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**ROBERT S. LABRANT**

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Melissa Malerman, Director  
Disclosure, Filings and Compliance Division  
Bureau of Elections  
Michigan Department of State  
Richard H. Austin Building—1<sup>st</sup> Floor  
430 W. Allegan Street  
Lansing, MI 48918

RE: Request for Declaratory Ruling /Interpretive Statement Under MCL 169.215

Dear Ms. Malerman:

As provided for in Section 15 (1)(e) and (2) of the Michigan Campaign Finance Act (MCFA) and Rule 169.6 of the Michigan Administrative Code, I am writing to request a declaratory ruling or in the alternative an interpretive statement providing an informational response to the questions presented within the same time limitations applicable to a declaratory ruling.

**QUESTIONS PRESENTED:**

- (1) Whether a political party committee, as defined in MCL 169.211(6) may maintain an administrative fund, which may accept funding and make disbursements that fall outside the regulatory scope of the MCFA, i.e., issue ads that do not expressly advocate the nomination and election of a candidate? *See MCL 169.206 (2)(j).*
- (2) Whether such a political party committee administrative fund is a “person” for the purposes of MCL 169.211(2) and may make contributions to a ballot question committee as defined in MCL 169.202(3)?
- (3) Whether a political party committee administrative fund which receives or expends \$500.00 or more in a calendar year, for the “qualification, passage, or defeat of a ballot question,” is required to register itself as a ballot question committee as required by MCL 169.224 and file disclosure statements as required by MCL 169.234?
- (4) Whether a state central political party committee administrative fund may make disbursements to a county or district political party committee administrative fund paying or reimbursing them for ballot question petition circulation?

(5) Whether a state central, county or district political party committee administrative fund who each receives or expends \$500.00 or more in a calendar year to fund its ballot question petition circulation activities is required to register itself as a ballot question committee and file periodic disclosure statements?

(6) If political party administrative funds provide the funding for petition signature collection, under what circumstances, if any, will a political party administrative fund be allowed to avoid registering as a ballot question committee and disclosing its contributors and expenditures?

**DISCUSSION:**

Unlike “incidental expenses” by public officials found in MCL 169.209 and MCL 169.221a an “administrative fund “ of a political party committee has no statutory basis in the Michigan Campaign Finance Act (MCFA) nor has any administrative rule been promulgated by the Department of State.

Federal campaign finance regulations promulgated by the Federal Election Commission (FEC) on “administrative funds” by party committees 11 CFR Section 100.14 and 11 CFR Section 300.30 do not themselves provide any specific carve-out for the use of party committee administrative funds to fund state ballot questions.

Administrative funds of a political party have historically been used to deposit funds from corporations, labor organizations, and domestic dependent sovereigns that are prohibited under Section 54 of the Michigan Campaign Finance Act (MCFA) from contributing those funds to Michigan candidates and committees. Political party administrative funds have commonly been used to fund “issue ads” that do not expressly advocate the election or defeat of a clearly identifiable candidate. Administrative funds are routinely used to pay for certain political party expenses, i.e., building funds, rent, utilities, office supplies, transportation, and conferences as long as those expenses are not directly attributable to a clearly identified candidate.

The Department of State has issued numerous interpretative statements on administrative funds. For example:

- A party may establish a separate administrative account which is not used for making contributions or expenditures on behalf of candidates for public office. IS to David Lambert dated September 21, 1983.
- A political party engages in many activities that are outside the ambit of the Act and are not subject to the Act’s reporting or recordkeeping requirements. IS to Philip Van Dam dated October 31, 1984.

What is consistent in the numerous Department of State rulings is that if it involves a contribution or expenditure to a candidate, political party administrative funds that accept corporate or labor unions funds, prohibited by Section 54 of the MCFA, cannot be used.

However, since *First National Bank of Boston v Bellotti*, 435 U.S. 765 (1978) and subsequent court rulings, ballot questions campaigns can now accept corporate and union funds without limit.

Recent announcements by the Michigan Republican Party chairman that the party plans to launch an initiative petition drive to amend state election laws, thereby avoiding a promised gubernatorial veto, requires from the Department of State a ruling or statement spelling out the rules governing the funding of such a petition drive by political party administrative funds and in particular clarification as to the disclosure of who actually is funding the petition circulation.

#### **CONCLUSION:**

Ballot questions are a highly regulated activity under the MCFA, political party administrative funds generally fall outside the regulatory scheme of the MCFA, so it is incumbent on the Department of State in responding to these requested questions to make it abundantly clear that an “administrative fund” of a political party committee does not have any particular license to raise undisclosed contributions or make undisclosed expenditures or in-kind contributions to a ballot question committee.

When an “administrative fund” of a political party committee receives or expends \$500 or more in a calendar year for the qualification, passage, or defeat of a ballot question it must register and report itself as a ballot question committee disclosing the true identity of its contributors using an appropriate accounting system, that may include LIFO or FIFO.

Please contact me if you require anything further.

Sincerely,

*s/Robert S. LaBrant*

Robert S. LaBrant