

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

October 29, 1980

Ms. Patricia Ann Davis  
4400 Andersen  
Brighton, Michigan 48116

Dear Ms. Davis:

This is in response to your inquiry concerning the imposition of late filing fees pursuant to the Campaign Finance Act ("the Act"), 1976 PA 388, as amended.

You indicate that on May 27, 1980, you became a candidate for elective office. You then formed a candidate committee and filed a statement of organization pursuant to sections 21 and 24 of the Act. Subsequently, you were a successful participant in the August 5, 1980, primary election, although you made no expenditures in support of your candidacy.

On September 10, 1980, you received a letter from your county clerk, advising you that you had failed to file a Post-Primary Campaign Statement as required by the Act. You were assessed a late filing fee of \$60.00, or \$10.00 for each day the statement remained unfiled. You have asked whether this late filing fee may be waived, since your local filing official did not inform you that you must file a postelection statement.

Section 33 of the Act (MCL 169.233) requires candidate committees to file certain campaign statements. This section provides:

"Sec. 33. (1) A committee supporting or opposing a candidate shall file campaign statements as required by this act according to the following schedule:

(a) A preelection campaign statement shall be filed not later than the eleventh day before an election. The closing date for a campaign statement filed under this subdivision shall be the sixteenth day before the election.

(b) A postelection campaign statement shall be filed not later than the thirtieth day following the election. The closing date for a campaign statement filed under this subdivision shall be the twentieth day following the election. A committee supporting a candidate who loses the primary election shall file closing campaign statements in accordance with this section. If all liabilities of such a candidate or committee are paid before the closing date and additional contributions are not expected, the campaign statement may be filed at any time after the election, but not later than the thirtieth day following the election.

(2) A candidate committee or a committee other than a candidate committee which files a sworn statement pursuant to section 24(4) need not file a campaign statement under subsection (1)(a) unless it did receive or expend an amount in excess of \$500.00. If the committee did not receive or expend an amount in excess of \$500.00 on behalf of the campaign, the committee shall file a campaign statement under subsection (1)(b) stating that the committee did not receive or expend an amount in excess of \$500.00. If the committee receives or expends an amount in excess of \$500.00 during a period covered by a filing, the committee is then subject to the campaign filing requirements under this act.

(3) A person who fails to file a statement as required by this section shall pay a late filing fee of \$10.00 for each day the statement remains unfiled not to exceed \$300.00. A person who is in violation more than 7 days is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00, or imprisoned for not more than 90 days, or both.

(4) If a person who is subject to this section is found guilty, the circuit court of that county, on application by the attorney general or the prosecuting attorney of that county, may prohibit that person from assuming the duties of a public office or from receiving compensation from public funds, or both." (emphasis added)

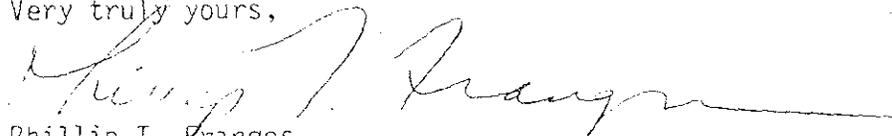
Pursuant to section 33(1)(b), a postelection campaign statement was due not later than September 4, 1980, or thirty days after the August 5th election. If you previously filed a sworn statement indicating that you did not expect to receive or expend more than \$500.00 per election, you were required under subsection (2) to file a campaign statement stating that your committee did not actually receive or expend an amount in excess of \$500.00. Otherwise, you were obligated to file a statement in conformity with the other requirements of the Act.

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Subsection (3) provides for a late filing fee of \$10.00 for each day a statement remains unfiled. The Act does not give the Department of State any authority to reduce, waive or suspend late filing fees, even if meritorious defenses are presented. Accordingly, any late filing fee assessed by your filing official cannot be waived.

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/cw