



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

May 6, 2015

Elizabeth DeShone  
215 South Washington Square, Suite B  
Lansing, Michigan 48933

Dear Ms. DeShone:

The Department of State (Department) has completed its investigation of the complaint filed by you against Citizens to Elect Todd Courser (Committee), which alleged that the Committee violated section 44 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.244, by making a contribution to or independent expenditure in behalf of Rep. Cindy Gamrat's and Rep. Gary Glenn's candidate committees. This letter concerns the disposition of your complaint.

You filed your complaint on July 15, 2014, with supplemental information filed on July 22, 2014. The Committee filed an answer on August 22, 2014, and you filed a rebuttal statement on September 9, 2014.

In support of your complaint, you provided copies of the Statements of Organization for the Committee, Rep. Gamrat's candidate committee, and Rep. Glenn's candidate committee; and an email sent from Rep. Todd Courser.

The MCFA prohibits a candidate committee from making a contribution to or independent expenditure in behalf of another candidate committee. MCL 169.244(2). A knowing violation of section 44 is a misdemeanor punishable by a fine up to \$1,000.00, imprisonment for up to 90 days, or both. MCL 169.244(5).

In your complaint, you alleged that an email sent on July 10, 2014 by Rep. Courser, which included links to Rep. Gamrat's and Rep. Glenn's candidate websites and encouraged readers to donate to Rep. Gamrat's and Rep. Glenn's committees, gave rise to an in-kind contribution or independent expenditure in behalf of Rep. Gamrat's and Rep. Glenn's committees.

The links to the other candidates' websites were preceded by a plea from Rep. Courser to "Donate now!" because "[w]ithout [the reader] and [the reader's] financial support, we are left exposed to the attacks of those who are desperate for a bigger and more intrusive government."

In response, the Committee stated that providing a hyperlink in the email did not give rise to an expenditure. The Committee further stated that the Committee does not charge for a hyperlink in an email blast; "[t]hus providing a hyperlink within an email from [the Committee] is not an expenditure or contribution under MCFA."

For purposes of section 44, the words "contribution" and "expenditure" are terms of art that are generally defined, in pertinent part, to include anything of ascertainable monetary value that is used to influence or assist the nomination or election of a candidate. MCL 169.204(1), 169.206(1). By law, a communication is not treated as an expenditure unless it "support[s] or oppose[s] a ballot question or candidate by name or clear inference [,]" or unless it contains "express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for governor,' 'vote against,' 'defeat,' or 'reject.'" MCL 169.206(2)(b), (j).

While the July 10, 2014 email contains express advocacy because it directly solicits donations and asks for support for Rep. Gamrat and Rep. Glenn, it must also have an ascertainable monetary value for it to fall under the definition of contribution or expenditure under the Act.

No evidence has been provided of an ascertainable monetary value for the July 10, 2014 email. Mich. Admin. Rule 169.52 requires a complainant to identify all available evidentiary material.

The Department further believes that a single email is distinguishable from a mass mailing or the printing of flyers or postcards to advertise one candidate's endorsement of another. In a mass mailing of printed material, the person paying for the material usually incurs costs for design, set-up, materials, printing, and mailing fees such as postage and envelopes; none of which apply in this instance.

Under these unique circumstances, and because evidence of the ascertainable monetary value of this email is lacking, the Department does not believe the evidence supports a conclusion that the email gave rise to a contribution or independent expenditure as defined in the Act, and your complaint is dismissed.

Sincerely,



Lori A. Bourbonais

Bureau of Elections

Michigan Department of State

c: Tracy Paulus  
The Honorable Todd Courser