported by the fact that making these activities lobbying would discourage corporate participation on behalf of community organizations, an effect the Legislature would not seek."

This "good citizen theory" is even more compelling when it is understood that the Legislature, in enacting 1981 PA 178 (quoted in part supra) determined that such events are "considered as being for public purposes including the promotion of commerce and tourism and for the benefit of the citizens of the city and state." Reading these statutes together, one reaches the conclusion that a person or group is generally not required to register and/or report as lobbying expenditures any contributions made solely for the purpose of supporting the Detroit Grand Prix, except as provided below.

You indicate it is likely that some of the contributors will be "registered lobbyists" or "lobbyist agents" and that many of those attending will be "public officials" of both state and local governments. Section 8(1)(b)(i) of the Act (MCL 4.418) requires lobbyists and lobbyist agents to report "expenditures for food and beverage provided for public officials as specified in subsection (2)." Section 8(2) states:

"(2) Expenditures for food and beverage provided a public official shall be reported if the expenditures for that public official exceed

\$25.00 in any month covered by the report or \$150.00 during that calendar year from January 1 through the month covered by the report. The report shall include the name and title or office of the public official and the expenditures on that public official for the months covered by the report and for the year. Where more than 1 public official is provided food and beverage and a single check is rendered, the report may reflect the average amount of the check for each public official. If the expenditures are a result of an event at which more than 25 public officials were in attendance, or, are a result of an event to which an entire standing committee of the legislature has been invited in writing to be informed concerning a bill which has been assigned to that standing committee, a lobbyist or a lobbyist agent shall report the total amount expended on the public officials in attendance for food and beverage and shall not be required to list individually. In reporting those amounts, the lobbyist or lobbyist agent shall file a statement providing a description by category of the persons in attendance and the nature of each event or function held during the preceding reporting period."

Expenditures for food and beverage provided public officials are not qualified by the phrase "for lobbying." This is a legislative determination that all food and beverages provided public officials by a lobbyist or lobbyist agent must be reported, regardless of the reason for those expenditures.

If the "corporations or individuals" who defray the cost of food and beverages served during the event meet the statutory definition of lobbyist or lobbyist agent, as you indicate some may, then food or beverage provided to "public officials," as that term is defined in the Act, must be reported.

You should be further advised that section 11(2) of the Act and rule 71 of the Administrative Rules promulgated to implement the Act (R 4.473) strictly prohibit the giving of gifts by lobbyist or lobbyist agents, or anyone acting on behalf of a lobbyist or lobbyist agent, to public officials. A violation of section 11(2) is a felony if the gift is worth more than \$3,000.00, and a misdemeanor if the gift is worth between \$25.00 and \$3,000.00. It is the Department's position that if a corporation or other entity which is a lobbyist or lobbyist agent pays the bill for lodging or other expenses for a public official, such payment would be a gift. This would also be true if a lobbyist or lobbyist agent provides tickets for an event to a public official or provides anything else falling within the definition of "gift" found in section 4(1) of the Act.

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

Very truly yours,

A handwritten signature in cursive script, appearing to read "Phillip T. Frangos". The signature is written in dark ink and extends across the width of the page.

Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw