



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

May 8, 2014

Trenton Bowens
200 East Wall Street
Benton Harbor, Michigan 49022

Wilce Cooke
1130 Salem Avenue
Benton Harbor, Michigan 49022

George Moon
818 High Point Drive
Benton Harbor, Michigan 49022

Marcus Muhammad
453 Cherry Street
Benton Harbor, Michigan 49022

Edward Pinkney
1940 Union Avenue
Benton Harbor, Michigan 49022

Gentlemen:

The Department of State (Department) has completed its investigation of the campaign finance complaint filed against you by Citizens for the Success of Benton Harbor (CSBH), concerning alleged violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of CSBH's complaint, which was filed on November 15, 2013. Each of you filed an answer with the Department, with the last filed on January 24, 2014. CSBH filed a rebuttal statement on February 12, 2014.

The registration and reporting requirements of the MCFA apply to any "committee," which is defined as "a person^[1] who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for or against . . . the qualification, passage, or defeat of a ballot question, 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).

¹ The word "person" is defined as "a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly." MCL 169.211(1).

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Under the Act, a committee is required to file a statement of organization within 10 days of its formation. MCL 169.224(1). The failure to timely file a statement of organization may result in the assessment of late filing fees or, in extreme circumstances, the filing of misdemeanor charges. *Id.* The failure to file a single campaign statement may trigger late filing fees. MCL 169.234(5). In certain circumstances, the failure to file a campaign statement may constitute a misdemeanor offense. MCL 169.234(6).

CSBH alleged that you acted together to raise money, purchase radio ads, create a television commercial, print campaign cards, purchase a newspaper ad, and purchase yards signs – all of which urged voters to “vote yes” on a November 5, 2013 ballot question regarding a city income tax. As evidence, CSBH submitted a printout of certain Defending Benton Harbor (DBH) Facebook posts which ask for contributions, state that DBH would be securing office space, state that DBH purchased radio ads regarding the city income tax, and state that DBH was working on releasing a television commercial; a copy of what appears to be a palm card or flyer which contains a list of “Businesses that will contribute”² and “VOTE YES [;]” a newspaper ad which has a list of “Some Of The Businesses That Will Contribute To the City Income Tax [.]” states “VOTE YES [;]” and contains a letter signed by Mr. Muhammad which states “Let’s save Benton Harbor and VOTE YES November 5, 2013 [;]” a copy of a picture of a yard sign which states “VOTE YES ON THE CITY INCOME TAX [;]” and a copy of a picture of a yard sign which states “VOTE YES TO SAVE BENTON HAROR CITY INCOME TAX [.]” CSBH also provided links to news report videos that were available on the internet.

In response, Mr. Bowens, Mr. Cooke, and Mr. Muhammad denied any intentional violation of the Act and each indicated that the committee had now filed with the Berrien County Clerk.³ Mr. Muhammad also provided proofs of payment for expenditures made, a copy of the Statement of Organization for the Citizens to Save Benton Harbor committee (Committee), and the Committee’s filed pre- and post-election campaign statements, which were filed with the Berrien County Clerk. Mr. Bowens is listed as the treasurer of the Committee.

Mr. Moon and Rev. Pinkney denied receiving any contributions or making expenditures related to the Committee. While it appears to the Department that Mr. Moon and Rev. Pinkney may have provided volunteer services to the Committee, no evidence has been provided to refute their statements. Furthermore, volunteer personal services do not constitute “contributions” under MCL 169.204(3). Therefore, the complaints against Mr. Moon and Rev. Pinkney are dismissed.

² It appears to the Department that this is a list of businesses that would be subject to the city income tax if the ballot question passed.

³ A ballot question committee supporting or opposing a ballot question to be voted upon in a single county files its statement of organization and campaign statements with that county clerk. MCL 169.236(2).

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In its rebuttal statement, CSBH asserts that the Committee held town hall meetings in rented rooms and that the committee passed out food at the polls. CSBH asserts that expenditures for these items have been omitted from the Committee's campaign statements. However, no evidence of these expenditures has been provided.

The Department finds that the evidence supports a conclusion that Mr. Bowens, Mr. Cooke, and Mr. Muhammad were a group of persons acting jointly who met the \$500.00 expenditure threshold to trigger the MCFA registration and reporting requirements. As such, the Committee was required to file a Statement of Organization and Pre- and Post-Election campaign statements with the Berrien County Clerk. The Committee filed its Statement of Organization and both campaign statements on December 26, 2013. The Berrien County Clerk appropriately assessed late filing fees in the amount of \$1,300.00 (\$300.00 for the late-filed Statement of Organization and \$500.00 each for late-filed pre- and post-election campaign statements). The Berrien County Clerk has confirmed that the Committee has paid the \$300.00 fee for its late-filed Statement of Organization, but \$1,000.00 remains outstanding for the belated filing of the two campaign statements.

Based on the foregoing, the Department finds that there may be reason to believe that the Committee violated the MCFA by failing to timely file its Statement of Organization and Pre- and Post-election statements. Having made this determination, the Department is required by law to attempt to resolve this matter informally. *Id.*

First, the Department acknowledges that the Committee has now filed its Statement of Organization and Pre- and Post-Election statements with the Berrien County Clerk. The Department further acknowledges that the Berrien County Clerk has assessed the Committee the statutory late filing fees, and that the Committee has paid the \$300.00 late-filing fee for its Statement of Organization. While the Committee's Pre- and Post-Election campaign statements contain imperfect disclosures, all expenditures for which the Department has evidence appear to be disclosed. Any further concerns or questions regarding these statements need to be addressed with the Berrien County Clerk.

However, the Department also notes that according to the Committee's late-filed reports, three of the expenditures made by the Committee were required to be disclosed prior to the November 5, 2013 election. Failing to timely disclose these expenditures deprived the public of any meaningful disclosure of who was behind the "vote yes" campaign prior to the election. These expenditures include \$230.00 for campaign signs, \$170.00 for the vote yes flyer, and \$308.80 for yard signs.

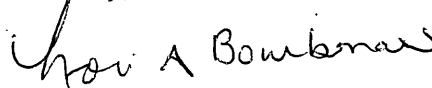
The Department offers to resolve CSBH's complaint against you through execution of the enclosed conciliation agreement, which requires that you pay the outstanding late-filing fees of \$1,000.00 to the Berrien County Clerk and a \$200.00 civil fine to the State of Michigan for failing to disclose prior to the election. **If you are inclined to execute the conciliation agreement, please return the original signed document and payment of the \$200.00 civil fine to this office on or before June 9, 2014, along with proof of payment of \$1,000.00 in late**

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filing fees to the Berrien County Clerk. Payment of the civil fine must be made by check or money order payable to the State of Michigan; please include the notation "Conciliation Agreement, Attn: Bureau of Elections" on your check or money order. Please contact the Berrien County Clerk's office for instructions on remitting late filing fees to that office.

Please be advised that if the Department is unable to resolve this complaint informally, it is required by MCL 169.215(10)-(11) to refer the matter to the Attorney General with a request that he prosecute the Committee, Mr. Bowens, Mr. Cooke, Mr. Muhammad, or all for the misdemeanor offenses of failing to file a Statement of Organization for more than 30 days and failure to file campaign statements for more than 7 days, or commence an administrative hearing to enforce the civil penalties provided by law. "If after a hearing the secretary of state determines that a violation of this act has occurred, the secretary of state may issue an order requiring the person to pay a civil fine equal to triple the amount of the improper contribution or expenditure plus not more than \$1,000.00 for each violation." MCL 169.215(11).

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State