

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

September 20, 1978

Mr. Michael W. Hutson  
Hutson, Sawyer, and Chapman  
4086 Rochester Road  
Troy, Michigan 49098

Dear Mr. Hutson:

You have requested on behalf of three candidates a ruling from the Department concerning the propriety and manner of conducting a joint fundraising event between or among the three candidates pursuant to the Campaign Finance Act, P.A. 388 of 1976, as amended ("the Act").

In addition, you pose a situation where a beneficiary of a joint fundraiser terminates his or her candidacy during or subsequent to the fundraising activity. You propose a method whereby this individual may transfer his or her portion of the fundraising proceeds to any other candidate committee(s) benefitting from the joint fundraiser, and seek the Department's interpretation as to the appropriateness of this method.

A joint fundraising event for candidates is permissible under the Act if candidates planning such an event adhere to the following guidelines.

- A. Prior to the event, an agreement between or among the candidates must be drafted in writing indicating the following information:
  1. The exact share of contributions to be assigned to each committee from contributions received from the event.
  2. The proportional share of expenditures to be delegated to each committee. The share of expenditures must be the same as the share of contributions.
  3. Designation of a joint account in a proper depository for deposit of all contributions from the joint fundraising event. This account will constitute a "secondary depository."
  4. The manner of payment for expenses attributable to the event. For example, one committee may be designated to pay all expenses for the event; subsequently, within a designated time, the paying committee will be reimbursed by the other committee(s). Alternatively, each committee may pay its proportionate share, as agreed previously, of each expense as it arises.

- B. All advertising, either before or at the event, must inform contributors of the following:
1. The event is a joint fundraiser.
  2. The names of the committees and candidates involved.
  3. The office sought by each candidate.
  4. The agreed share of each contribution to be allocated to each candidate.
  5. The manner of writing checks or other written instruments by the contributors to the event. For example, the name of each candidate receiving a contribution should appear on a written instrument.
- C. Recording and reporting of activities relating to a joint fundraiser must meet all requirements of the Act, including provisions governing the reporting of contributions and expenditures. The following must also be performed:
1. Each committee must record the name and address of each contributor as well as the portion of the contribution received from the contributor. The date of the contribution must also be recorded.
  2. Each committee must report the name and address of each contributor whose portion to the candidate committee exceeds \$20.00, including the date the contribution was made. For example, if two candidate committees agree to divide contributions equally, each committee will report information concerning its half of a contribution received from the fundraising event.
  3. If the agreement designates a committee to pay all expenses for which reimbursement will be provided at a later time by the other participating committee(s), the designated committee must itemize all expenditures over \$50.00 associated with the event. The committee must indicate the expenditure was made for a joint fundraising event. When the committee making the expenditure receives reimbursement, it must report the reimbursement as "other receipts" in connection with a joint fundraiser. If a committee is obligated to make reimbursement, it must report the total reimbursement as an expenditure. In addition, each expenditure over \$50.00 that is included within the total reimbursement must be itemized.
  4. If it is agreed in writing that each committee will pay its proportionate share as each expenditure arises, each committee shall itemize its share of the expenditure if that share exceeds \$50.00.

5. Each committee must complete a fundraiser schedule, which reports only the amounts received by each committee and not the total amount. The schedule should clearly identify the event as a joint fundraiser with the other named candidates.
6. Each committee must amend its statement of organization to reflect establishment of the secondary depository.

It should be stated that Section 44(2) of the Act (MCLA § 169.244) prohibits a candidate committee from making a contribution to another candidate committee. Consequently, it is imperative that no candidate bear a disproportionate share of the expenses for an event. Such a disproportionate share could constitute an illegal contribution to each of the participating candidate committees. Reimbursement must be made promptly within the period specified in the written agreement.

All persons making a contribution in connection with the event must make a contribution to each of the participating candidate committees in the ratio publicized to the contributors. Those individuals who chose to allocate their contributions differently may not do so in connection with the joint fundraiser. The above requirements will assure that each contributor knows exactly where his or her contribution is directed, thereby avoiding possible commingling of contributions and avoiding violation of any applicable contribution limits.

Each candidate committee must treat the gross amount of each proportionate share of a contribution as a reportable contribution and not merely the net proceeds after deducting expenses.

The previously mentioned joint bank account must meet the requirements of a secondary depository, i.e., it must be used for the sole purpose of depositing contributions with their prompt transferral to each committee's official depository pursuant to Section 21(3) of the Act (MCLA § 169.221). Expenditures may not be made from the secondary depository.

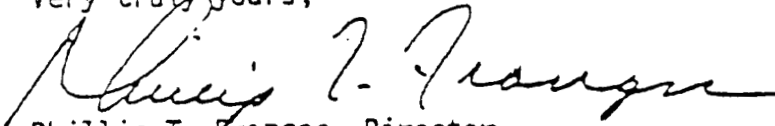
In your letter, you indicated that one of the candidates benefitting from the joint fundraiser may decide not to run for reelection after the affair or in the course of raising funds for the event. You suggest the possibility of that individual creating an officeholder expense fund, with the intention of transferring to it all funds raised by that individual's candidate committee. Subsequently, all moneys in the officeholder expense fund would be contributed, under your proposal, to the two other candidate committees.

This proposal does not meet the requirements of the statute. Employing the subterfuge of first passing the moneys through an officeholder expense fund violates the prohibition in Section 44(2) against transferring moneys from one person's candidate committee to another person's candidate committee. Funds in a terminated candidate committee's account can be transferred only as provided in Section 45 of the Act (MCLA § 169.245), i.e., they shall be given to a political party committee, or to a tax exempt charitable institution, or returned to the contributors of the moneys.

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Since your inquiry was not supported by the precise statement of facts required by Section 63 of the Michigan Administrative Procedures Act (MCLA s 24.263) which establishes the criteria for requesting the issuing a declaratory ruling, this response may be considered as informational only and not as constituting a declaratory ruling.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Phillip T. Frangos".

Phillip T. Frangos, Director  
Office of Hearings and Legislation

PTF:pk