



December 28, 1979

Mr. George B. Watts
Secretary/Treasurer
Michigan State AFL-CIO
419 South Washington Avenue
Lansing, Michigan 48933

Dear Mr. Watts:

This is in response to your letter concerning applicability of the Campaign Finance Act ("the Act"), 1976 P.A. 388, as amended, to a mailing made by a labor union to its members, which included the campaign brochure of a candidate.

You state you received a notice of failure to file a postelection campaign statement following the special election involving candidate Ernest Moore who reported a \$468.00 in-kind contribution from your committee on his campaign statement. You indicate you did do a mailing for Ernest Moore including envelopes, paper and copying of letters recommending the candidacy of Mr. Moore to your members; the actual cost of the mailing was \$470.08. You also allowed Mr. Moore to place one of his campaign brochures in the envelope with your letter of recommendation.

You are of the opinion that the Michigan Campaign Finance Act, unlike the Federal Campaign Finance Act, does not require communications with one's members to be limited to materials prepared by the organization. You contend the organization may distribute a candidate's campaign materials. Consequently, you believe that Ernest Moore's report of an in-kind contribution from your committee was erroneous and that you were not required to file a postelection report under the Act.

Section 6(1) of the Act (MCLA §169.206) provides generally that "expenditure" means payment of anything of ascertainable monetary value made to influence, or to attempt to influence, an election. Included in the definition of "expenditure" is "contribution" with that term having virtually the same definition as "expenditure". "Contributions" and "expenditures" are subject to reporting under section 26 (MCLA §169.226) in the case of any committee other than a political party committee, and under section 29 (MCLA §169.229) in the case of the latter.

However, section 6(3)(b) of the Act (MCLA §169.206) provides that "expenditure" does not include an expenditure for communication by a person strictly with the person's paid members or shareholders. Disbursements falling within this exemption

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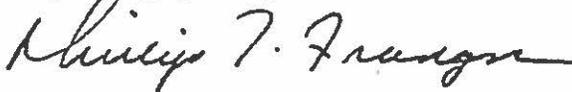
are not required to be reported pursuant to the Act.

If a membership organization or corporation is permitted to distribute literature produced by another committee without reporting an expenditure, the reporting and disclosure provisions of the Act will be rendered meaningless. For example, expenditures which are in-kind contributions to another committee may not be disclosed. Accordingly, the Department interprets section 6(3)(b) as allowing only those materials prepared by a person for communication with a person's members to be exempted from the definition of "expenditure". More specifically, disbursements for communication which fall within the exemption of section 6(3)(b) must meet the following criteria:

- (1) The material(s) must be produced at the expense of the person; and
- (2) The material(s) must constitute a communication of the views of the person and not simply the republication or reproduction of campaign materials prepared by a candidate or a candidate's committee.

Although this letter does not constitute a declaratory ruling, remedial steps consistent with this interpretive statement should be taken by your committee to assure compliance with the Act.

Very truly yours,



Phillip T. Frangos, Director
Office of Hearings & Legislation

PTF/jmp