

MICHIGAN DEPARTMENT OF STATE
RICHARD H. AUSTIN • SECRETARY OF STATE
STATE TREASURY BUILDING



LANSING
MICHIGAN 48918

May 26, 1987

Mr. Tom Brackenrich, Chairman
Michigan Taxpayers for Good Government
Post Office Box 293
Sterling Heights, Michigan 48077

Dear Mr. Brackenrich:

This is in response to your request for an interpretation concerning the applicability of the Campaign Finance Act ("the Act"), 1976 PA 388, as amended, concerning the types of investments that may be made by campaign committees and officeholder expense funds.

You ask whether a campaign committee or an officeholder expense fund may invest in: (1) certificates of deposit, (2) bonds, (3) mutual funds, and (4) purchases of land contracts secured by real estate.

Section 21(3) of the Act (MCL 169.221) provides:

"(3) Except as provided by law, a committee shall have one account in a financial institution in this state as an official depository for the purpose of depositing all contributions which it receives...and for the purpose of making all expenditures. The committee shall designate a financial institution in this state as its official depository.*** Secondary depositories shall be used for the sole purpose of depositing contributions and promptly transferring the deposits to the committee's official depository."

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Rule 1(1)(d), 1979 AC R169.1(1)(d), states:

"(d) 'Official depository' means a bank, savings and loan association, or credit union, chartered by this state or the United States, and located and doing business in Michigan."

For purposes of section 21(3) of the Act, a financial institution is one which could qualify as an "official depository" under rule 1(1)(d).

In a declaratory ruling to Mr. John L. Damstra issued on September 2, 1977, the Department addressed the issue of investment of campaign committee funds in cer-

tificates of deposit and other interest bearing accounts. A copy of that declaratory ruling is enclosed.

In that ruling, the Department stated:

"[T]he Act in section 28(1) contemplates that a committee may receive interest on an account consisting of funds belonging to the committee. The mere transfer of funds deposited in the official depository to an interest bearing account for investment purposes is not an 'expenditure' as defined in section 6 of the Act. Thus, the Act would not preclude a transfer from the official depository account to an interest bearing account in any financial institution if the committee retains complete control of the funds at all times and full disclosure is made."

In an interpretive statement to Senator Michael O'Brien issued on May 30, 1979, the Department addressed the issue of investment of campaign committee funds and OEF funds in the stock market and commodities market. A copy of that interpretive statement is enclosed.

In the letter to Senator O'Brien, the Department stated:

"A certificate of deposit is an interest bearing account with a fixed interest rate payable at a date certain. Consequently, funds in a certificate of deposit are always in complete control of the investor, notwithstanding that a substantial interest penalty might be assessed for early withdrawal of the invested monies.

On the other hand, investment in the stock market or commodities market would involve a purchase or sale of shares, not a mere transfer of controlled funds by an investor to an interest bearing account.

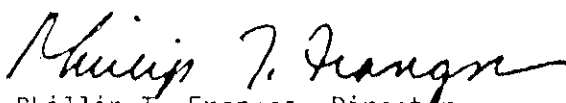
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"[T]he Act requires that committees deposit funds in an account in a financial institution."

The purchase and sale of a bond, a share in a mutual fund, or a land contract is functionally equivalent to the purchase or sale of shares on the stock market or commodities market, "not a mere transfer of controlled funds by an investor to an interest bearing account". Therefore, funds of a campaign committee or an OEF may not be invested in bonds, mutual funds or land contracts.

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

Very truly yours,



Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF:cw

Attachments