



Michigan Department of State Campaign Finance Complaint Form

BUREAU OF ELECTIONS • RICHARD H. AUSTIN BUILDING - 1st Floor
430 W. ALLEGAN STREET • LANSING, MICHIGAN 48918

RECEIVED
MICHIGAN DEPARTMENT OF STATE
2019 NOV -1 AM 9:37

This complaint form may be used to file a complaint alleging that someone violated the [Michigan Campaign Finance Act](#) (MCFA). For instructions on how to complete this form, see the Campaign Finance [Complaint Guidebook & Procedures](#) document. All spaces are required unless otherwise indicated.

Section 1. Complainant			
Your Name		Daytime Telephone Number	
L. Kip Smith		(517) 605-9837	
Mailing Address			
3130 MacArthur Rd			
City	State	Zip	
Muskegon	MI	49442	
Email (optional)			

Section 2. Alleged Violator			
Name			
District 5 Muskegon County Commissioner Zach Lahring			
Mailing Address			
990 Terrace Street (County Commissioners Office)			
City	State	Zip	
Muskegon	MI	49442	
Email (optional)			

Section 3. Allegations (Use additional sheets if more space is needed.)

Section(s) of the MCFA alleged to be violated: Use of public resources to endorse electing a Federal Candidate

Explain how those sections were violated: Commissioner Lahring displayed "Trump 2020" material (hat) in Muskegon County Commissioners meeting room during County Commissioners meeting. At no time may a public official campaign while being paid for work. County Commissioners are paid & Meetings as this are work time. Public resources, the County Building, were used to promote his endorsement of a federal Candidate. Upon Displaying materials, he violated the MCFA. Further violating MCFA when advised he may be in violation of PA 269 2015 by picking hat from display on table and placing on his head. In the video link below is record of me asking him to stop his violation by removing the campaign materials. His response was to then further display the campaign material by moving it from view on the table to view on his head.

Evidence included with the submission of the complaint that supports the allegations:

1-Photograph of "Trump 2020" material (ball cap) displayed during meeting to audience on table

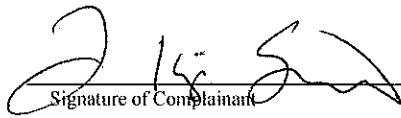
2- Video link <https://youtube.be/FenWWzVyMv8> from 7:15 to 8:20 in video, advising Commissioner Lahring of concern over display of Trump 2020 materials

3- photograph of Sept 10 meeting where Commissioner Lahring has hat (MAGA) facing away from audience at meeting, showing some discretion in his political endorsement

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X


Signature of Complainant

10/25/19

Date

Section 5. Certification without Evidence (Supplemental to Section 4)

If, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence as indicated above, you may make the following certification:

I certify that to the best of my knowledge, information, or belief, there are grounds to conclude that the following specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry. Those specific contentions are:

X

Signature of Complainant

Date

Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to \$1,000.00 and some, or all, of the expenses incurred by the Michigan Department of State and the alleged violator as a direct result of the filing of the complaint.

Section 6. Submission

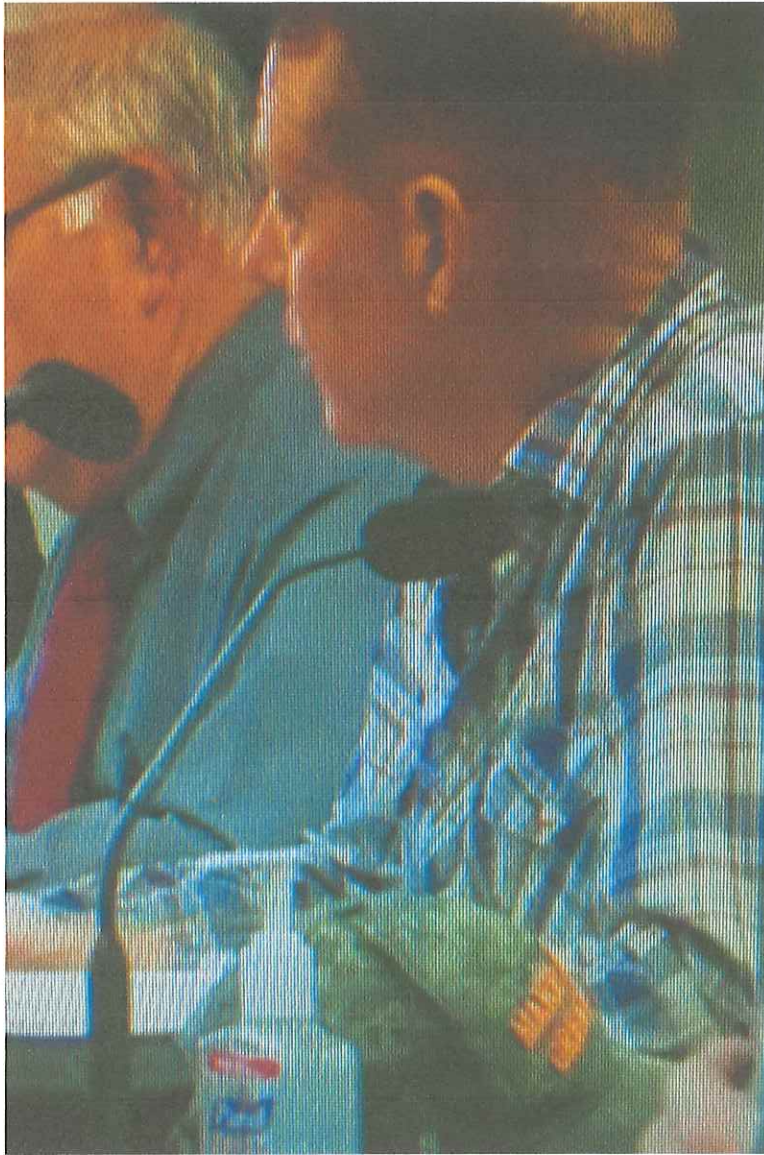
Once completed, mail or hand deliver the complaint form with your evidence to the address below. The complaint is considered filed upon receipt by the Bureau of Elections.

Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918

Muskegon County Commissioners meeting video

Relevant portion addressing violation is 7:15 to 8:20 in the video

<https://youtube.be/FenWWzVyMv8>



3

9/10/13

w/back side of hat
to public view



1

10/22/19 meeting



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 20, 2019

Commissioner Zach Lahring
990 Terrace Street
Muskegon, MI 49442

Dear Mr. Lahring:

The Department of State (Department) received a formal complaint filed by L. Kip Smith against you alleging violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* A copy of the complaint and supporting documentation is enclosed with this letter.

In Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

Mr. Smith alleges that you used public resources to make a contribution by displaying and wearing a hat reading "Trump 2020" during a county commissioner meeting.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true. The investigation and resolution of this complaint are governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq.* For more information on the investigative process, please see the enclosed manual.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your answer will be provided to Mr. Smith, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe

Commissioner Zach Lahring
November 20, 2019
Page 2

that a violation of [the MCFA] has occurred [.]” MCL 169.215(10). Note that the Department’s enforcement powers include the possibility of entering a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 57(4) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 335-3234.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi". The signature is fluid and cursive, with the first name "Adam" and last name "Fracassi" clearly distinguishable.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: L. Kip Smith



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

January 30, 2020

Commissioner Zach Lahring
900 Terrace Street
Muskegon, Michigan 49442

Via US Mail and email: lahringza@co.muskegon.mi.us

SECOND NOTICE

Dear Commissioner,


By correspondence dated November 20, 2019, the Department of State (Department) advised you of its intention to investigate a complaint filed against you by L. Kip Smith concerning an alleged violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* A copy of the Department's notice is enclosed with this letter.

The notice informed you that, pursuant to section 15(5) of the MCFA, MCL 169.215(5), the Department is reviewing whether you failed to comply with the Act. You were provided an opportunity to respond to these allegations within 15 business days of your receipt of the notice but to date, no response has been filed by you or on your behalf.

By this letter, the Department is providing you a final opportunity to submit a written response to the enclosed notice. Your response may include any documentary evidence you wish to submit and must be received by the Department on or before **February 6, 2020**. All materials must be sent to the Bureau of Elections, Michigan Department of State, Richard H. Austin Building, 430 West Allegan Street, Lansing, Michigan 48918, or via email to disclosure@michigan.gov, copy to fracassia@michigan.gov.

Failure to submit a written response to this second notice will leave the Department no alternative but to make its determination based solely on the information provided by Mr. Smith.

Sincerely,


Melissa Malerman, Director
Disclosure, Filings and Compliance Division
Bureau of Elections

Fracassi, Adam (MDOS)

From: Malerman, Melissa (MDOS)
Sent: Thursday, January 30, 2020 9:26 AM
To: lahringza@co.muskegon.mi.us
Cc: Fracassi, Adam (MDOS)
Subject: Communication from MI Dept of State
Attachments: MCFA Comp - Smith v Lahring 2nd notice.pdf

Dear Commissioner Lahring,

Please be advised that a second notice regarding the Department of State's investigation of a complaint filed against you by L. Kip Smith concerning an alleged violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.*, is attached. The attached letter serves as your final reminder of your opportunity to submit a written response to Mr. Smith's complaint.

Kindly send your response to the Bureau of Elections, Michigan Department of State, Richard H. Austin Building, 430 West Allegan Street, Lansing, Michigan 48918, or via email to disclosure@michigan.gov, copy to fracassia@michigan.gov, on or before February 6, 2020.

Sincerely,

Melissa Malerman, Director
Disclosure, Filings and Compliance Division
Bureau of Elections

Commissioner Zach Lahring

900 Terrace St
Muskegon, MI 49442
231-206-4281
Lahringza@co.muskegon.mi.us

February 4, 2020

Adam Fracassi
Bureau of Elections
Michigan Department of State
Richard H. Austin Building
430 W. Allegan
Lansing, MI 48918

Dear Mr. Fracassi,

I am writing in response to the accusation by Mr. Kip Smith alleging that I violated Campaign Finance Act MCL 169.257 in October of 2019. I did not reply to the initial letter because it was held by Muskegon County officials for over one week; thus, I received the letter too late to meet deadline.

MCL 169.204 (1) defines "Contribution" to mean "a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, for the qualification, passage, or defeat of a ballot question, or for the qualification of a new political party.

MCL 169.206 (1) defines "Expenditure" to mean "a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party. Expenditure includes, but is not limited to, any of the following:

(a) A contribution or a transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.

(b) Except as provided in subsection (2)(f) or (g), an expenditure for voter registration or get-out-the-vote activities made by a person who sponsors or finances the activity or who is identified by name with the activity.

(c) Except as provided in subsection (2)(f) or (g), an expenditure made for poll watchers, challengers, distribution of election day literature, canvassing of voters to get out the vote, or transporting voters to the polls.

(d) Except as provided in subsection (2)(c), the cost of establishing and administering a payroll deduction plan to collect and deliver a contribution to a committee.

I purchased the hat in question through a friend who is not associated with the Trump Presidential campaign, using personal funds. The hat was not purchased with the intention of volunteering for the presidential campaign or attempting to assist the reelection of President Trump during board meetings. Thus, my actions have not met the definition of "contribution" or "expenditure" cited by the applicable statute.

Furthermore, the event took place in October of last year, which was not an election year. Wearing a hat with the name of a sitting president in a non-election year should not be interpreted as assisting the nomination or election of a candidate.

In the alternative, my First Amendment Right entitles me to the freedom of political speech.

Sincerely yours,

Zach Lahring

Smith, Jessica (MDOS)

From: Lahring, Zach <LahringZa@co.muskegon.mi.us>
Sent: Wednesday, February 5, 2020 2:00 PM
To: SOS, Disclosure
Cc: Fracassi, Adam (MDOS)
Subject: Smith vs Lahring
Attachments: MCL169.257 Response.pdf

Get [Outlook for iOS](#)

RECEIVED/FILED
MICHIGAN DEPT OF STATE
120 FEB -5 PM 3:46
NOT RECORDED/SEAL

Commissioner Zach Lahring

900 Terrace St
Muskegon, MI 49442
231-206-4281

Lahringza@co.muskegon.mi.us

February 4, 2020

Adam Fracassi
Bureau of Elections
Michigan Department of State
Richard H. Austin Building
430 W. Allegan
Lansing, MI 48918

RECEIVED
MICHIGAN DEPT OF STATE
20 FEB - 5 PM 3:46
ELECTIONS/GREAT SEAL

Dear Mr. Fracassi,

I am writing in response to the accusation by Mr. Kip Smith alleging that I violated Campaign Finance Act MCL 169.257 in October of 2019. I did not reply to the initial letter because it was held by Muskegon County officials for over one week; thus, I received the letter too late to meet deadline.

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Furthermore, the event took place in October of last year, which was not an election year. Wearing a hat with the name of a sitting president in a non-election year should not be interpreted as assisting the nomination or election of a candidate.

In the alternative, my First Amendment Right entitles me to the freedom of political speech.

Sincerely yours,

Zach Lahring



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

February 25, 2020

L. Kip Smith
3130 MacArthur Road
Muskegon, MI 49442

Dear Mr. Smith:

The Department of State received a response to the complaint you filed against Zach Lahring, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Zach Lahring

L. Kip Smith
3130 MacArthur Rd
Muskegon, MI 49442

March 2, 2020

Adam Fracassi
BOE/Michigan Department of State
Richard H Austin Bldg
430 W. Allegan
Lansing, MI 48918

RECEIVED
MICHIGAN
2020 MAR -6 AM 10:10
ALLEGAN COUNTY SEAL

Mr. Fracassi,
I appreciate the opportunity to file a rebuttal in regard to Commissioner Lahring's response.

Displaying of Partisan campaign material during a County Commissioner meeting goes against the policy of the state per Public Act 31 of 2012 (*attachment "A"- P.6*); It is the policy of this state that a public body shall maintain strict neutrality in each election and a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state.

Despite this complaint, Commissioner Lahring continues his displaying of campaign materials while on duty as county commissioner of a publicly funded body by displaying his "MAGA" hat on the dais during public meetings as recently as 1/14/20 and again had the "MAGA" hat on the dais on 2/25 but during the video recorded portion of the hearing had the "MAGA" portion turned away from the audience view, to where commissioners on his side of the dais could view it. These displays of the "MAGA" hat can be observed from the video recordings of the "Muskegon Council full board" video for these dates. On March 5, 2018 the U.S Office of Special Counsel determined that displaying the Make America Great Again (MAGA) hat while in the official position of authority is a violation of the Hatch Act as this is for the purpose of affecting an election (*attachment "B"*).

I refer to previous findings of Michigan Bureau of Elections

1. Hunter v Levine – Use of a publicly funded email system to support or oppose a candidate (*attachment "C"*).
2. Woodside v Jefferies – Use of publicly funded email system to support or oppose a ballot initiative (*attachment "D"*).

In these cases, there is no cost directly related to the actual email, but there is use of the equipment/facilities to do so.

3. Lynn v. Yonker – drove a publicly funded vehicle to distribute fliers in opposition to a millage (*attachment "E"*).

In this case cost of gas is present for the vehicle used, however more importantly, the vehicle is clearly marked as being public funded, just as the Muskegon County Building is marked as a public funded building.

The facilities Commissioner Lahring used to display campaign materials is in the publicly funded courthouse, within the publicly funded Commissioners meeting room that is serviced by Publicly funded support staff necessary to be able to have Commissioner meetings all the while lighted and heated by publicly funded dollars for the utilities. Rather than sending via email his expressed advocacy for Candidate President Trump, Commissioner Lahring is presenting it directly to "Joe X Taxpayer". "Joe X Taxpayer" is the citizens of Muskegon County that come to the county funded building and the full board meetings of the County Commissioners to work on and see compromise & solutions, not

campaigns. Commissioner Lahring's advocacy is also witnessed by those that are unable to attend the meeting but view it on the recorded video of the County Commissioner Official YouTube channel. The "expenditure" used was the public resources noted above where Commissioner Lahring displayed his advocacy for the candidate.

Make America Great Again (MAGA) is copyrighted by President Trump. The Trump Make America Great Again Committee has worked with the RNC for political fundraising by selling product (hats, shirts, towels etc....) and the display of these materials could encourage others to purchase these materials. The purchase of Trump 2020 and MAGA hats goes to the campaign fund of President Trump and are considered as contribution of the Trump Make America Great Again Committee, they are contributions not purchases. Commissioner Lahring claims to have purchased his Trump 2020 hat from a friend. The hat would still come under the Candidate copyrighted material.

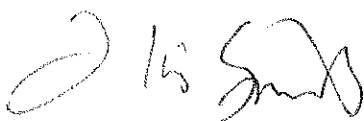
I believe MCL 169.206 (2) (j) &(b) supports that the communication Commissioner Lahring made to "Joe X Taxpayer" through display of the Trump 2020 hat and its message of "Trump 2020" is support of a candidate by name and clear inference.

To quote an opinion by Secretary of the State Candice Miller to the Honorable Michael Hanley dated Oct 29, 1999, Page 3, second paragraph..." The intentional or knowing use of public resources for political purpose is clearly unethical and repugnant to Michigan's deserved reputation for clean government... (attachment F)"

Although not part of the complaint, but for consideration as additional aggravating circumstances if a violation is found; Please consider, Commissioner Lahring did contact M-Live regarding the complaint. The posting of my workplace on social media by Commissioner Lahring, His name calling of me in M-Live, the comments made through the many shares of his Facebook attack on me, including that maybe I should be visited by people wearing Guns God and Country shirts as a remark to one of his posts (a person actually came to the church I attend wearing that shirt) and his continued display of Trump 2016 Coffee mug, Trump 2020 hat and MAGA hat.

This complaint was not meant to anger him or to become a target of harassment. I asked him politely if he would remove the campaign material from view during my public comment time noting concerns that it was illegal to display. He instead placed it on his head and used much of my public comment time staring at me (when I worked in the MDOC this was referred to as a Marquette stare, used by inmates to intimidate or harass). I would have asked any other commissioner who displayed campaign materials to remove them regardless of which candidate was displayed.

Commissioners Lahring's actions to disrupt my life, to raise the concern of my family and community, including my church, by bringing this complaint to M-Live and postings / sharing / name calling and encouraging others to react to the negative post through social media was with intent to harass and intimidate and is reprehensible for a public official.

A handwritten signature in black ink, appearing to read "L. Kip Smith". The signature is stylized with a large, loopy initial "L" and a cursive "Kip Smith".

L. Kip Smith

(d) A complainant or any other person who resides, or has a place of business, in the jurisdiction where the use or authorization of the use of public resources occurred may bring a civil action under this subsection in any county in which venue is proper. Process issued by a court in which an action is filed under this subsection may be served anywhere in this state.

(3) A person who knowingly violates this section is guilty of a misdemeanor punishable, if the person is an individual, by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both, or if the person is not an individual, by 1 of the following, whichever is greater:

(a) A fine of not more than \$20,000.00.


(b) A fine equal to the amount of the improper contribution or expenditure.

Enacting section 1. It is the policy of this state that a public body shall maintain strict neutrality in each election and that a public body or a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state. If there is a perceived ambiguity in the interpretation of section 57, that section shall be construed to best effectuate the policy of strict neutrality by a public body in an election.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved.....

.....
Governor

PAGE 6 Act NO. 31
Public Acts of 2012
EFFECTIVE DATE: 02/28/2012



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 5, 2018

Updated Guidance Regarding the Hatch Act and President Donald Trump
Now That He Is Officially a Candidate for Reelection

In February 2017, the U.S. Office of Special Counsel (OSC) issued guidance regarding the Hatch Act and President Donald Trump's status as a candidate in the 2020 Presidential election. In that guidance, OSC advised that an incumbent President is considered a "candidate" for purposes of the Hatch Act when he officially announces his candidacy for reelection. OSC also advised that once that happens, like with any other candidate, the Hatch Act prohibits federal employees from engaging in activity directed at the success or failure of the President's candidacy while they are on duty or in the workplace. Last week, President Trump announced the appointment of a campaign manager "for his reelection committee as the advanced planning for the 2020 race begins."¹ Because President Trump now has officially announced his candidacy for reelection, OSC is providing this updated guidance to federal employees.

The Hatch Act prohibits federal employees from engaging in political activity while on duty or in a federal room or building.² For purposes of the Hatch Act, political activity is defined as activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office. This prohibition is broad and encompasses more than displays or communications (including in-person and via email or social media) that expressly advocate for or against President Trump's reelection. For example, while on duty or in the workplace, employees may not: wear, display, or distribute items with the slogan "Make America Great Again" or any other materials from President Trump's 2016 or 2020 campaigns; use hashtags such as #MAGA or #ResistTrump in social media posts or other forums; or display non-official pictures of President Trump.³

For specific questions concerning social media and how it applies to communications about candidates for partisan political office, including the President, please refer to our recently issued social media guidance, which can be found [here](#).

Please contact OSC at hatchact@osc.gov or (202) 804-7002 with questions.

¹ *President Trump Announces 2020 Campaign Manager* (Feb. 27, 2018), <https://www.donaldjtrump.com/media/president-trump-announces-2020-campaign-manager/>.

² Employees also may not engage in political activity while wearing a uniform or official insignia identifying the office or employee's position, or while using a government owned or leased vehicle.

³ For further guidance, please see *OSC's Latest Guidance Regarding Pictures of President Obama in the Federal Workplace Now That He Is Officially a Candidate for Reelection* (Apr. 5, 2011), <https://osc.gov/Resources/2011-04-05%20FAQ%20Re%20Presidential%20photographs%20and%20candidacy%20for%20reelection.pdf>.

ATTACHMENT
B



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

February 12, 2019

Jonathan Levine
456 Hilldale Drive
Ann Arbor, Michigan 48105

Dear Mr. Levine:

The Department of State (Department) has concluded its investigation into the complaint filed against you by Elizabeth Hunter which alleges violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the resolution of the complaint.

Ms. Hunter filed her complaint with the Department on October 23, 2018 and alleged that you had repeatedly used your University of Michigan (University) email address to send out mass emails to University employees which advocated against voting for a specific candidate for Ann Arbor City Council. Included as an exhibit was a copy of the email sent from your Gmail account to your University email in which an unknown number of individuals were "BCC'd." Ms. Hunter also provided an email sent to University officials alerting them of the potential policy violation.

By letter dated November 9, 2018, you responded and argued that no violation had occurred because the email was sent from your Gmail account, and that you erroneously sent the email to your University account rather than your Gmail account. You further alleged that this was incidental, and an oversight and you do not use your University account to distribute political emails.

Ms. Hunter filed a rebuttal on December 4, 2018 (dated November 26, 2018). In her rebuttal, Ms. Hunter alleged that additional emails were sent using your University account. She further disputes that this was an "oversight" and states that it is still a violation of University policy. A copy of the relevant policy was provided in her rebuttal.¹

¹ The Department notes that University policy states: "Do not use university resources, including official university email lists or listservs, to campaign for or against a ballot initiative or candidate running for office or to conduct a political campaign." Available at: <https://spg.umich.edu/policy/601.07>. The Department makes no determination as to whether this email has violated University policy.

ATTACHMENT
"C"

In Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

Under the Act, "public body" is defined as 1 or more of the following:

- (a) A state agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.
- (b) The legislature or an agency, board, commission, or council in the legislative branch of state government.
- (c) A county, city, township, village, intercounty, intercity, or regional governing body; a council, school district, special district, or municipal corporation; or a board, department, commission, or council or an agency of a board, department, commission, or council.
- (d) Any other body that is created by state or local authority or is primarily funded by or through state or local authority, if the body exercises governmental or proprietary authority or performs a governmental or proprietary function.**

MCL 169.211(7) (emphasis added). The University of Michigan is a corporate body created by the Michigan Constitution and funded directly through appropriations made by the State Legislature. Mich. Const. Art. 8, §§ 4, 5. Accordingly, it is subject to the requirements of Section 57.

Upon review, there is sufficient evidence to support the conclusion that a potential violation of the MCFA has occurred. The email at issue here falls into the category of materials in which public resources are prohibited from being used in order to circulate the message. Specifically, in the email, you discuss joining the Washtenaw County Democratic Party and the party declined to endorse a specific candidate for Ann Arbor City Council. Your email then discusses an upcoming meeting and how you will appear at the meeting to "vote against endorsing this particular candidate." Your email then specifically encourages others to attend the meeting and/or join the Washtenaw County Democratic Party. This email was sent from your Gmail account to your University account.

Based on the above, the Department determines that you improperly used public resources to expressly advocate against a candidate. You used your University account to send at least one email to an unknown number of individuals that urged them to defeat a particular candidate for city council. This amounts to a violation of section 57.

Accordingly, the Department concludes that there is sufficient evidence to support the conclusion that a potential violation of the MCFA has occurred. Upon the finding of a potential violation, the Act requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods [,]" if it finds that there may be reason to believe that

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a violation has occurred, and if the Department is unable to correct or prevent additional violations, it must ask the Attorney General to prosecute if a crime has been committed. MCL 169.215(10)(a). The objective of an informal resolution is "to correct the violation or prevent a further violation [.]” *Id.*

The Department offers to resolve Ms. Hunter's complaint informally through the execution of the enclosed conciliation agreement. The agreement requires payment of a \$100 fine to the State of Michigan. The purpose of this settlement is to correct the violation, ensure taxpayers are made whole, and deter you from committing any further violations of section 57 in the future.

If you wish to enter into the conciliation agreement, please return the original signed document to this office, along with payment of the \$100 fine to the State of Michigan by March 1, 2019.

Please be advised that if the Department is unable to resolve this informally, it is required by MCL 169.215(10)-(11) to:

- 1) Refer you to the Attorney General with a request that her office prosecute you for the crime of expending public funds to make an expenditure, a misdemeanor violation of MCL 169.257(1); or
- 2) Conduct an administrative hearing to enforce the civil penalty provided in MCL 169.215(11), which provides that the Secretary of State may seek a civil fine of triple the amount outline in 169.257(4), plus up to \$1,000.00 for each violation of the Act.

If you have any questions concerning this matter, you may contact me at (517) 335-3234.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 27, 2019

Henry Nirenberg
Attorney for Conway Jeffress
Seyburn Kahn
2000 Town Center, Suite 1500
Southfield, Michigan 48075

Via Email Only

Re: *Woodside v. Jeffress*
Campaign Finance Complaint
No. 2018-10-99-57

Dear Mr. Nirenberg:

The Department of State (Department) has concluded its investigation into the complaint filed against you by Karen Woodside which alleges violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the resolution of the complaint.

Ms. Woodside filed her complaint with the Department on October 31, 2018 and alleged that your client, Dr. Conway Jeffress, improperly used Schoolcraft College property, resources, and email in order to expressly advocate for the passage of a local millage on the 2018 ballot. Specifically, Ms. Woodside alleges that certain emails sent during the standard work hours of 8:00 am – 5:00 pm expressly advocated for the passage of the millage.

The first email was sent on June 8, 2017 at 3:11 pm. The email was authored by Dr. Jeffress and was sent from his Schoolcraft email account. At the end of this email, Dr. Jeffress states, "We desperately need your support for this ballot proposal. This will benefit you personally, the students, the College, and our community."¹ The next email submitted was dated October 24, 2018 and sent on Dr. Jeffress' behalf by Karla Frentzos at 2:51 p.m. In this email, Dr. Jeffress discusses an agreement between Schoolcraft and Madonna University related to having "Madonna University as a supporter of our Nov. 6 Millage Restoration." Attached to this email is a signed

¹ There are additional emails that have been submitted with the complaint that were sent by other faculty and staff members. Because the complaint is filed against Dr. Jeffress only, the Department does not consider whether these emails or the individuals named in them constitute a violation of the MCFA.

ATTACHMENT
"D"
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agreement which states "Schoolcraft is currently seeking a millage restoration to sustain its core mission and in the spirit of cooperation Madonna will support and encourage voters to support this November ballot issue."²

By letter dated December 19, 2018, you responded to both complaints and argued that the cost of sending an email directly to all faculty and administrative staff was *de minimis* and therefore did not count as a contribution as defined by the Act. You further alleged that the emails sent did not constitute express advocacy, and that Dr. Jeffress, as a public official, is exempt from section 57.

The Department notified Ms. Woodside of her opportunity to file a rebuttal in a letter and email dated January 3, 2019. No rebuttal was filed.

In Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

Under the Act, "public body" is defined as 1 or more of the following:

- (a) A state agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of state government.
- (b) The legislature or an agency, board, commission, or council in the legislative branch of state government.
- (c) A county, city, township, village, intercounty, intercity, or regional governing body; a council, school district, special district, or municipal corporation; or a board, department, commission, or council or an agency of a board, department, commission, or council.
- (d) Any other body that is created by state or local authority or is primarily funded by or through state or local authority, if the body exercises governmental or proprietary authority or performs a governmental or proprietary function.**

MCL 169.211(7) (emphasis added). According to its website, Schoolcraft College was originally created on October 24, 1961 when "residents of Livonia, Plymouth-Canton, Carden City and Clarenceville school districts voted to establish a community college."³ Additionally,

² After the submission of the complaint, Ms. Woodside amended her complaint to provide additional evidence. You answered the complaint prior to the Department providing you the additional complaint. By email, the Department sent the amended complaint and notified both sides that the deadlines would be reset.

³ "Our History," Available at <https://www.schoolcraft.edu/about-schoolcraft/our-history>.

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Schoolcraft receives appropriations from the State of Michigan's.⁴ Therefore, it is clear that Schoolcraft college meets the definition of a public body under section 57.

From the outset, the Department notes that several allegations must be dismissed. First, all allegations that Dr. Jeffress and/or Schoolcraft have violated MCL 169.257(3) are dismissed. In 2016, section 57(3) was litigated and declared unconstitutional by the United States District Court for the Eastern District of Michigan. *Taylor v. Johnson*, Case No. 16-10256, 2016 U.S. Dist. LEXIS 14075 (E.D. Mich. Feb. 5, 2016). Under the terms of the court's order, the Department is permanently enjoined from enforcing MCL 169.257(3).

Second, Ms. Woodside makes several allegations against various faculty and staff members which allege bribery under Michigan Election Law. Section 15 of the MCFA regulates the investigation process and limits the Department's investigatory powers to purported violations of the MCFA. See MCL 169.215(5) ("[a] person may file with the secretary of state a complaint that alleges a violation of *this act* [,]") and MCL 169.215(10) (the secretary of state may "refer the matter to the attorney general for the enforcement of a criminal penalty provided by *this act*."). (Emphasis added). The campaign finance complaint process simply is not designed to resolve complaints involving purported violations of the MEL. For this reason, the Department has no alternative but to dismiss the portions of the complaints which allege violations of Michigan Election Law.

Turning to the remaining allegations, the Department determines that Dr. Jeffress improperly used public resources to expressly advocate for the passage of a ballot question. Under the MCFA, express advocacy is defined as language that specifically urges voters to "vote yes," "vote no," "elect," "defeat," "**support**," or "oppose" a ballot question or candidate, using these or equivalent words and phrases. MCL 169.206(2)(j) (emphasis added). While you allege that the emails do not contain words of express advocacy, the Department respectfully disagrees. In the email sent June 8, 2017 at 3:11 pm, Dr. Jeffress specifically uses words of express advocacy by stating "We desperately need your **support** for this ballot proposal. This will benefit you personally, the students, the College, and our community." (emphasis added). This email was sent from Dr. Jeffress Schoolcraft email during normal business hours and uses words specifically outlined under the Act. Further, the fact that emails were sent faculty wide constitutes more than a *de minimis* violation.

Additionally, you argue that Dr. Jeffress is exempt from the Act's requirement as he is an appointed policy making official. MCL 169.257(1)(a). Although Dr. Jeffress is an appointed public official who exercises policy-making responsibilities in the course of his employment, he is not entitled to use public resources to solicit a favorable vote regarding a ballot question. Section 57(1)(a) exempts "[t]he expression of views by an elected or appointed public official who has policy making responsibilities [,]" from its prohibition against the making of a contribution or expenditure using public resources. The Department has construed this provision to mean, for example, that a city council may adopt a resolution that supports or opposes a ballot

⁴ In fiscal year 2019, the college received \$13,112,900 in state aid.

<http://www.legislature.mi.gov/documents/2017-2018/publicact/pdf/2018-PA-0265.pdf>. Similar allocations were made in years prior.

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question. *Interpretive Statement to Steven Daunt, August 17, 2000.*⁵ Such action requires a vote recorded at a public meeting and entails no additional cost beyond what is ordinarily required to conduct the meeting. And with regard to the *Daunt* statement, the Department cautioned, "the use of public resources to *distribute or publicize* that resolution beyond the regular provision of factual information regarding actions taken by the city council would result in a violation of section 57." *Interpretive Statement to David Murley, October 31, 2005* (emphasis added).⁶ Under *Murley*, "sending a mass e-mail or mailing that expressly advocates support for a ballot question or candidate or urges constituents to vote for or against a candidate or ballot question would result in the use of public resources to make an expenditure." *Id.* Here, an expenditure of public funds was made to send a mass email containing your explicit request for "support" for the ballot millage. Utilizing public resources in this manner plainly violates the MCFA. MCL 169.257(1).

Accordingly, the Department concludes that there is sufficient evidence to support the conclusion that a potential violation of the MCFA has occurred. Upon the finding of a potential violation, the Act requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods [,]" if it finds that there may be reason to believe that a violation has occurred, and if the Department is unable to correct or prevent additional violations, it must ask the Attorney General to prosecute if a crime has been committed. MCL 169.215(10)(a). The objective of an informal resolution is "to correct the violation or prevent a further violation [,]" *Id.*

The Department offers to resolve Ms. Woodside's complaint informally through the execution of the enclosed conciliation agreement. The agreement requires payment of a \$100 fine to the State of Michigan. The purpose of this settlement is to correct the violation, ensure taxpayers are made whole, and deter you from committing any further violations of section 57 in the future.

If you wish to enter into the conciliation agreement, please return the original signed document to this office, along with payment of the \$100 fine to the State of Michigan by April 10, 2019.

Please be advised that if the Department is unable to resolve this informally, it is required by MCL 169.215(10)-(11) to:

- 1) Refer you to the Attorney General with a request that her office prosecute you for the crime of expending public funds to make an expenditure, a misdemeanor violation of MCL 169.257(1); or
- 2) Conduct an administrative hearing to enforce the civil penalty provided in MCL 169.215(11), which provides that the Secretary of State may seek a civil fine of triple the amount outline in 169.257(4), plus up to \$1,000.00 for each violation of the Act.

⁵ Available at http://www.michigan.gov/documents/2000_126235_7.pdf.

⁶ Available at http://www.michigan.gov/documents/sos/Murley_2005_428421_7.pdf.

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STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 19, 2019

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Re: *Lynn v. Yonker*
Campaign Finance Complaint
No. 2018-11-102-57

Dear Mr. Yonker:

This letter concerns the campaign finance complaint filed against you by Frank Lynn, which alleged certain violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257.

In his complaint, Mr. Lynn alleged that you violated section 57 of the Act by utilizing your county owned vehicle to conduct campaign-related activities. In your response, you have admitted to doing so, and in supplemental questions issued by the Department, you indicated that you have been counseled by county corporate counsel and had your vehicle taken away for approximately one month.

By letter dated March 5, 2019, the Department found that the evidence provided supported a reason to believe that a violation had occurred. As stated before, upon reaching this conclusion, the Department is required to "endeavor to correct the violation or prevent a further violation by using informal methods [.] if it finds that "there may be reason to believe that a violation ... has occurred [.] MCL 169.215(10). The objective of an informal resolution is "to correct the violation or prevent a further violation [.]" *Id.*

Accordingly, the Department offers to resolve this informally through execution of the enclosed conciliation agreement which requires you to pay a \$100 fine to the State of Michigan. **Should you wish to enter into this conciliation agreement, please return the original signed document to this office, along with the \$100 fine, by April 2, 2019.**

Please be advised that if the Department is unable to resolve this informally, it is required by MCL 169.215(10)-(11) to:

1. Refer you to the Attorney General with a request that her office prosecute him for the crime of making an improper candidate to candidate contribution, a misdemeanor violation of MCL 169.244(5); or

BUREAU OF ELECTIONS
RICHARD H. AUSTIN BUILDING • 1ST FLOOR • 430 W. ALLEGAN • LANSING, MICHIGAN 48918
www.Michigan.gov/elections • (517) 335-3234

ATTACHMENT
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Kenneth Yonker
March 19, 2019
Page 2

2. Conduct an administrative hearing to enforce the civil penalty provided in MCL 169.215(11), which provides that the Secretary of State may seek a civil fine of triple the amount outlined in 1699.257(4), plus up to \$1,000.00 for each violation of the Act.

Should you have any questions regarding this offer, please do not hesitate to contact me.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State

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2 of 2

October 29, 1999

that "The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office." Thus, even had the legislature wished to include federal offices in its definition of "elective office," it would have been prohibited from doing so.

PUBLIC RESOURCES

[The intentional or knowing use of public resources for political purposes is clearly unethical and repugnant to Michigan's deserved reputation for clean government. The mistaken or unintentional use of public resources is also cause for great concern. While Michigan is prohibited from regulating contributions or expenditures to federal candidates, it is the Department's understanding that the state does have the authority to prohibit public employees from utilizing state resources for private or political purposes.

Although this office does not claim to speak for the other departments in state government, it is aware of certain prohibitions against the use of state resources that may rest with other departments. For example, MCL 750.490 holds that "All moneys which shall come into the hands of any officer of the state, or of any officer of any county, or of any township, school district, highway district, city or village, or of any other municipal or public corporation within this state, pursuant to any provision of law authorizing such officer to receive the same, shall be denominated public moneys within the meaning of this section."

Further, the statute holds that "No officer shall, under any pretext, use or allow to be used, any such moneys for any purpose other than in accordance with the provisions of the law; nor shall he use the same for his own private use, nor loan the same to any person, firm or corporation without legal authority to do so."

MCL 15.401 et seq expressly provides that a civil servant shall not engage in political activities when the employee is compensated for the performance of his or her regular duties. The statute also prevents public employers or employees from coercing or commanding another employee to pay, lend or contribute anything of value for the benefit of a person seeking elected office.

MCL 21.46 states that "Upon demand of the auditor general [now State Treasurer] it shall be the duty of any and all offices of the state and county government to produce, for examination, the books of account and the papers of their respective departments, institutions and offices, and to truthfully answer all questions relating thereto."

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STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 9, 2020

Zach Lahring
990 Terrace Street
Muskegon, MI 49442

Re: *Smith v. Lahring*
Campaign Finance Complaint
No. 2019-10-52-57

Dear Mr. Lahring:

This letter concerns the complaint that was recently filed against you, which relates to a purported violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The Department of State has received a rebuttal statement from the complainant, a copy of which is enclosed with this letter.

Section 15(10) of the MCFA, MCL 169.215(10), requires the Department to determine within 45 business days from the receipt of the rebuttal statement whether there is a reason to believe that a violation of the Act has occurred. The complaint remains under investigation at this time.

If the Department needs more information, you may be contacted. The complaint will remain under investigation until a final determination has been made. At the conclusion of the review, all parties will receive written notice of the outcome of the complaint.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Kip Smith



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

February 26, 2021

Eric E. Doster
2145 Commons Parkway
Okemos, MI 48864

Via Email

Dear Mr. Doster,

The Department of State (Department) has concluded its investigation into the complaint filed by L. Kip Smith against your client, Muskegon County Commissioner Zach Lahring, alleging that Mr. Lahring violated sections of the Michigan Campaign Finance Act (MCFA or ACT), MCL 169.201 *et. seq.* This letter concerns the resolution of that complaint.

Mr. Smith filed his complaint with the Department of State on October 25, 2019. He alleged that, during an October 22, 2019 meeting of the Muskegon County Commissioners, Mr. Lahring displayed on his desk a hat containing with the words "Trump 2020." Mr. Smith further alleged that, at one point during the meeting, Mr. Lahring put the hat on and displayed the logo to the room. In support of these allegations, Mr. Smith supplied two photos of the hat on Mr. Lahring's desk and a video showing Mr. Lahring wearing the hat. Mr. Smith alleged that Mr. Lahring's conduct constituted a campaign statement in favor of a candidate during official duties in violation of the MCFA.

Mr. Lahring responded to these allegations in a letter dated February 4, 2020. In that letter, Mr. Lahring denied that his purchase of the hat was intended to "assist in the reelection of President Trump during the board meetings." He also noted that the events giving rise to this complaint did not occur during an election year. Mr. Lahring argued that both of these factors meant that neither the display nor the wearing of the hat constituted a contribution or an expenditure under the MCFA. In the same letter, Mr. Lahring claimed that the display and wearing of the hat was political speech protected under the First Amendment.

By letter dated March 2, 2020, Mr. Smith responded with a rebuttal to Mr. Lahring's claims. In that rebuttal, Mr. Smith argued that Mr. Lahring displayed and wore the hat in a publicly funded facility during a meeting which Muskegon County paid Mr. Lahring to attend. Mr. Smith alleged that these two factors were enough to make Mr. Lahring's conduct an impermissible use of public resources for political purpose.

The Department wrote Mr. Lahring on June 17, 2020, to request more information about (1) the number of County Commissioner meetings to which Mr. Lahring had worn an article of clothing expressly advocating for the election of Donald Trump and (2) the total dollar amount Mr. Lahring is paid for attending each meeting. On June 30, 2020, you responded on Mr. Lahring's behalf, stating that the complaint only concerned the October 22, 2019 meeting, and that Muskegon County "does not pay Mr. Lahring on a 'per meeting' basis." You also restated Mr. Lahring's argument that the neither the display nor wearing of the hat constituted an expenditure or contribution under the MCFA because neither action had the requisite "ascertainable monetary value."

In Michigan, it is unlawful for a public body or an individual acting on behalf of a public body to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). Under the Act, "public body" includes a county's governing body. MCL 169.211(7)(c). The Muskegon County Commission is such a body. The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of ascertainable monetary value made for the purpose of influencing the nomination or election of a candidate. MCL 169.204(1), 169.206(1).

The MCFA exists to "preserve the 'purity of elections' and to 'guard against abuses of the elective franchise.'" *Michigan Educ. Ass'n v Sec'y of State*, 489 Mich. 194, 202 (2011). The "clear purpose" of the MCFA "is to mandate the separation of the government from politics in order to maintain governmental neutrality in elections, preserve fair democratic processes, and prevent taxpayer funds from being used to subsidize partisan political activities." *Id.* at 202-03 (emphasis added). The 2012 revisions to the Act reiterated that "[i]t is the policy of this state that a public body shall maintain strict neutrality in each election and that a public body or a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state. If there is a perceived ambiguity in the interpretation of section 57, that section shall be construed to best effectuate the policy of strict neutrality by a public body in an election."

Upon review, the Department concludes that a potential violation of section 57 has occurred. Both Mr. Lahring's display and wearing of the hat during the October 22, 2019 meeting were contributions under MCL 169.204(1) because there is an ascertainable monetary value to both the item of clothing and the amount of time the public official is paid to attend the meeting. Any piece of clothing that bears the name of a candidate for office inherently expresses support for (or opposition to) that candidate. When such clothing is worn at a public meeting by a public official attending in his or her official capacity, the messages communicated by the official's apparel become messages communicated in the official's public capacity. Because the official is paid for work performed in their public capacity by the public body, any expression of support or opposition to a candidate made during time where the official is serving in their official capacity is a contribution regulated by the MCFA.¹ Accordingly, the Department concludes a potential violation has occurred.

¹ While Mr. Lahring contends that neither the value of displaying the hat nor the value of wearing the hat can be quantified, and thus both actions fall outside of the statutory definition of "contribution," the Secretary disagrees. There is an ascertainable monetary value that can be calculated in the cost of the hat and the specific amount of time that Mr. Lahring was paid to attend the meeting.

Eric Doster
February 26, 2021
Page 3

After reaching this conclusion, the Act requires the Department to “endeavor to correct the violation or prevent a further violation by using informal methods [.]” if it finds that “there may be reason to believe that a violation ... has occurred [.]” MCL 169.215(10). The objective of an informal resolution is “to correct the violation or prevent a further violation [.]” *Id.*

The Department recognizes that this finding represents an interpretation of the MCFA as applied to a particular set of facts that this office has not previously considered – an interpretation necessary to set an important and clear precedent that furthers and promotes the purpose of the MCFA “to mandate the separation of the government from politics.” 489 Mich. at 202-03. The Secretary is willing to consider this context when proposing an informal resolution to this complaint in accommodation in accordance with MCL 169.215(10):

If the secretary of state determines that there may be reason to believe that a violation of this act occurred, the secretary of state shall endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion, and may enter into a conciliation agreement with the person involved. Unless violated, a conciliation agreement is a complete bar to any further civil or criminal action with respect to matters covered in the conciliation agreement.

Given this, the Department, the Department concludes that a formal warning is a sufficient resolution to the complaint. To this end, this letter should also serve as notice to other public officials and bodies that, the display of materials that expressly advocate for or against a candidate or ballot question by a public official engaged in the conduct of their public duties will be considered a violation of the MCFA.²

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State

Enclosure
c: Kip Smith

² This bar does not apply to situations that are unambiguously informational displays, e.g. a name tag placed in front of a public official for identification purposes during a meeting when that public official also happens to be running for public office, so long as those displays do not communicate a message in support or in opposition to that official's candidacy.

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Friday, February 26, 2021 3:56 PM
To: Kip Smith
Subject: Smith v. Lahring - Determination
Attachments: Determination.pdf

Mr. Smith,

Please see attached. If you have any questions, let me know.

Adam Fracassi, Election Law Attorney
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Friday, February 26, 2021 3:52 PM
To: Eric Doster
Subject: Smith v. Lahring - Campaign Finance Complaint
Attachments: Determination.pdf

Eric –

Please see the attached determination. If you have any questions, please let me know.

Thanks,

Adam Fracassi, Election Law Attorney
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901