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MICHIGAN DEPARTMENT OF STATE
RICHARD H. AUSTIN SECRETARY OF STATE



LANSING
MICHIGAN 48918

July 21, 1986

Mr. William J. Perrone
Dykema, Gossett, Spencer, Goodnow & Trigg
800 Michigan National Tower
Lansing, Michigan 48933

Dear Mr. Perrone:

This is in response to your request for a declaratory ruling with respect to expenditures made for personal security by a gubernatorial candidate committee which is subject to the expenditure limit of section 67(1) of the Campaign Finance Act, 1976 PA 388, as amended (the Act).

The request is made on behalf of William Lucas, and the Lucas for Governor Committee (LFG), which has applied for and received public funds pursuant to section 64 of the Act (MCL 169.264). The relevant facts are set forth in your letter as follows:

5. In connection with his official position as Wayne County Executive, Lucas is provided with personal security services by the Wayne County Sheriff. In general, these expenses are paid for by the county. Certain incidental security expenses, however, e.g., meals and lodging for security officers, may be paid by LFG.

6. Security services provided for the Wayne County Executive include full time protection by Wayne County deputy sheriffs and use of vehicles with radio frequencies and telephones in order to provide emergency communications.

7. Security will be provided for the Wayne County Executive whether or not Lucas is a candidate for governor or any other office.

8. Security personnel are career police officers and not political appointees. The officers do not participate in political activities except insofar as they are present during political events and otherwise deal with political staff on scheduling and advance matters related to security."

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The rulings you request are stated as follows:

"1. Security services provided by Wayne County are not regulated by the Michigan Campaign Finance Act.

2. Payments made with monies other than those received from the state campaign fund for expenditures necessitated by security requirements for the Wayne County Executive shall not be included for purposes of determining whether the limit described in Section 67(1) of the Michigan Campaign Finance Act, MCLA 169.267(1), has been exceeded."

These requests present two distinct issues. The first is a correct statement of the law with respect to expenditures by governmental units. The Act provides a series of regulations and reporting requirements which apply to contributions and expenditures in connection with Michigan elections. The Attorney General of Michigan has on numerous occasions issued opinions stating the law with respect to electoral activity by governmental units. A copy of an opinion issued to Representative Emerson is enclosed for your information. The second ruling requested deals with the application of rule 39a, 1982 AACS R 169.39a, to expenditures made by the Lucas for Governor Committee for personal security provided to the candidate. Rule 39a was promulgated in 1982 in response to requests made by persons who had participated in gubernatorial campaigns and departmental staff.

The specific provision with respect to expenditures for security services was included because the State Police require the candidate committee to reimburse the state for certain expenditures for gubernatorial security. These expenditures would typically be expenses billed to the governor's campaign by the Department of State Police. The portions of the expenditures not subject to the limit set by section 67(1) of the Act (MCL 169.267) are typically of the following types: 1) the difference between the salary of a trained State Police driver and the normal expenses of employing a non-trooper driver, and 2) the difference in cost between chartering a two engine airplane and a single engine plane. The candidate committee is required to pay the expenses and add the base expenditure to the amount subject to the expenditure limit in section 67(1).

Rule 39a only specifies that expenditures for security requirements established by the Director of State Police may be excluded from calculations of expenditures subject to the section 67(1) limit. However, the rule does indicate that the list of excludable expenditures is not all inclusive.

The language of the rule authorizes the Department of State to decide that other expenditures may be excluded from calculation of the limit. The second request asks that the same exclusion for certain security expenditures be made applicable to an incumbent Wayne County Executive.

An unpleasant reality of political life is the need for people in the public eye to take appropriate measures to safeguard themselves from the possibility of phy-

Mr. William J. Perrone
Page 3

sical threats and attacks. Many governmental units have recognized the danger and have provided police protection for highly visible public officials. As your letter indicates the government of Wayne County has apparently found it necessary to provide security services for the County Executive. It is unclear from your letter whether the County charges the Lucas for Governor committee for the cost of these services when Mr. Lucas is engaged in political campaigning.

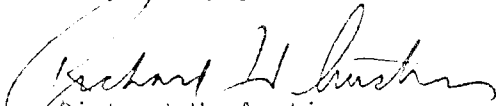
As previously indicated, the Department of State Police does charge the incumbent governor for security services provided while on campaign trips.

If similar charges are billed by Wayne County then rule 39a would permit such charges to be excluded from the section 67(1) expenditure limit in the same way they are excluded for an incumbent governor. The excluded amount includes only what is necessitated by the prescribed security requirements. Neither the Act nor the rule permits a campaign to exclude all monies paid for security. If a part of the expenditure would have been made in any case that part must be included in the amount subject to the limit. The examples cited previously illustrate this point.

If you need assistance in determining how specific expenditures are to be allocated you should contact the Campaign Finance Reporting Section of the Elections Division.

This letter is a declaratory ruling with respect to the treatment of expenditures for personal security of candidate William Lucas by the Lucas for Governor Committee.

Very truly yours,


Richard H. Austin
Secretary of State

RHA/v