

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



MAY 31 1979

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LANSING

MICHIGAN 48918

May 30, 1979

Honorable Michael O'Brien
Michigan State Senate
State Capitol
Lansing, Michigan 48909

Dear Senator O'Brien:

This is in response to your request for an interpretative statement regarding the Campaign Finance Act ("the Act"), P.A. 388 of 1976, as amended.

Specifically, you inquire as to the types of investments that may be made with monies in an officeholder expense fund and candidate committee. You refer to such potential investment possibilities as savings certificates of deposit, common stocks, and commodities.

In a September 2, 1977 declaratory ruling addressed to Mr. John L. Damstra, Treasurer, Kent County Republican Committee, the Department issued various guidelines for investment of a campaign committee's funds in certificates of deposit or other interest bearing accounts. A copy of that declaratory ruling is enclosed.

In that letter, the Department stated:

"Section 2(3) of the Act requires a committee to designate an account in a financial institution in this state as its official depository for the purpose of depositing all contributions which it receives and for the purposes of making all expenditures. The Act mandates that all contributions and expenditures pass through one account at the designated official depository.

"However, the 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."
(Emphasis supplied)

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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.

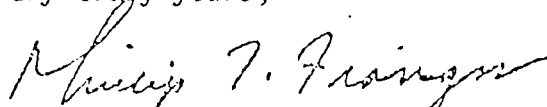
On the other hand, investment in the stock market or commodities market would involve a purchase or sale of shares, not a mere transfer of controlled funds by an investor to an interest bearing account. An investor in the stock market, for example, conceivably could make a profit either by selling at a price higher than the purchase price or by receiving large dividends on the shares. Conversely, the investor could suffer a partial or total loss depending on the vagaries of the market.

While the purchase of assets might be sound from an investment standpoint, the Act requires that committees deposit funds in an account in a financial institution. The purchase of shares or of commodities cannot be construed to be such an account.

Accordingly, monies in the officeholder expense fund or in the candidate committee account may not be invested in the stock market or commodities market but may be invested as delineated in the Damstra ruling.

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/smh
Enclosure