



October 12, 1981

Mr. Godfrey A. Glomb
1737 N. Denwood
Dearborn, Michigan 48128

Dear Mr. Glomb:

This is in response to your inquiries concerning the Campaign Finance Act (the "Act"), 1976 PA 388, as amended.

You conduct art auctions as fundraisers for various civic, religious and social groups. It is your desire to extend this service to various political candidates and committees.

You indicate you provide to the group, at no expense, the necessary admission tickets which they sell. The entire proceeds of the ticket sales are retained by the group. You also supply, at your expense, the necessary advertising flyers and posters. Finally, you supply the art objects which are sold. The group provides the facilities and patrons; they retain 20 percent of the gross sales.

Your questions are as follows:

1. Does the auctioneer and provider of supplies and art objects assume any responsibilities under the Act?
2. Does the purchaser at the political fundraiser make a political contribution, and if so, what is its value?
3. Does the candidate committee, including a gubernatorial committee, list the gross sale or its percentage share in its campaign statement?
4. If the answer to the third question is gross sales, does the percentage retained by the auctioneer become an "in-kind" expenditure which must be reported by the candidate committee?

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In response to the first question, it appears from your description of the program that the auctioneer functions as an independent contractor. Section 43 of the Act (MCL 169.243) provides that an expenditure shall not be made other than for overhead or normal operating expenses, by an agent or an independent contractor, including an advertising agency, on behalf of or for the benefit of a committee unless the expenditure is reported by the committee as if the expenditure were made directly by the committee, or unless the agent or independent contractor files an independent expenditure report. The agent or independent contractor is required to make known to the committee all information required by the Act to be reported by the committee.

Concerning the second question, an attendee at an auction - political fundraiser makes a contribution to the extent of any admission ticket price or attendance fee paid by him. A purchaser of an art object at such an event makes a contribution in the full amount paid for the item. Each contributor must be made aware prior to the making of a contribution of the amount involved, whether the contribution is made through purchase of an admission ticket and/or purchase of an art object.

As to your third question, a candidate committee, including a gubernatorial candidate committee, must report the entire receipts from a purchase as a contribution.

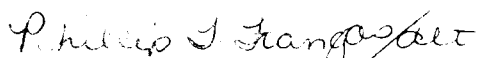
With respect to the fourth question, the amount paid to the auctioneer for the cost of any art objects sold or services rendered must be reported by the committee as an expenditure.

It should be noted that the auctioneer makes a reportable in-kind contribution to the committee in the full amount of the value of any admission tickets, advertising flyers and posters he provides without charge to the committee. If the auctioneer is a corporation, such a contribution is prohibited by section 54 of the Act (MCL 169.254).

This interpretation is in concert with a series of rulings made by the Federal Election Commission interpreting the provisions of the Federal Election Campaign Act. Advisory Opinion 1980-34 issued May 23, 1980, deals with a fact situation very similar to yours. In concluding that all funds paid for donated art objects are contributions even though the art work is sold through an art dealer in his normal business the Commission cited and relied on its previous rulings on such fundraising activities.

This response may be considered informational only and does not constitute a declaratory ruling.

Very truly yours,


Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF/cw