

## MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

September 19, 1984

Mr. James P. Hallan, General Counsel  
Michigan Food Dealers Service Corp.  
209 Seymour Avenue  
Lansing, Michigan 48933

Dear Mr. Hallan:

This is in response to your request for a declaratory ruling concerning the provisions of the lobby act, 1978 PA 472 (the "Act"). You advise the Michigan Food Dealers Service Corp. is "a wholly owned, for-profit subsidiary of the Michigan Food Dealers Association" which you describe as a "non-profit trade association" which is a "registered lobbyist" pursuant to the Act. The Association publishes a monthly newspaper called the Michigan Food News which has "a subscription of over 5000." and which "on a regular basis . . . runs feature stories on public officials." Before the effective date of the Act the Michigan Food Dealers Service Corp. "would present these featured public officials with a framed silver print or plate of the news article. The cost to the Michigan Food Dealers Service Corp. for framing the silver-print approximately ranged from \$40-\$100, depending on the size of the article." Your specific inquiry concerns an interpretation of the word "Gift" in sections 4 and 11(2) of the Act (MCL 4.414 and 4.421(2)) and you ask if the Michigan Food Dealers Service Corp. would be in violation of the Act "if they continued to provide public officials with framed articles which have an initial cost of over \$25.00 or is the value of the framed article to be determined by whether the recipient could sell it in the open market for more than \$25.00.?"

On January 31, 1984, this Department directed an interpretive statement to Mr. James S. Mickelson, ACSW (5-84-CI) which assists in resolving the question you raise. A copy is enclosed for your information. In this statement the Department stated its position as follows:

"Clearly the definition of 'gift' as used in the Act contemplates that the particular item have an intrinsic value in and of itself. The type of plaque you describe is a symbolic citation or award based upon merit as determined by your organization. Clearly it was not the intent of the Act to discourage symbolic recognition of commendable public service. Therefore, while the plaque you describe may have

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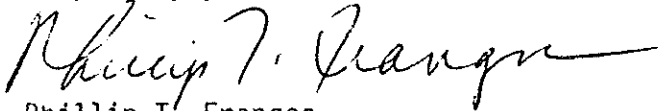
cost more than \$25.00, its intrinsic value is substantially less, and therefore it is the department's belief that awards should not be classified as gifts unless the intrinsic or actual value is \$25.00 or more.

One possible test could be the value of the plaque in the open market, i.e. could the recipient sell it for more than \$25.00? The type of plaque you describe, although costing more than \$25.00, could most likely not be sold for more than \$25.00 and, therefore, is not a gift. Should a 'plaque' consist of an item with intrinsic value clearly greater than \$25.00, the item will be considered as being a gift, the donation of which is prohibited by section 11(2) of the Act."

In short, the response to your specific inquiry, as we advised in the letter to Mr. Mickelson, is that one acceptable test of the value of what would otherwise be a prohibited "gift" is whether or not the recipient could sell it for more than \$25.00 on the open market.

The above is not a declaratory ruling because of the absence of specific facts concerning the issues discussed above.

Very truly yours,



Phillip T. Frangos  
Director  
Office of Hearings and Legislation

PTF/cw

Enc.