

STATE OF MICHIGAN



CANDICE S. MILLER, Secretary of State
MICHIGAN DEPARTMENT OF STATE
TREASURY BUILDING, LANSING, MICHIGAN 48918-9900

May 25, 1995

Mr. Greg James
Natural Law Party of Michigan
957 Lakeside Drive S.E.
East Grand Rapids, Michigan 49506

Dear Mr. James:

This is in response to your inquiry concerning the application of the Michigan Campaign Finance Act (the Act), 1976 PA 388, as amended, to donations made to political parties. Specifically, you ask if a political party committee may use corporate donations to pay for activities undertaken to secure ballot access for a new political party.

The Department of State concludes:

The Act does not apply to the circulation of qualifying petitions for a new political party.

Donations made to assist a new political party in qualifying for the ballot are not contributions or expenditures as defined in the Act. Therefore, a political party committee may accept and use corporate funds to pay for costs incurred in securing ballot access.

Discussion

The qualification of new political parties is governed by section 685 of the Michigan Election Law, 1954 PA 116, as amended. A new political party may qualify and have the names of its candidates placed on the ballot by submitting petitions to form a new party. The petitions must be signed by registered voters "equal to not less than 1% of the total number of votes cast for all candidates for governor at the last election in which a governor was elected." Further, at least 100 registered voters in each of at least half the state's congressional districts must sign the petition.

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You ask whether corporate donations may be used to pay expenses associated with circulating the petitions. You specifically mention telephone and coordinating expenses; fundraising costs; and payments made to persons hired to collect petition signatures.

Section 54 of the Campaign Finance Act prohibits a corporation from participating in the nomination or election of a candidate. As a consequence, a corporation may not make contributions or expenditures to influence the nomination or election of a candidate. A corporation may, however, make contributions and expenditures in ballot question elections.

"Contribution" and "expenditure" are defined, respectively, in sections 4 and 6 of the Act to include the payment or transfer of anything of ascertainable monetary value "in assistance of, or in opposition to, the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question." One could reasonably argue that political party qualification expenses at least indirectly assist the nomination or election of candidates. However, when read in conjunction with other provisions, it is clear that political party qualification expenses are not subject to the Act's regulation.

In particular, section 3(1) defines "candidate" to include an individual who files a fee, an affidavit of incumbency, or a nominating petition for elective office. Therefore, the process by which a specific candidate becomes eligible to secure a place on the ballot triggers the Act's application. If a candidate circulates nominating petitions, corporate money may not be used to pay petition circulators or defray other expenses associated with the petition process. Similarly, corporate funds may not be used to pay the candidate's filing fee.

The Act also applies to the process by which a ballot question qualifies for a place on the ballot. As noted previously, "contribution" and "expenditure" both include payments made for the qualification of a ballot question. In this instance, a corporation is permitted to underwrite the costs of circulating petitions because the prohibition against corporate participation extends only to candidate elections.

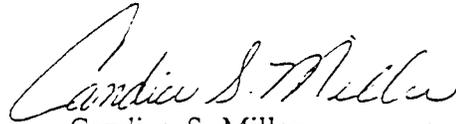
By contrast, the Act is silent with respect to the qualification of a new political party. This omission indicates that the Act does not apply to the circulation of political party qualifying petitions. It follows that donations made to assist in the qualification process are not contributions or expenditures as defined in sections 4 and 6.

In answer to your question, a political party committee may accept and use corporate funds to pay for costs incurred in securing ballot access. These costs would include wages for individuals circulating petitions; telephone charges; fundraising expenses; and other costs associated with the qualification effort. Corporate funds may not, however, be commingled with non-corporate funds and used to assist the nomination or election of a candidate.

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This response is an interpretive statement and does not constitute a declaratory ruling because a ruling was not requested.

Sincerely,

A handwritten signature in cursive script that reads "Candice S. Miller". The signature is written in black ink and is positioned above the printed name and title.

Candice S. Miller
Secretary of State