



STATE OF MICHIGAN  
RUTH JOHNSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

July 25, 2013

Howard Braun  
1995 West Bemis Road  
Saline, Michigan 48176

John W. Stanowski  
9449 Moon Road  
Saline, Michigan 48176

Dear Messrs. Braun and Stanowski:

The Department of State (Department) has concluded its investigation of the complaints filed against the Paid for by the Braun Committee to Elect John Stanowski, Brian Iott, & Dan Pichla committee (Braun Committee) and the Committee to Elect John Stanowski York Twp Supervisor (Stanowski Committee) by Joan Alexander, which alleged that the committees violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of those complaints.

Ms. Alexander filed the complaints on December 13, 2012. Mr. Stanowski filed an answer to the complaint against the Stanowski Committee on January 25, 2013, and Ms. Alexander filed a rebuttal statement on February 11, 2013. Mr. Braun filed an answer to the complaint against the Braun Committee on January 15, 2013, and Ms. Alexander filed a rebuttal statement on February 1, 2013. After its preliminary investigation, the Department requested more information from Mr. Braun by letter dated June 14, 2013. The Department received the information on July 2, 2013 and now issues this disposition letter.

After reviewing the evidence submitted, the MCFA and corresponding administrative rules require the Department to ascertain whether there may be "reason to believe that a violation of this act has occurred." MCL 169.215(10), R 169.55(3).

The Act also 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.*

Ms. Alexander alleged that the Braun Committee did not timely file its statement of organization, filed an incomplete campaign finance statement, did not timely file a campaign finance statement, printed inaccurate paid-for-by statements on signs purchased for candidates, and exceeded contribution limits with respect to the committees for candidates John Stanowski, Brian Iott, and Dan Pichla. Ms. Alexander further alleged that the Stanowski Committee accepted contributions in excess of contribution limits.

The MCFA requires a committee to file a statement of organization with 10 days after a committee is formed. MCL 169.224(1). Late fees are assessed if the statement of organization is filed late. *Id.* Failure to file a statement of organization for more than 30 days is a misdemeanor. *Id.*

By statutory definition, a committee is formed when “a person receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of a candidate . . . if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year.” MCL 169.203(4). A statement of organization must be filed within 10 days of reaching one of these \$500.00 thresholds.

The Act also requires a person to file timely campaign statements and reports. A committee which files a late report is required to pay a late filing fee. MCL 169.233(7).

Ms. Alexander alleged that the Braun Committee did not timely file its Statement of Organization or its pre-election primary campaign statement. The Department notes that the Washtenaw County Clerk is responsible for assessing and collecting a late-filing fee for any statement that is not timely filed. MCL 169.233(7). Additionally, the Washtenaw County Clerk is responsible for issuing failure to file notices. MCL 169.216(6). Late-filing fees are assessed and collected by the filing official with whom the statements are filed. MCL 169.217(1). After reviewing the Washtenaw County Clerk’s records, the Department notes that the Clerk assessed the Braun Committee a late-filing fee with respect to its pre-election general campaign statement, which was due on October 26, 2012. The Braun Committee paid the fee on November 9, 2012. Any questions regarding the assessment of any other late-filing fees should be directed to the Washtenaw County Clerk. In view of the county clerk’s authority to assess and collect late-filing fees, the Department considers the portion of the complaint regarding the late-filing of statements and any related fees resolved.

The MCFA also sets limits on contributions that may be made to local candidates. A political committee may contribute up to \$500.00 to a candidate for local office with a district population up to 85,000. MCL 169.252(1)(c). Additionally, a candidate committee shall not accept a contribution in excess of the limitations. MCL 169.252(7). A knowing violation of section 52 is a misdemeanor offense, punishable by a fine of up to \$1,000.00 for an individual, imprisonment for up to 90 days, or both. MCL 169.252(9).

Ms. Alexander alleged that the Braun Committee exceeded contribution limits to the committees for John Stanowski, Brian Iott, and Dan Pichla, and Ms. Alexander alleged that the Stanowski Committee accepted contributions in excess of the limits from the Braun Committee.

A committee must report “the total amount of expenditures made during the period covered by [a] campaign statement.” MCL 169.226(1)(b). An expenditure by a political committee could be direct, an in-kind contribution to a candidate committee, or an independent expenditure. An independent expenditure is “an expenditure by a person if the expenditure is not made at the direction of, or under the control of, another person and if the expenditure is not a contribution to a committee.” MCL 169.209(2).

Any expenditures made by the Braun Committee that were not under the direction or control of the candidates or their committees were independent expenditures and not subject to the contribution limits imposed by section 52 of the Act. Any expenditures that were in-kind contributions are subject to the contribution limits.

In an Interpretive Statement to Robert LaBrant, the Department provided guidance on independent expenditures and the meaning of “direction and control.” *Interpretive Statement to Robert S. LaBrant* (May 30, 2003, p. 4).<sup>1</sup> The Department stated that “made at the direction of another person” included a communication “that is organized, supervised, or created by a candidate committee.” The Department further stated that “under the control of another person” includes “[a] candidate committee’s ability to terminate a potential communication” or “a candidate’s ability to review a communication and either accept, reject, or modify it [.]”

The Department notes that the Braun Committee made the following expenditures in 2012:

\$212.95	June 25	Door Hangers
215.81	July 3	Postcards
1804.65	July 3	Yard Signs
123.79	July 9	Door Hangers
1020.00	July 12	Newspaper Ad
148.54	July 13	Postcards
221.15	August 6	Slate Cards
277.53	September 28	Postcards
1420.00	October 10	Newspaper Ad
420.00	November 5	Copies

The Department sought additional information from Mr. Braun regarding these expenditures in order to determine which, if any, were independent expenditures, and which, if any, were in-kind contributions. Mr. Braun responded in writing that with one exception noted below, he did not have “any conversations with any of the candidates or their committees concerning [his] decision to spend money to purchase” any of these items.

However, he did indicate that Mr. Stanowski had designed and ordered the July 3 and September 28 postcards and Mr. Braun then decided to pay for the postcards.

The Department has determined that because Mr. Stanowski created the postcards, the July 3 and September 28 expenditures were in-kind contributions. It is not possible for the Department to determine if these postcards only referenced Mr. Stanowski’s candidacy or all 3 candidates, but even if the expenditure is only attributable as an in-kind contribution to Mr. Stanowski’s committee, they fall below the \$500.00 limitation contained in section 52.

However, the Department has determined that the evidence provided tends to support a conclusion that the remainder of the expenditures were independent expenditures and not made

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<sup>1</sup> [http://www.michigan.gov/documents/2003\\_126238\\_7.pdf](http://www.michigan.gov/documents/2003_126238_7.pdf)

at the direction or control of any of the 3 candidates. Specifically, it appears to the Department that the newspaper ads discuss a personal issue of the Brauns and only end with the Brauns urging a vote for the 3 candidates. Further, Mr. Braun stated in his answer to the complaint that he personally ordered and paid for the yard signs without direction from any of the candidates, and he is the only one who conferred with the sign printer. Mr. Braun also stated that he had no conversations with any of the candidates regarding the remaining materials. No evidence has been provided to the contrary.

Because the expenditures by the Braun committee that were in-kind contributions total \$493.34, under the \$500.00 contribution limit even if the entire amount is attributable to the Stanowski Committee, the Department dismisses this portion of Ms. Alexander's complaint against the Braun Committee and dismisses Ms. Alexander's complaint against the Stanowski Committee in its entirety. Please note that the Department dismissed the other allegations in the complaint against the Stanowski Committee by letter dated December 21, 2012.

The Department does acknowledge that the Braun Committee and Stanowski Committee have made imperfect disclosures of these expenditures by listing them as in-kind contributions from the Braun Committee to the Stanowski Committee. However, the Department is satisfied that these imperfect disclosures have fulfilled the intent of the Act by giving full disclosure of the money spent on behalf of the candidates, even if disclosed on the wrong schedule. However, the Department encourages Mr. Braun to familiarize himself with the independent expenditure schedule, and it expects that any further independent expenditures made by the Braun Committee will be fully, accurately, and timely reported in the correct manner.

Ms. Alexander alleged that some of the Braun Committee's printed material failed to contain a complete or accurate paid-for-by statement.

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election to include the phrase "Paid for by [name and address of the person who paid for the item]." MCL 169.247(1), R 169.36(2). Additionally, any printed matter that is paid for by a committee other than a candidate committee must indicate that the printed matter was paid for with regulated funds. MCL 169.247(4). Finally, an independent expenditure made by a committee must also include the phrase "not authorized by any Candidate Committee." MCL 169.247(1). A knowing violation of section 47 constitutes a misdemeanor offense punishable by a fine of up to \$1,000.00, imprisonment for up to 93 days, or both. MCL 169.247(5).

Ms. Alexander alleged that campaign signs that the Committee purchased for John Stanowski, Brian Iott, and Dan Pichla each list the respective candidate's committee name and address, instead of the Braun Committee's name and address. Ms. Alexander also alleges that other printed matter paid for by the Committee does not include the Committee's address or the phrase "paid for with regulated funds." As evidence, Ms. Alexander provided pictures of the signs and copies of flyers.

Mr. Braun responded that the paid-for-by statements on the Candidates' signs were "out of [his] control [,]" and that the sign printer assured him that "they knew what needed to be placed on the signs and that they [had] never received a warning letter or complaint from the elections people."

Regardless of the assurances made by the sign printer, it was the Braun Committee's responsibility to ensure its compliance with all sections of the Act. The evidence supports the conclusion that the signs contained inaccurate paid-for-by statements because they list the respective candidate's committees instead of the Braun Committee. In addition, the evidence supports the conclusion that the flyers contained incomplete paid-for-by statements because they omit the Braun Committee's address, the phrase "paid for with regulated funds [,]" and the phrase "not authorized by any Candidate Committee [.]"

While the Department believes that the evidence tends to show that the Braun Committee's campaign material either contained inaccurate paid-for-by statements or failed to contain complete paid-for-by statements, section 15(10) of the MCFA requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion [.]"

The Department is advising Mr. Braun that section 47(1) and R 169.36(2) require Mr. Braun to print a complete and accurate identification statement on all campaign materials, consisting of the phrase "paid for with regulated funds by" followed by the full name and address of his committee. Additionally, any materials that the Braun Committee produces that are independent expenditures must also include the phrase "not authorized by any Candidate Committee." Note that all printed materials that refer to an election or a candidate produced in the future must include this identification statement.

Please be advised that this notice has served to remind Mr. Braun of his obligation under the Act to identify his printed matter, and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act. A knowing violation is a misdemeanor offense and may merit referral to the Attorney General for enforcement action. MCL 169.247(5), 215(10).

Finally, the Act also requires a person to file complete and accurate campaign statements and reports. A person who knowingly files an inaccurate or incomplete statement may be subject to a civil fine of up to \$1,000.00. MCL 169.233(10).

Ms. Alexander alleged that the Braun Committee omitted expenditures related to "photo copies of ads distributed to mailboxes in the community" on its pre-election primary campaign statement, therefore filing an inaccurate finance statement. Ms. Alexander provided copies of the flyer and stated that the flyer was distributed in July 2012.

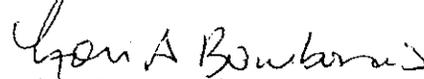
In response, Mr. Braun stated that the copies were made on his own copier with his own paper, and that Mr. Braun did not believe that the printing and distribution of the flyers gave rise to an expenditure. However, expenditure is a term of art which is generally defined, in pertinent part, to include anything of ascertainable monetary value that is used to influence or assist a candidate's nomination or election. MCL 169.206(1). The flyers urged voters to vote for the 3 candidates and had an ascertainable monetary value – the cost of the paper and ink, at a minimum.

After reviewing the evidence provided, it appears that the expenditures related to this flyer were omitted from the Braun Committee's campaign statement. The Department has determined that

this flyer was an independent expenditure, not an in-kind contribution; and, therefore, was required to be listed on the independent expenditure schedule of the Braun Committee's pre-election primary campaign statement. In order to facilitate an informal resolution, **the Braun Committee is hereby instructed to file an amended campaign statement that reports the amount of its independent expenditure for this flyer on schedule 2B-1 (copy enclosed). This amended statement must be filed with the Washtenaw County Clerk by August 16, 2013. Please provide the Department with a copy of the statement, along with a receipt from the filing official confirming that the statement has been filed.**

Once the Department receives a copy of the amended campaign statement and proof of filing, we will consider this matter closed.

Sincerely,



Lori A. Bourbonais  
Bureau of Elections  
Michigan Secretary of State

c: Joan Alexander  
Joseph Zurawski