

STATE OF MICHIGAN



CANDICE S. MILLER, Secretary of State  
MICHIGAN DEPARTMENT OF STATE  
LANSING, MICHIGAN 48918

July 27, 1998

Mr. Robert W. Stocker II  
Fraser Trebilcock Davis & Foster, P.C.  
1000 Michigan National Tower  
Lansing, Michigan 48933

Dear Mr. Stocker:

The following information constitutes the response to your request for a declaratory ruling concerning the applicability of the Michigan Campaign Finance Act (MCFA), 1976 PA 388, as amended, to a proposed settlement, less than full value, of a debt which had been personally guaranteed by a candidate for public office. You express concern that this settlement might be interpreted as a prohibited contribution to Lawrence D. Owen's current campaign for governor of the State of Michigan.

According to your request, the proposed settlement seeks to extinguish Mr. Owen's obligation to pay all but \$500,000 of a deficiency judgment entered on November 13, 1997, by a Nevada District Court. This obligation stems from Mr. Owen's guarantee of a \$2,500,000 promissory note from Mr. Owen's stepson, Marc Curtis, Steve Burnstine and Pioneer Gaming Company, Inc., to Pioneer Investment Group, which was owned by your clients. Marc Curtis, Steve Burnstine and the Pioneer Gaming Company, Inc., subsequently defaulted on payment of the Promissory Note. Prior to this default, Mr. Belding, Mr. Ensign and Mr. Richardson had become senior executives in Circus Circus Enterprises, Inc.

In its oral ruling, the District Court found that the fair market value of the foreclosed property was \$1,760,000, creating a deficiency judgment in the amount of \$1,219,599.80 as of November 13, 1997. Additional statutory interest has been accruing at the rate of \$309.6921 per day. Under the terms of the proposed settlement, the deficiency judgment would be fully settled upon payment of a single lump sum payment of \$500,000.

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Your request states, in part:

The debt has no relation to Mr. Owen's campaign for the office of Governor of the State of Michigan . . . This obligation has nothing to do with the "nomination" or the "election" of Mr. Owen to public office.

In 1980, a question regarding the settlement of debts at less than full value was presented to Secretary of State Richard H. Austin, resulting in a February 6, 1980, declaratory ruling to Mr. Steven R. Bartholomew on behalf of the McCollough-Michigan gubernatorial campaign committee. (See attachment.) McCollough-Michigan had incurred campaign debts, which remained unpaid, in connection with the 1978 primary election. The committee proposed negotiating settlements of less than full value with its creditors but was concerned that the deficiency might constitute a prohibited contribution under the MCFA. This is the same concern identified in your letter.

In the Bartholomew ruling, Secretary of State Austin declared that a negotiated settlement of less than full value could constitute a contribution. Therefore, any settlement would require the prior approval of the Department of State and would be granted only if it was shown that the settlement was not for the purpose of influencing an election. Your declaratory ruling request presents an issue of whether the benefit Mr. Owen would realize by your clients' forgiveness of a debt of more than \$1,000,000 could be construed as influencing the 1998 gubernatorial election.


While the similarities between the settlement proposals advanced by McCollough-Michigan and your clients prompted you to request a declaratory ruling, the Bartholomew ruling concerned "the settlement of outstanding campaign debts." (Emphasis added.) According to the facts you have presented, the proposed settlement between the Circus Circus executives and Mr. Owen involves a business debt that was incurred by Mr. Owen as an individual and not as a candidate. This debt could not be repaid with funds acquired by the Larry Owen for Governor committee, which is limited to making expenditures in assistance of Mr. Owen's nomination or election. Consequently, the proposed settlement of the outstanding debt is not a contribution and is not subject to provisions of the MCFA.

The question of whether the proposed settlement at less than full value would disqualify Circus Circus from obtaining a license to construct and operate a casino falls exclusively within the jurisdiction of the Michigan Gaming Control Board and the Gaming Control and Revenue Act, 1997 PA 69. There is a possibility that, during the course of its review of the Circus Circus casino license application, the Michigan Gaming Control Board may obtain disclosable information that has campaign finance implications affecting this matter.

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This response does not constitute a declaratory ruling with respect to the question raised in your ruling request and is provided for informational purposes only because this matter is not subject to the MCFA.

Sincerely,

A handwritten signature in black ink that reads "Robert T. Sacco". The signature is written in a cursive style with a large, prominent initial "R".

ROBERT T. SACCO  
Deputy Secretary of State

RTS:rlp  
enclosure