

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

August 5, 1980

Mr. Paul Younglove
9063 Joseph
Maybee, Michigan 48159

Dear Mr. Younglove:

This is in response to your request for a declaratory ruling pursuant to the Campaign Finance Act ("the Act"), 1976 PA 388, as amended, concerning late filing fees assessed against yourself, Anthony B. Lieto, Thomas R. Hilyard, and Kris Rath.

You indicate the four of you filed petitions for various village elective offices on December 21, 1979. You asked the village clerk if you needed to file any other papers and were advised no other filings were necessary. Then on January 31, 1980 the village clerk notified you that filings were required under the Act. You filed your statements of organization by the next day and were subsequently notified that each of you owed \$300.00 in late filing fees. You enclosed a statement from the Maybee Village Clerk indicating prior to January 30, 1980 she did not know candidates were required to file statements of organization. You ask if, considering these circumstances, your late filing fees may be forgiven.

Section 21(1) of the Act (MCL 169.221(1)) provides that "a candidate, within 10 days after becoming a candidate, shall form a candidate committee." It is impossible to positively determine when you became candidates from the information contained in your letter. "Candidate" is defined in section 3(1) of the Act (MCL 169.203(1)), which provides, in the relevant part, as follows:

"Candidate means an individual: (a) who files a fee, affidavit of incumbency, or nominating petition for an elective office; (b) whose nomination as a candidate for elective office by a political party caucus or convention is certified to the appropriate filing official; (c) who receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with a view to bringing about the individual's nomination or election to an

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elective office, whether or not the specific elective office for which the individual will seek nomination or election is known at the time the contribution is received or the expenditure is made; or (d) who is an officeholder who is the subject of a recall vote. Unless 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."

Under this definition, you certainly became candidates no later than December 21, 1979, the date you filed for the various village offices. Thus, each of you was required to form a candidate committee no later than December 31, 1979.

Section 24 of the Act (MCL 169.224) states, in part:

"(1) A committee shall file a statement of organization with the filing officials designated in section 35 to receive the committee's campaign statements. A statement of organization shall be filed within 10 days after a committee is formed. . . . A person who fails to file a statement of organization required by this subsection, shall pay a late filing fee of \$10.00 for each day the statement remains not filed in violation of this subsection not to exceed \$300.00. A person who is in violation of this subsection by failing to file for more than 30 days after a statement of organization is required to be filed is guilty of a misdemeanor and shall be fined not more than \$1,000.00."

Therefore, you were each required to file a statement of organization within ten days of the day the committee was formed, but not later than January 10, 1980.

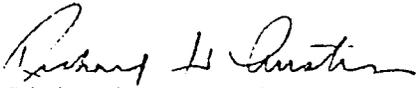
The filing official determines when the late filing fee begins to accumulate by checking item 6, "Date Committee was formed," on the committee's statement of organization. As long as the item 6 date is not later than ten days after the person became a candidate, the late filing fee is computed from the date provided by the candidate in item 6. You will need to determine if your late filing fees were properly computed. If the fees were incorrectly computed, the Monroe County Clerk should be informed so they may be corrected.

The Act does not give anybody, including the Secretary of State, the authority to forgive or cancel late filing fees regardless of the extenuating circumstances or good intentions on the part of the committee. Therefore, your request for forgiveness of the fees cannot be complied with by the Department of State.

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This response constitutes a declaratory ruling concerning the applicability of the Act to the facts enumerated in your request. .

Sincerely,



Richard H. Austin
Secretary of State

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