

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

October 4, 1984

Jack Schick
 James H. Karoub Associates
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 112 E. Allegan
 Lansing, Michigan 48933

Dear Mr. Schick:

This is in response to your request for a "formal opinion" regarding the payment of overhead expenses of fundraising events for separate segregated funds established pursuant to the Campaign Finance Act, 1976 PA 388, as amended, (the "Act").

The questions to be answered are:

- "1. Is a corporation allowed by law to underwrite an entire fundraising event for the purpose of raising political funds, i.e. printing, raffle tickets, purchasing prizes. The political action committee is a separate segregated fund.
2. If permissible, what information needs to be recorded with the State."

Historically, corporate political participation has been prohibited in Michigan. The Act made a change in that policy by permitting corporations the opportunity to establish separate segregated funds which could solicit contributions from persons designated in the Act.

Section 54 of the Act (MCL 169.254), however, maintains the prohibition on direct corporate participation in the election of candidates. Section 55 of the Act (MCL 169.255) sets forth the Act's provisions with respect to separate segregated funds. Although direct corporate contributions and expenditures in assistance of candidates are still forbidden, a corporation may utilize its funds to defray the costs of "establishment and administration and solicitation of contributions to a separate segregated fund to be used for political purposes."

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The Federal Election Commission (F.E.C.) has promulgated regulations which permit corporations with separate segregated funds to pay up to one-third of the amount raised in contributions for the costs of "raffles and entertainment" utilized in fundraising. Amounts over the one-third are paid from the proceeds of the fundraising event [11 CFR 114.5(b)(2)].

In Michigan the Act does not elaborate on the type of expenses which fall within the meaning of section 55. No rules have been promulgated which explain or refine the statutory language. In lieu of such explanatory material the general rule is that words are to be applied according to their ordinary meaning.

According to Webster's New World Dictionary, Second College Edition, Simon & Schuster 1982, "solicit" means "to ask or seek earnestly or pleadingly; to appeal to or for" Communication is the predominant element in the definition. The purchase of entertainment, premiums and raffle prizes is not included in the ordinary meaning of the term solicitation.

Section 54 continues the long standing prohibition on corporate spending in Michigan's elections of public officials. The Act clearly prohibits corporations from making a direct contribution to a committee that can in turn support a candidate. An interpretation which permits the corporation to pay for entertainment, premiums or raffle prizes as solicitation expenses would permit the corporation to make indirect contributions of corporate funds to the separate segregated fund.

It is axiomatic that a person may not do indirectly what is prohibited if done directly. Section 54 prohibits corporate spending in elections for public office. A corporation cannot build its separate segregated fund by the use of entertainment, premiums, and prizes purchased with money from the corporate treasury.

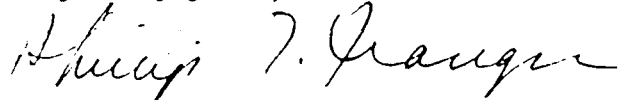
Your second question deals with how corporate payment of the costs of separate segregated fund sponsored fundraisers is to be reported under the Act. Corporate payments for establishment, solicitation and administration costs of separate segregated funds are neither contributions or expenditures by the committee and are therefore, not required to be included in reports filed under the Act. However, section 26(9)(v) does require a committee holding a fundraising event to report "the expenditures incident to the event." The instructions for reporting describe how such fundraising schedules are to be completed. Since such fundraiser expenses may not be paid with corporate funds, the committee must report its expenses in connection with a fundraiser.

You should also be aware that raffles are regulated by the State of Michigan. Information with respect to the operation of a raffle can be obtained from the Lottery Commission.

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This response is an interpretative statement of the Act's separate segregated fund solicitation provisions and is not a declaratory ruling.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw