

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

September 27, 1978

Mr. E. James Barrett, Treasurer
Michigan Business Political Action Committee
501 South Capitol Avenue
Lansing, Michigan 48933

Dear Mr. Barrett:

This is in response to your request for a declaratory ruling concerning the applicability of the Campaign Finance Act, P.A. 388 of 1976, as amended ("the Act"), to receipt by a separate segregated fund of an unsolicited contribution from another separate segregated fund.

You state the following factual situation:

"On January 19, 1978, the Michigan Business Political Action Committee, a separate segregated fund of the Michigan State Chamber of Commerce, 501 South Capitol Avenue, Lansing, Michigan 48933, deposited into its campaign depository a \$500 contribution from the JSJ Political Action Committee, a separate segregated fund of the JSJ Corporation, 715 Robbins Road, Grand Haven, Michigan 49417. This contribution has since been reported on the campaign statements required of both committees under the provisions of the Act."

You indicate you are aware that on July 20, 1978, Attorney General Frank J. Kelley in OAG No. 5344 stated: "A separate segregated fund established by one corporation may not contribute to a separate segregated fund established by another corporation." However, you disagree with the Attorney General's interpretation and request the Department to issue a declaratory ruling which reaches a conclusion opposite to that stated by the Attorney General.

Section 55 of the Act (MCLA § 169.255) provides:

"(1) A corporation or joint stock company formed under the laws of this or another state or foreign country may make an expenditure for the establishment and administration and solicitation of contributions to a separate segregated fund to be used for political purposes. A fund established under this section shall be limited to making contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, and independent committees.

(2) Contributions for a fund established by a corporation or joint stock company under this section may be solicited from any of the following persons or their spouses:

- (a) Stockholders of the corporation.
 - (b) Officers and directors of the corporation.
 - (c) Employees of the corporation who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities.
- (3) Contributions for a fund established under this section by a corporation which is nonprofit may be solicited from any of the following persons or their spouses:
- (a) Members of the corporation who are individuals.
 - (b) Stockholders of members of the corporation.
 - (c) Officers or directors of members of the corporation.
 - (d) Employees of the members of the corporation who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities.
- (4) Contributions shall not be obtained for a fund established under this section by use of coercion, physical force, or as a condition of employment or membership or by using or threatening to use job discrimination or financial reprisals.
- (5) A person who knowingly violates this section is guilty of a felony and shall be punished by a fine of not more than \$5,000.00 or imprisoned for not more than 3 years, or both, and if the person is other than an individual, the person shall be fined not more than \$10,000.00.

You maintain a strict reading of Section 55 of the Act (MCLA § 169.255) clearly indicates a separate segregated fund is not prohibited from making a contribution to another separate segregated fund provided the recipient fund did not solicit the contribution and is an "independent committee" under the provisions of the Act. You argue the limitations found in Section 55(2) and (3) are on solicitations made by a separate segregated fund beyond the persons or spouses enumerated in the Act.

In your letter it is indicated that at no time prior to receiving the contribution did the Michigan Business Political Action Committee solicit a contribution on its behalf from the JSJ Political Action Committee. The Michigan Business Political Action Committee, in addition to being a separate segregated fund, was a fully registered and qualified "independent committee" under the provisions outlined in Section 8(2) of the Act (MCLA § 169.208) as of January 19, 1978. Therefore, you argue the JSJ Political Action Committee was clearly operating under the provisions of Section 55(1) when it made a contribution to the Michigan Business Political Action Committee.

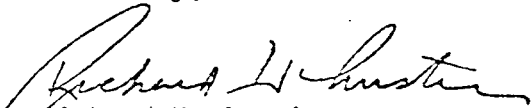
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It is your contention the Attorney General in his opinion confuses the limits on solicitation with an ability to contribute. You ask the Department to issue a declaratory ruling to the effect that as a separate segregated fund, the Michigan Business Political Action Committee was operating within the law when it accepted the unsolicited contribution of the JSJ Political Action Committee.

The Michigan Supreme Court in Traverse City School District v. Attorney General, 185 N.W. 2d 9, 384 Mich 390 (1971), stated that "Although an opinion of the Attorney General is not a binding interpretation of the law which courts must follow, it does command the allegiance of state agencies." Consequently, concerning the specific factual situation you present, the Michigan Business Political Action Committee must return the \$500 contribution to the JSJ Political Action Committee, since a separate segregated fund is prohibited from contributing to another separate segregated fund.

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

Sincerely,



Richard H. Austin
Secretary of State

RHA:pj