

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



4-84-LD

LANSING
MICHIGAN 48918

March 16, 1984

Mr. Charles Nida
Honigman, Miller, Schwartz & Cohn
2290 First National Building
Detroit, Michigan 48226

Dear Mr. Nida:

This is in response to your request for a declaratory ruling concerning the applicator of the lobby act (the "Act"), 1978 PA 472, to the Michigan Thanksgiving Parade Foundation (the "Foundation").

The Foundation is a Michigan non-profit corporation which has been determined to be a charitable organization by the Internal Revenue Service and has also been licensed to solicit charitable contributions by the Michigan Attorney General. You indicate that "the purpose of the Foundation, in general, is to sponsor, coordinate and produce a Thanksgiving Day Parade for the benefit of the residents of the State of Michigan" and that the Board of Directors is composed of "community leaders, including a number of public officials." Further, you state that the Foundation has solicited and received contributions from the general public in the form of cash, goods and services and that "many of those contributions were made by businesses and individuals who would have been lobbyists or lobbyist agents had the Act then been applicable." It is your position that lobbyists and lobbyist agents who make such contributions should not be required to report such contributions as financial transactions under section 8(1)(c) of the Act (MCL 4.418).

Pursuant to section 8(1) of the Act (MCL 4.418), a lobbyist is required to file reports each January 31 and August 31. In addition to other information required by this section, each report must include the following:

"Sec. 8. (1)(c) An account of every financial transaction during the immediately preceding reporting period between the lobbyist or lobbyist agent, or a person acting on behalf of the lobbyist or lobbyist agent, and a public official or a member of the public official's immediate family, or a business with which the individual is associated in which goods or services having value of at least \$500.00 are involved. The account shall include the date and nature of the tran-

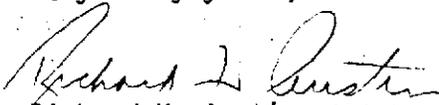
Charles Nida
Page 2

saction, the parties to the transaction, and the amount involved in the transaction. This subdivision shall not apply to a financial transaction in the ordinary course of the business of the lobbyist, if the primary business of the lobbyist is other than lobbying, and if consideration of equal or greater value is received by the lobbyist. This subdivision shall not apply to a transaction undertaken in the ordinary course of the lobbyist's business, in which fair market value is given or received for a benefit conferred."

The entire focus of the Act aims at disclosing relationships, financial and otherwise, between lobbyists or lobbyist agents and public officials. Funds solicited do not go to the Directors individually, and checks for contributions are not made out to any Director personally but to the Foundation. It therefore seems clear that, in the circumstances you relate, there is no "financial transaction . . . between the lobbyist or lobbyist agent . . . and public official" which might be reported. Any financial transaction would be between the lobbyist and the Foundation, and the role of the public official is simply as an intermediary who receives no gain or profit by the donation.

This response is a declaratory ruling relating to the facts and questions you have presented.

Very truly yours,


Richard H. Austin
Secretary of State

RHA/cw