

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

October 28, 1981

Mr. Lloyd Pitsch, Treasurer  
Citizens for Sheriff Phil Heffron  
7515 Lincoln Lake, N.E.  
Belding, Michigan 48809

Dear Mr. Pitsch:

This is in response to your request for a declaratory ruling regarding the Campaign Finance Act, 1976 PA 388, as amended ("the Act") and the propriety of refunding to the candidate unexpended campaign funds which the candidate has contributed.

You state the facts as follows:

"Our funding raising activity was more successful than we had anticipated, leaving us with a large unexpended balance after the election. A portion of these unexpended funds are being transferred to an office holder's expense account, and we would like to refund Sheriff Heffron his contributions at this time rather than waiting four years until we can dissolve the candidate committee."

Section 3 of the Act (MCL 169.203) states as part of the definition of candidate that "(u)nless the officeholder is constitutionally or legally barred from seeking reelection or fails to file for reelection to that office by the applicable filing deadline, an elected officeholder shall be considered to be a candidate for reelection to that same office for the purposes of this act only." Section 21 of the Act (MCL 169.221) requires that a candidate form and maintain a candidate committee. Officeholders are therefore required to maintain their campaign committees throughout their tenure in office and until they are no longer considered candidates for reelection under the Act.

The only provision contained in the Act for the disbursement of unexpended funds is section 45(2) of the Act (MCL 169.245) which provides:

"(2) Unexpended funds in a campaign committee that are not eligible for transfer to another candidate committee of the person, pursuant to subsection (1), shall be given to a political party committee, or to a tax exempt charitable institution, or returned to the contributors of the funds upon termination of the campaign committee." (emphasis added)

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Since disbursement under this section can occur only on termination of the campaign committee, Sheriff Heffron cannot distribute unexpended campaign funds to contributors until he is no longer a candidate as defined in section 3.

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

Very truly yours,



Phillip T. Frangos, Director  
Office of Hearings and Legislation

PTF/cw