

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING


 LANSING
 MICHIGAN 48918

October 26, 1983

Mr. Lee Schwartz
 Barcia for State Senate
 State Capitol
 Lansing, Michigan 48909

Dear Mr. Schwartz:

You have requested an interpretation of the Campaign Finance Act, 1976 PA 383, as amended, (the "Act") regarding the transfer of funds at the conclusion of a joint fundraiser which was operated differently from the method previously approved by the Department.

You indicated the Barcia for State Senate Committee (the "Committee") and the Huron County Democratic Party (the "Party") held a summer cookout. The Committee and the Party agreed, apparently verbally, the Committee would pay for the major expenses, the Party would pay for some minor expenses, and the receipts from the event would go to the Party. Most of the contributions which were made by check or draft were made out to the Committee, but a few were made out to the Party. The event was advertised as "Jim Barcia's 1st Annual Summer Cookout" with Lt. Governor Martha Griffiths as the guest speaker. The flyer you provided stated at the bottom, "SPONSORED BY THE HURON COUNTY DEMOCRATIC PARTY" and below that in type about half as large, "Paid for by Barcia for State Senate 4027 Dover Lane Bay City, Michigan". You indicate the Committee and the Party are each holding the money they received and ask:

"[What is] the most prudent method of transferring to the Huron County Democratic Party both the profits from the event and an additional contribution."

The initial issue raised by these facts is whether the Committee may simply transfer funds in any amount it desires to the Party. Candidate committees are single purpose entities--they are limited to furthering the nomination or election of their respective candidates. In a declaratory ruling issued to Senator Mitch Irwin on May 29, 1979, the Department reviewed the title of the Act and sections 45(2) (MCL 169.245), 6 (MCL 169.206), 21(3) (MCL 169.221), and 26(b) (MCL 169.226) of the Act and indicated:

"These provisions of the Act reinforce the conclusion that campaign fund money must be used to influence a campaign. The title makes it clear that one of the purposes of the Act is to restrict expenditures. The language in the title indicates an 'anything goes' policy with regard to spending is not contemplated statutorily. Section 21(3), which requires one account for deposit of all campaign monies to be used for making all expenditures, and Section 26(b), which requires the reporting of all expenditures together constrict the use of campaign funds for purposes which influence elections. It is particularly noteworthy that while the Act requires the reporting of 'receipts' such as interest paid by a bank for campaign funds on deposit, thereby acknowledging funds not given for the purpose of influencing elections, the Act requires only the reporting of 'expenditures', i.e., monies used to influence an election, rather than 'disbursements', a term which includes monies used for purposes other than influencing an election.

In order to give full meaning to all the statutory provisions concerning permissible use of campaign funds, it must be concluded a candidate must use campaign funds for the purpose of influencing an election."

Section 45 expressly limits to whom unexpended funds in a candidate committee account may be transferred when the committee dissolves. Read as a whole, the Act expresses a legislative intent that candidate committees shall only influence the nomination or election of the candidate. Purchasing a ticket to a political party fundraiser so the candidate may attend, be seen, and campaign, or purchasing a "vote for" advertisement in a political party ad book do further the candidate's nomination or election and may be made with committee funds. Consequently, a political party committee may receive monies from a candidate committee provided the candidate receives an identifiable benefit, product, or service which furthers his or her nomination or election.

In the present fact situation, however, there is no evidence as to how the transfer of the committee's receipts from the fundraiser to the Party would further the nomination or election of Senator Barcia. The record is devoid of any benefit, product, or service accruing to the Senator and his committee that would influence his nomination or election.

Additionally, an officeholder expense fund created under section 49(1) of the Act (MCL 169.249) is limited to paying for expenses which are incidental to office, but do not further the nomination or election of the officeholder. The purchase of a ticket to a political party fundraiser and the purchase of an advertisement in a political party ad book, as long as the advertisement does not seek support for the officeholder, can be incidental to office and may be made with an officeholder expense fund. In the situation you asked about, however, the transfer of a sum of money equal to the receipts of the fundraiser from Senator Barcia's officeholder expense fund to the Party would not seem to be incidental to office.

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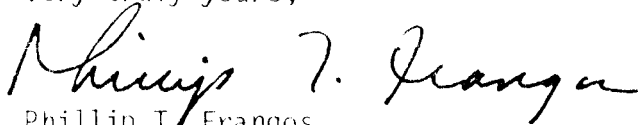
Since outright transfers from the Committee or Senator Barcia's officeholder expense fund to the Party do not appear to be proper, a transfer may be made only if a joint fundraiser was held. In a September 20, 1978, letter to Mr. Michael W. Hutson, a copy of which is attached, the Department set out the method for holding a joint fundraiser without running afoul of the Act. The Hutson letter used the more common example of two or more candidate committees holding a joint fundraiser, but the requirements set out in parts A, B, and C and their subsections of the Hutson letter do also apply to candidate/party fundraisers. In your event part A was not followed, but part B was partially followed.

As the event is now over, it is most prudent to disburse the profits as if you had a written agreement which complied with part A as closely as possible. It is too late to create a secondary depository, but you can distribute the contributions in the same proportion as the expenditures which were made. Since the Committee paid most of the expenses, it must keep most of the receipts. The concept you agreed to--the Committee putting on a fundraiser for the benefit of the Party--is impermissible.

Finally, since last summer's cookout was the "1st Annual", some discussion regarding the proper way to conduct next year's cookout is in order. Obviously, the Committee and the Party can set up a joint fundraiser as outlined in the Hutson letter. The percentage split does not need to be 50-50, but the split for expenses and the split for receipts must be the same. Alternatively, the Party could put on the entire event and Senator Barcia could be a guest (his supporters and staff could volunteer their time and expertise).

This letter is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/jep

Attachment