



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

January 17, 2017

The Honorable James Fouts
City of Warren Mayor
One City Square, Suite 215
Warren, MI 48093

Richard Sabaugh
City of Warren Public Service Director
One City Square, Suite 320
Warren, Michigan 48093

Dear Mayor Fouts and Mr. Sabaugh:

This letter concerns the complaint that was filed against Gust Ghanam by Leon Drolet, which relates to a purported violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* A copy of the complaint 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 "funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure [.]" MCL 169.257(1). A knowing violation of section 57 is a misdemeanor offense. MCL 169.257(4).

Based on the evidence provided with the complaint and the response we received on behalf of Mr. Ghanam, we are investigating whether you, the City of Warren (City), or other City employees violated the Act by using or authorizing the use of public funds to make a contribution or expenditure with respect to the Macomb Businesses United Political Action Committee's (Committee) fundraiser (Fundraiser) held on April 7, 2016.

Because Mayor Fouts appeared and gave his State of the City address during the Fundraiser and the Fundraiser was advertised on a water bill insert, it appears to the Department that you and the City authorized the use of City resources for the Fundraiser by attending or speaking at the Fundraiser, advertising the Fundraiser, and producing materials for the Fundraiser.

Please provide in writing the following information to the Department no later than February 9, 2017:

1. Indicate who authorized the design, printing, mailing, and any other distribution of the water bill insert which included the advertisement for the Mayor's State of the City address (Event) and directed readers to call the Mayor's office for information regarding the Event and the \$40.00 tickets for the Fundraiser.

The Honorable James Fouts
Richard Sabaugh
January 17, 2017
Page 2

2. Provide the amount spent on the design, printing, mailing, and any other distribution of this insert and who paid this amount.
3. Provide the number of phone calls received at the Mayor's office regarding the Event and Fundraiser.
4. Provide the number of staff or employees who answered these calls and provide the cost of staff and employee salaries and benefits for the time spent answering these calls.
5. Indicate who authorized the Warren Communications Department to gather and assemble footage to be used at the Event and Fundraiser.
6. Provide the amount spent on gathering and assembling this footage, including but not limited to staff and employee salaries and benefits for their time spent working on the footage and all City resources used.
7. Provide the number of City staff and employees who attended the Event and Fundraiser during working hours.
8. Indicate how many staff or employees assisted in selling tickets to the Event and Fundraiser or collecting contributions to the Committee during working hours.
9. Indicate who authorized the production of the program book.
10. Provide the amount spent on the design, printing, and any other cost associated with the program book and who paid this amount.
11. Indicate who authorized the production of the power point presentation used at the Event and Fundraiser.
12. Provide the amount spent on the design, production, and any other cost associated with the power point and who paid this amount.
13. Provide a detailed list of any other costs incurred by the City for the Event and Fundraiser.

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State



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

January 17, 2017

Eric Doster
Doster Law Offices, PLLC
2145 Commons Parkway
Okemos, Michigan 48864

Via email: eric@ericdoster.com

Dear Mr. Doster:

The Department of State (Department) has completed its initial investigation of the complaint filed against Gust Ghanam by Leon Drolet, which alleged certain violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of Mr. Drolet's complaint.

Mr. Drolet filed his complaint on May 25, 2016, and you filed an answer on July 15, 2016. Mr. Drolet did not file a rebuttal statement with the Department.

The MCFA requires filed campaign finance statements and reports to be complete and accurate. MCL 169.233. A treasurer who knowingly files an incomplete or inaccurate statement or report may be subject to a civil fine of up to \$1,000.00. MCL 169.233(10).

The Act prohibits a corporation from making a contribution to a committee other than a ballot question committee. MCL 169.254.¹ A knowing violation of this section is a felony, punishable by a fine of not more than \$5,000 or imprisonment. MCL 169.254(4). Additionally, Michigan Administrative Rule 169.35 prohibits the treasurer of a committee, other than a ballot question committee, from accepting a contribution written on a check from a corporate account. A person who violates this provision may be subject to a civil fine of up to \$1,000.00 per violation plus triple the amount of each improper contribution. MCL 169.215(11), (15).

Additionally, in Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of "funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure [.]" MCL 169.257(1). A knowing violation of section 57 is a misdemeanor offense. MCL 169.257(4).

¹ Under *Mich Chamber of Commerce v Land*, 725 F Supp 2d 665 (2010), the Department must allow any committee that only makes independent expenditures to accept corporate contributions. However, this ruling does not apply to independent or political committees that make direct or in-kind contributions to candidates.

Finally, 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 or conduct an administrative hearing for enforcement of a civil violation. MCL 169.215(10)(a), (b). The objective of an informal resolution is “to correct the violation or prevent a further violation [.]” *Id.*

First, Mr. Drolet alleged that Mr. Ghanam filed an incomplete or inaccurate campaign statement for the Macomb Businesses United PAC (Committee) by failing to include a fundraiser schedule with the Committee’s 2016 April Quarterly statement. Mr. Drolet alleged that the Committee held a fundraiser on April 7, 2016 in conjunction with Warren Mayor James Fouts’ State of the City address. As evidence, Mr. Drolet provided a copy of a page from the State of the City program and a copy of an ad stating that a ticket to the event cost \$40.00.

In your response to the complaint, you stated that while the Committee “completely and accurately reported all of its contributions and expenditures” on its 2016 April Quarterly Statement, a fundraiser schedule was not filed with the statement. You further stated that as soon as the omission was brought to Mr. Ghanam’s attention, the schedule was filed immediately. A review of the Department’s records indicates that Mr. Ghanam filed an Amended 2016 April Quarterly statement, including the fundraiser schedule, on July 13, 2016.

The Department notes that while a fundraising schedule² was not included with the Committee’s original 2016 April Quarterly statement, the statement itself did include all the detailed information regarding contributions received by the Committee and expenditures made by the Committee during the reporting period. Because the Committee disclosed this information in a timely manner and promptly filed an amended statement containing the fundraiser schedule, although a technical violation of section 33 occurred when the Committee failed to include the fundraiser schedule with its original 2016 April Quarterly statement, no enforcement action will be taken.

Second, Mr. Drolet alleged that Mr. Ghanam violated section 57 of the Act by using or authorizing the use of public funds for the fundraiser for the Committee. As evidence, Mr. Drolet provided a copy of a city water bill insert with an ad for the State of City Speech directing water customers to call the Mayor’s office to purchase a ticket to the event, a “TV Warren Government Channel Program Schedule” indicating times the speech was shown, and emails from city officials and employees discussing preparations for the event.

You pointed out in your response that none of the emails included as evidence were addressed to or from Mr. Ghanam, nor was he copied on any of the emails. Further, you asserted in your answer that Mr. Ghanam did not create the water bill insert, nor did he have the authority to

² The fundraiser schedule only contains a summary total of contributions received and expenditures made for a particular fundraiser.

direct or control the content of the insert. You also asserted that Mr. Ghanam does not have the authority to authorize or direct TV Warren to appear at any event.

The Department notes that many of the emails provided by the complainant discuss capturing footage of police cars, the Communications Director's schedule, and other footage³ needed for the event. It is plausible that, as you asserted, Mr. Ghanam, the Deputy Public Service Director, has no authority to direct the Warren Communications Department or Warren TV.

The Department further notes that the complainant included a link to an article in the Macomb Daily as evidence with his complaint. In that article, Mr. Ghanam denies any knowledge of the water bill insert and Richard Sabaugh, the Warren Public Service Director, admitted to being responsible for the insert. The Department further notes that readers of this ad are directed to call the Mayor's office for tickets and it lists the Mayor's phone number, not Mr. Ghanam's or the Committee's.

It appears to the Department that while it is possible that City funds may have been spent in contravention of the Act with regard to the Committee's fundraiser, no evidence has been provided that *Mr. Ghanam* used or authorized the use of those City funds. However, based on the evidence provided, the Department is asking the City to further explain the use of City funds and resources used for the Committee's fundraiser. A copy of the Department's letter to the City is enclosed for your convenience.

Third, Mr. Drolet alleged that the Committee accepted prohibited contributions from corporations or labor organizations. As evidence, Mr. Drolet provided a copy of the "Special Thank You to Today's Sponsors" page from the State of City program. Additionally, Mr. Drolet stated that the "April Quarterly Report filed by the PAC shows that a number of the sponsors and contributors are corporate entities [.]"

In your response, you asserted that "the contributors set forth on the 2016 April Quarterly Campaign Statement filed by Macomb Businesses United PAC are individuals, committees or limited liability companies with one exception." You stated that after reviewing the complaint, it was discovered that the committee did accept a contribution from NTH Consultants LTD, which is an assumed name of a corporation. You asserted that Mr. Ghanam was not aware that NTH Consultants LTD was a corporation, and upon discovery of this information he immediately refunded the contribution. You provided a copy of the refund check with your answer.

Based on your admission that the Committee accepted a contribution from a prohibited source and the Department's review of the Committee's 2016 April Quarterly statement, the Department concludes that the evidence supports a reason to believe a violation has occurred.

Upon making this determination the Department is required by law to attempt to resolve the matter informally. MCL 169.215(10). The Department offers to resolve Mr. Drolet's complaint against Mr. Ghanam informally through execution of the enclosed conciliation agreement, which requires Mr. Ghanam pay a civil fine in the amount of \$500.00.

³ Footage requested included fireworks, parks and rec, senior housing, new roads, used car lots, etc.

Eric Doster
January 17, 2017
Page 4

If Mr. Ghanam wishes to enter into the conciliation agreement, please return the original signed document to P.O. Box 20126, Lansing, Michigan 48901-0726, along with payment in full of the \$500.00 fine, on or before February 1, 2016. Payment 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 the check or money order. A copy of the conciliation agreement signed by the Secretary of State's authorized representative will be returned to you promptly.

Please be advised that if the Department is unable to resolve Mr. Drolet's complaint informally, it is required by MCL 169.215(10)-(11) to 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 of each improper contribution, plus up to \$1,000.00 for each violation of the Act.

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Leon Drolet



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

January 17, 2017

The Honorable James Fouts
City of Warren Mayor
One City Square, Suite 215
Warren, MI 48093

Richard Sabaugh
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12. Provide the amount spent on the design, production, and any other cost associated with the power point and who paid this amount.
13. Provide a detailed list of any other costs incurred by the City for the Event and Fundraiser.

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

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MICHIGAN DEPT OF STATE

2017 FEB -9 PM 3:51
ELECTIONS/GREAT SEAL

**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**

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ROBERT J. MORRIS
SCOTT M. SIERZENGA
SALVATORE D. DEBLASI
RYAN J. L. FANTUZZI **

* Also Member of Florida Bar
** Also Member of Virginia Bar

February 9, 2017

Lori Bourbonais
Michigan Department of State
430 W. Allegan St., 1st Floor
Lansing, MI 48918

By email transmission
bourbonaisl@michigan.gov

***Re: Objections and Reservations of any Objections to January 17, 2017 Letter and
Related Proceedings; Responses to January 17, 2017 Letter***

Dear Ms. Bourbonais:

This office represents the City of Warren ("Warren"), Warren Mayor James Fouts, and Warren Public Service Director Richard Sabaugh. We are in receipt of your January 17, 2017 letter directed to Warren Mayor James Fouts and Warren Public Service Director Richard Sabaugh. Your January 17, 2017 letter states in pertinent part:

"This letter concerns the complaint that was filed against Gust Ghanam by Leon Drolet, which relates to a purported violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq*...

...

Based on the evidence provided with the complaint and the response we received on behalf of Mr. Ghanam, we are investigating whether you, the City of Warren (City), or other City employees violated the Act by using or authorizing the use of public funds to make a contribution or expenditure with respect to the Macomb Businesses United Political Action Committee's ("Committee") fundraiser (Fundraiser) held on April 7, 2016."

We note that the Michigan Department of State ("Department") has no authority to issue the January 17, 2017 letter. As stated by the Department above, the January 17, 2017 letter concerns a complaint filed against Gust Ghanam by Leon Drolet. Neither the City of Warren, Mr. Fouts, nor Mr. Sabaugh, are respondents in that proceeding.

The Michigan Supreme Court has stated that "[t]he extent of the authority of the people's public agents is measured by the statute from which they derive their authority, not by their own acts and assumption of authority." *Sittler v Bd of Control of the Michigan College of Mining & Technology*, 333 Mich 681, 687 (1952) (internal quotations and citation omitted). As such, "[p]ublic officers have and can exercise only such powers as are conferred on them by law." *Id.* The Department itself recognizes its own powers to enforce campaign finance law derives from the Michigan Campaign Finance Act, MCL 169.201 *et seq* ("MCFA"). *Interpretative Statement to Michael Hanley* (October 29, 1999). Even where the MCFA significantly limits the Department, it must nevertheless enforce the MCFA as written. *Interpretative Statement to Constance Cumbey* (December 28, 1979).

The Department's authority to investigate claims is derived "under the rules promulgated under this act." MCL 169.215(9). Under the rules, the Department may only conduct an investigation into a specific person in two situations: (i) where, upon filing of a complaint, the Department may investigate the person against whom the allegations were made; or (ii) when the Department reviews a report filed under the MCFA. MI R. 169.54; 169.55. Neither circumstance is present here. Accordingly, the Department's fishing expedition is not supported by the MCFA.

Even in appropriate situations, the Department itself has recognized, time and again, that it has no power to compel or subpoena information or materials from a party. *Interpretative Statement to Norman Witte* (August 26, 2002). Thus, the Department's unauthorized January 17, 2017 letter is improper.

Accordingly, we object to the January 17, 2017 letter and any present or future proceedings in connection with the January 17, 2017 letter. However, consistent with Mayor Fouts' policy on transparency in government, and without waiving any present or future objections to the January 17, 2017 letter or any resulting action taken thereto, this letter serves as a response to your questions and the bald allegations regarding potential MCFA violations.

**MR. FOUTS, MR. SABAUGH, AND/OR THE CITY OF WARREN
DID NOT VIOLATE MCL 169.257(1)**

The January 17, 2017 letter implies Mr. Fouts, Mr. Sabaugh, and/or the City of Warren may have violated MCL 169.257(1) by allegedly using or authorizing the use of public resources to make a contribution to the Macomb Businesses United Political Action Committee ("PAC"). The investigation is based on the following alleged actions:

"Because Mayor Fouts appeared and gave his State of the City address during the Fundraiser and the Fundraiser was advertised on a water bill insert, it appears to the Department that you and the City authorized the use of City resources for the Fundraiser by attending or speaking at the Fundraiser, advertising the Fundraiser, and producing materials for the Fundraiser."

The stated actions are either inaccurate or lawful under the MCFA. As a matter of course, we note that the restrictions in MCL 169.257(1) concerning the use or authorization of public resources are very vague and only apply to “contributions” or “expenditures” under the MCFA¹. “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 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 169.204(1)(emphasis added), MCL 169.206. There is no conceivable situation in which the authorization or use of public resources in connection with preparing footage or advertising for the State of the City address would be done for the purpose of nominating a candidate or defeating a ballot proposal.

Nevertheless, as you know, MCL 169.257(1)(a) permits the use of public funds and resources in connection with speeches given by an elected official, like the Mayor of Warren for example, with policy making responsibilities. See e.g. Warren Charter §7.3. Additionally, a public body may use its resources to create and publish factual information that pertains to its official functions. MCL 169.257(1)(b)². The Department previously determined these communications are not expenditures 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.’” *Interpretive Statement to Lee Bourgoin* (October 24, 2014); See also MCL 169.206(2)(b) & (j). Otherwise known as the “express advocacy test,” communications that omit words and phrases of express advocacy generally are exempt from MCFA regulation and may be produced or disseminated by a public body without running afoul of MCL 169.257. *Id.*; see also *Interpretive Statement to David E. Murley* (October 31, 2005).

Mayor Fouts’ State of the City Address is analogous to the annual speeches given by the President of the United States and the Governor of Michigan. The address focuses on informing the public of accomplishments, policy objectives, and other pressing issues facing Warren. Even Drolet acknowledges “[t]he purpose of the address is to update the public on significant events and proposals in city government.” (Drolet Complaint, Section 3). Indeed, the 2016 State of the City speech informed the public on factual information and policies related to regulations on fireworks, dangerous weapons, senior housing, medical marijuana, zoning regulations with respect to used car lots, as well as new commercial investments within the city.

Indeed, nowhere in the State of the City address did the Mayor expressly support or advocate for donations to the PAC. Event sponsors were thanked but the Mayor did not make

¹ A federal court has already ruled MCL 169.257(3)—which contains similar language and restrictions as subsection (3)—as being unconstitutionally vague. *Taylor v Johnson*, No. 16-10256, 2016 WL 447539, at *3 (ED Mich February 5, 2016)(Holding “[p]ublic officials deserve clarity on this issue so that they may serve the public in the normal course without fear of arbitrary sanction or prosecution. Underscoring the vague nature of § 57(3) are several bills pending in the Legislature either repealing or clarifying it. See Michigan HB 5219; Michigan SB 702; Michigan SB 721”).

² As indicated in the Drolet Complaint, the State of the City speech, and information contained therein, is available to the public on the City of Warren’s official website.

any references to or solicit donations for a fundraiser hosted by the PAC such that it would constitute "express words of advocacy" under *Bourgoin*. In fact, if anything of ascertainable monetary value was transferred it was from the PAC to *Warren*, not the other way around. After all, the PAC set up the event, rented the venue, printed the programs, and provided the forum for the dissemination of factual concerning residents of the City. These were all benefits that accrued to the City, but were incurred by the PAC.

Put differently, the Department is implying that Warren's mere association with the PAC, by virtue of its sponsorship of the event, somehow creates a contribution from the City to the PAC. But the MCFA requires, and the Department has correctly noted, that a "contribution" must have ascertainable monetary value. See MCL 169.204(1). For example, an endorsement of a candidate is not a "contribution" since an endorsement has no ascertainable monetary value. See *Interpretative Statement issued to Peter Coughlin* (March 24, 1978). Similarly, the mere association of the City with the PAC does not create a contribution from the City to the PAC.

Notwithstanding this, as discussed in more detail below, Mayor Fouts and Mr. Sabaugh were acting at all times on their personal time with respect to the fundraiser. Such activities are permitted under the MCFA and are not subject to MCL 169.257(1). See MCL 169.257(1)(f)³. But even if they had not been, the use of city resources in connection with this type of dissemination of factual information by Mayor Fouts is expressly permitted by MCL 169.257(1)(a)-(b). As a matter of law, any public resources expended would not violate MCL 169.257(1) given the nature and purpose of the State of the City speech. Like Mr. Ghanam stated in his Response, there were no city resources used to benefit the PAC—the only resources used, if at all, were done to produce and disseminate factual information concerning city issues relevant to the function of Warren's government.

ANSWERS TO QUESTIONS STATED IN YOUR JANUARY 17, 2017 LETTER

That said, subject to our previous objections, the following answers to the specific questions raised in your January 17, 2016 letter confirm this conclusion:

"1. Indicate who authorized the design, mailing, and any other distribution of the water bill insert which included the advertisement for the Mayor's State of the City address (Event) and directed readers to call the Mayor's office for information regarding the Event and the \$40.00 tickets for the Fundraiser."

RESPONSE: Richard Sabaugh, City of Warren Public Service Director. No other person had any knowledge of this water bill insert.

"2. Provide the amount spent on the design, printing, mailing, and any other distributions of this insert and who paid this amount."

³ "An elected or appointed public official or an employee of a public body who, when not acting for a public body but is on his or her own personal time, is expressing his or her own personal views, is expending his or her own personal funds, or is providing his or her own personal volunteer services."

RESPONSE: \$47.98, and this amount was paid by the City of Warren.

"3. Provide the number of phone calls received at the Mayor's office regarding the Event and Fundraiser."

RESPONSE: The Mayor's staff does not recall any such calls.

"4. Provide the number of staff or employees who answered these calls and provide the cost of staff and employee salaries and benefits for the time spent answering these calls."

RESPONSE: Not applicable; see Response to Question No. 3.

"5. Indicate who authorized the Warren Communications Department to gather and assemble footage to be used at the Event and Fundraiser."

RESPONSE: City of Warren Public Service Director Richard Sabaugh, alone, provided such authorization for use in connection with the State of the City speech itself as he has for the past eight years (on his own time).

"6. Provide the amount spent on gathering and assembling this footage, including but not limited to staff and employee salaries and benefits for their time spent working on the footage and all City resources used."

RESPONSE: In furtherance of the express authorizations stated in MCL 169.257(1)(a)-(b), these materials were compiled assist in preparing relevant materials concerning the information provided in the State of the City address. Still, notwithstanding the foregoing, attached as Exhibit A are the costs that were incurred in connection with the State of the City speech.

"7. Provide the number of City staff and employees who attended the Event and Fundraiser during working hours."

RESPONSE: Any City staff who attended the Event and Fundraiser attended on their lunch break and/or otherwise not on city time.

"8. Indicate how many staff or employees assisted in selling tickets to the Event and Fundraiser or collecting contributions to the Committee during working hours."

RESPONSE: None.

"9. Indicate who authorized the production of the program book."

RESPONSE: The City of Warren, Mayor Fouts, and Mr. Sabaugh had no involvement with the production of a program book. MBU- PAC provided the booklet.

“10. Provide the amount spent on the design, printing, and other cost associated with the program book and who paid this amount.”

RESPONSE: See Response to Question 9.

“11. Indicate who authorized the production of the power point presentation used at the Event and Fundraiser.”

RESPONSE: Acting as a volunteer only and not on behalf of the City of Warren or using any City of Warren resources, Richard Sabaugh produced the power point presentation used to disseminate factual information contained in the State of the City speech concerning issues facing Warren. After the materials were gathered, the power point was completed by Mr. Sabaugh on his own time without the Mayor’s knowledge.

“12. Provide the amount spent on the design, production, and any other cost associated with the power point and who paid this amount.”

RESPONSE: See Response to Question 11.

“13. Provide a detailed list of any other costs incurred by the City for the Event and Fundraiser.”

RESPONSE: None.

Thank you for your consideration of our comments in this matter. Please do not hesitate to contact me should you have any questions or require additional information.

Very truly yours,

**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**

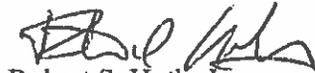

Robert S. Huth, Jr.

Exhibit A

Communications Department Time Spent on 2016 State of the City

NOTE: Most of the videos were previously taped for previous TV Warren reports, not for the 2016 State of the City so it was a matter of finding the video to download. Also, most of the still photos are also on file and just needed to be downloaded.

1.	City Square/Tech Center (Drone)	.5 hr. x \$18 =	\$ 9.00
2.	Trailer parks (GoPro)	15 min x \$18 =	4.50
3.	New Roads (can be drone or GoPro)	15 min x \$18 =	4.50
4.	Used Car Lots (Past Files)	15 min x \$18 =	4.50
5.	State of the City 2016 Animated Open	1 hour x \$24 =	24.00
6.	City with a Heart video (Videos)	3 hours x \$24 =	72.00
7.	Tech Center (Video)	(see above #1)	
8.	Senior Housing (Past Files)	.5 hr x \$18 =	9.00
9.	Flamethrowers (Video)	15 min x \$18 =	4.50
10.	Fireworks (Video)	10 min x \$12 =	2.00
11.	2015 Events Video (Video)	.5 x \$24 =	12.00
12.	LED Street Lights (Past Files)	10 min x \$ 31.13 =	5.19
13.	Parks & Rec. Smart Busses (Past Files)	10 min x \$12 =	2.00
14.	Five Individuals worked the 2016 State of the City	4.5 hrs x \$18	405.00

*Kevin does not go out to get video, he would have found it in our files and transferred it to the folder.

Tracey Perry hours: 2.5 hrs. x \$40.69 = 101.73

Not sure if Alex Nelson rode along with someone from the Police Department to obtain shots of police cars on the road, but if he did, it would have been a 3 hour project:

3 hours x \$ 18 = 54.00

Total Cost: \$713.92

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2017 FEB -9 PH 3:51
ELECTIONS/GREAT SEAL



February 9, 2017

Ms. Lori Bourbonais
Michigan Department of State
430 W. Allegan St. – 1st Floor
Lansing, Michigan 48918

DEPARTMENT OF PUBLIC SERVICE
ONE CITY SQUARE, SUITE 320
WARREN, MI 48093-5284
(586) 574-4604
FAX (586) 574-4517
www.cityofwarren.org

Dear Ms. Bourbonais:

Robert S. Huth, Jr. of Kirk, Huth, Lange and Badalamenti, PCC has responded to the 13 questions asked by you in your January 17, 2017 letter to Warren Mayor Jim Fouts and me regarding a purported violation of the Michigan Campaign Finance Act.

This letter goes into more detail that I hope you will consider while making a decision on this matter.

For eight years (2008-2016), I have worked on the Mayor's Annual State of the City Address sponsored by the local Chamber of Commerce.

Each year, it becomes "routine" for me to work on this Address with Communication Department employees. The time I spent on this Address has always been on my personal time (evenings and weekends).

When the sponsorship of the event changed from the Chamber of Commerce to Michigan Businesses United PAC in 2016, I continued my "routine." Not once did it occur to me to advise Communications Department employees the sponsorship had changed because of the "routine," and repetitive nature of the work. In some ways, it became so "routine" that I forgot about the change and was almost on "automatic pilot" when it came to my work and Communications Department employees' work on the Address.

It was not my intention to violate any provision of the Michigan Campaign Finance Act.

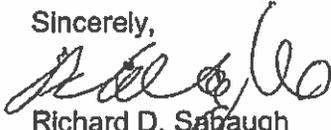
In retrospect, I should have advised Communications Department employees of the sponsorship change. (None of them were aware of it.)

I wanted you to know these facts while making any decision on this matter.

To avoid a situation like this in the future, I am recommending to Mayor Fouts that no political action committee sponsor any city event.

Thank you for reading this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Sabaugh". The signature is fluid and cursive, with a large loop at the end.

Richard D. Sabaugh
Director, Department of Public Service



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

January 17, 2017

Eric Doster
Doster Law Offices, PLLC
2145 Commons Parkway
Okemos, Michigan 48864

Via email: eric@ericdoster.com

Dear Mr. Doster:

The Department of State (Department) has completed its initial investigation of the complaint filed against Gust Ghanam by Leon Drolet, which alleged certain violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of Mr. Drolet's complaint.

Mr. Drolet filed his complaint on May 25, 2016, and you filed an answer on July 15, 2016. Mr. Drolet did not file a rebuttal statement with the Department.

The MCFA requires filed campaign finance statements and reports to be complete and accurate. MCL 169.233. A treasurer who knowingly files an incomplete or inaccurate statement or report may be subject to a civil fine of up to \$1,000.00. MCL 169.233(10).

The Act prohibits a corporation from making a contribution to a committee other than a ballot question committee. MCL 169.254.¹ A knowing violation of this section is a felony, punishable by a fine of not more than \$5,000 or imprisonment. MCL 169.254(4). Additionally, Michigan Administrative Rule 169.35 prohibits the treasurer of a committee, other than a ballot question committee, from accepting a contribution written on a check from a corporate account. A person who violates this provision may be subject to a civil fine of up to \$1,000.00 per violation plus triple the amount of each improper contribution. MCL 169.215(11), (15).

Additionally, in Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of "funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure [.]" MCL 169.257(1). A knowing violation of section 57 is a misdemeanor offense. MCL 169.257(4).

¹ Under *Mich Chamber of Commerce v Land*, 725 F Supp 2d 665 (2010), the Department must allow any committee that only makes independent expenditures to accept corporate contributions. However, this ruling does not apply to independent or political committees that make direct or in-kind contributions to candidates.

Finally, 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 or conduct an administrative hearing for enforcement of a civil violation. MCL 169.215(10)(a), (b). The objective of an informal resolution is “to correct the violation or prevent a further violation [.]” *Id.*

First, Mr. Drolet alleged that Mr. Ghanam filed an incomplete or inaccurate campaign statement for the Macomb Businesses United PAC (Committee) by failing to include a fundraiser schedule with the Committee’s 2016 April Quarterly statement. Mr. Drolet alleged that the Committee held a fundraiser on April 7, 2016 in conjunction with Warren Mayor James Fouts’ State of the City address. As evidence, Mr. Drolet provided a copy of a page from the State of the City program and a copy of an ad stating that a ticket to the event cost \$40.00.

In your response to the complaint, you stated that while the Committee “completely and accurately reported all of its contributions and expenditures” on its 2016 April Quarterly Statement, a fundraiser schedule was not filed with the statement. You further stated that as soon as the omission was brought to Mr. Ghanam’s attention, the schedule was filed immediately. A review of the Department’s records indicates that Mr. Ghanam filed an Amended 2016 April Quarterly statement, including the fundraiser schedule, on July 13, 2016.

The Department notes that while a fundraising schedule² was not included with the Committee’s original 2016 April Quarterly statement, the statement itself did include all the detailed information regarding contributions received by the Committee and expenditures made by the Committee during the reporting period. Because the Committee disclosed this information in a timely manner and promptly filed an amended statement containing the fundraiser schedule, although a technical violation of section 33 occurred when the Committee failed to include the fundraiser schedule with its original 2016 April Quarterly statement, no enforcement action will be taken.

Second, Mr. Drolet alleged that Mr. Ghanam violated section 57 of the Act by using or authorizing the use of public funds for the fundraiser for the Committee. As evidence, Mr. Drolet provided a copy of a city water bill insert with an ad for the State of City Speech directing water customers to call the Mayor’s office to purchase a ticket to the event, a “TV Warren Government Channel Program Schedule” indicating times the speech was shown, and emails from city officials and employees discussing preparations for the event.

You pointed out in your response that none of the emails included as evidence were addressed to or from Mr. Ghanam, nor was he copied on any of the emails. Further, you asserted in your answer that Mr. Ghanam did not create the water bill insert, nor did he have the authority to

² The fundraiser schedule only contains a summary total of contributions received and expenditures made for a particular fundraiser.

direct or control the content of the insert. You also asserted that Mr. Ghanam does not have the authority to authorize or direct TV Warren to appear at any event.

The Department notes that many of the emails provided by the complainant discuss capturing footage of police cars, the Communications Director's schedule, and other footage³ needed for the event. It is plausible that, as you asserted, Mr. Ghanam, the Deputy Public Service Director, has no authority to direct the Warren Communications Department or Warren TV.

The Department further notes that the complainant included a link to an article in the Macomb Daily as evidence with his complaint. In that article, Mr. Ghanam denies any knowledge of the water bill insert and Richard Sabaugh, the Warren Public Service Director, admitted to being responsible for the insert. The Department further notes that readers of this ad are directed to call the Mayor's office for tickets and it lists the Mayor's phone number, not Mr. Ghanam's or the Committee's.

It appears to the Department that while it is possible that City funds may have been spent in contravention of the Act with regard to the Committee's fundraiser, no evidence has been provided that *Mr. Ghanam* used or authorized the use of those City funds. However, based on the evidence provided, the Department is asking the City to further explain the use of City funds and resources used for the Committee's fundraiser. A copy of the Department's letter to the City is enclosed for your convenience.

Third, Mr. Drolet alleged that the Committee accepted prohibited contributions from corporations or labor organizations. As evidence, Mr. Drolet provided a copy of the "Special Thank You to Today's Sponsors" page from the State of City program. Additionally, Mr. Drolet stated that the "April Quarterly Report filed by the PAC shows that a number of the sponsors and contributors are corporate entities [.]"

In your response, you asserted that "the contributors set forth on the 2016 April Quarterly Campaign Statement filed by Macomb Businesses United PAC are individuals, committees or limited liability companies with one exception." You stated that after reviewing the complaint, it was discovered that the committee did accept a contribution from NTH Consultants LTD, which is an assumed name of a corporation. You asserted that Mr. Ghanam was not aware that NTH Consultants LTD was a corporation, and upon discovery of this information he immediately refunded the contribution. You provided a copy of the refund check with your answer.

Based on your admission that the Committee accepted a contribution from a prohibited source and the Department's review of the Committee's 2016 April Quarterly statement, the Department concludes that the evidence supports a reason to believe a violation has occurred.

Upon making this determination the Department is required by law to attempt to resolve the matter informally. MCL 169.215(10). The Department offers to resolve Mr. Drolet's complaint against Mr. Ghanam informally through execution of the enclosed conciliation agreement, which requires Mr. Ghanam pay a civil fine in the amount of \$500.00.

³ Footage requested included fireworks, parks and rec, senior housing, new roads, used car lots, etc.

If Mr. Ghanam wishes to enter into the conciliation agreement, please return the original signed document to P.O. Box 20126, Lansing, Michigan 48901-0726, along with payment in full of the \$500.00 fine, on or before February 1, 2016. Payment 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 the check or money order. A copy of the conciliation agreement signed by the Secretary of State's authorized representative will be returned to you promptly.

Please be advised that if the Department is unable to resolve Mr. Drolet's complaint informally, it is required by MCL 169.215(10)-(11) to 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 of each improper contribution, plus up to \$1,000.00 for each violation of the Act.

Sincerely,

A handwritten signature in blue ink that reads "Lori A Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Leon Drolet



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

July 20, 2018

Robert S. Huth, Jr.
Kirk, Huth, Lange, & Badalamenti, PLC
19500 Hall Road
Suite 100
Clinton Township, Michigan 48038

Dear Mr. Huth:

The Department of State (Department) has concluded its investigation into the City of Warren, Mayor James Fouts and Public Services Director Richard Sabaugh, which examined whether city resources were improperly used in violation of section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257 by advertising and promoting a fundraising event sponsored by a Political Action Committee in which Mayor Fouts gave his 2016 State of the City address. This letter concerns the disposition of the investigation.

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 Department has carefully considered the written statements and supporting documentation and has determined that the evidence submitted meets this evidentiary standard. Upon a finding that there may be "reason to believe that a violation of this act has occurred[.]" the Department is required by law to "endeavor to correct the violation or prevent a further violation by using informal methods." MCL 169.215(10).

The MCFA prohibits a public body or an individual acting on its behalf from "us[ing] or authoriz[ing] the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure." MCL 169.257(1).

By letter dated January 17, 2017, the Department sent questions to Mayor Fouts and Director Sabaugh. On their behalf, you submitted a response on February 9, 2017. In the response, you indicated that city funds had been improperly used, and the total was calculated to be \$713.92.

Based upon your responses, the Department finds that the evidence supports a conclusion that city funds were improperly used to advertise and promote a PAC fundraising event. The evidence shows that Sabaugh authorized the design, mailing, and distribution of the water bill insert which directed readers to call the Mayor's office for information regarding the event and charged \$40.00 per ticket to attend the State of the City/Fundraiser. Second, the city spent approximately \$47.98 on the design, printing, and mailing of the insert. Third, Sabaugh authorized the communications department to assemble footage which was used at the fundraiser

which totaled approximately \$713.90. In total, it appears that approximately \$761.90 of city funds was spent to advertise, market, promote, and staff the PAC fundraiser.

Having made this determination, the Department must now “endeavor to correct the violation or prevent a further violation by using informal methods.” MCL 169.215(10). The Department offers to resolve this through execution of the enclosed conciliation agreement, which requires that the \$713.92 in improper expenditures be reimbursed to the City of Warren by August 3, 2018. The purpose of this settlement is to correct the violation and deter the city from committing any further violations of section 57 in the future. (These funds may be raised through a MCFA committee or from a person’s personal funds, or both.)

If your client wishes to enter into the conciliation agreement, please return the original signed document to this office, along with proof of reimbursement of \$761.90 to the City of Warren by August 10, 2018.

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 Mayor Fouts and Director Sabaugh to the Attorney General with a request that his office prosecute it 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 of each improper expenditure, plus up to \$1,000.00 for each violation of the Act.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State

Enclosure



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

July 20, 2018

Eric Doster
Doster Law Offices, PLLC
2145 Commons Parkway
Okemos, Michigan 48864

Via email: eric@ericdoster.com

Dear Mr. Doster:

The Department of State (Department) has completed its investigation of the complaint filed against Gust Ghanam by Leon Drolet, which alleged certain violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of Mr. Drolet's complaint.

Mr. Drolet filed his complaint on May 25, 2016, and you filed an answer on July 15, 2016. Mr. Drolet did not file a rebuttal statement with the Department.

The MCFA requires filed campaign finance statements and reports to be complete and accurate. MCL 169.233. A treasurer who knowingly files an incomplete or inaccurate statement or report may be subject to a civil fine of up to \$1,000.00. MCL 169.233(10).

The Act prohibits a corporation from making a contribution to a committee other than a ballot question committee. MCL 169.254.¹ A knowing violation of this section is a felony, punishable by a fine of not more than \$5,000 or imprisonment. MCL 169.254(4). Additionally, Michigan Administrative Rule 169.35 prohibits the treasurer of a committee, other than a ballot question committee, from accepting a contribution written on a check from a corporate account. A person who violates this provision may be subject to a civil fine of up to \$1,000.00 per violation plus triple the amount of each improper contribution. MCL 169.215(11), (15).

Additionally, in Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of "funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure [.]" MCL 169.257(1). A knowing violation of section 57 is a

¹ Under *Mich Chamber of Commerce v Land*, 725 F Supp 2d 665 (2010), the Department must allow any committee that only makes independent expenditures to accept corporate contributions. However, this ruling does not apply to independent or political committees that make direct or in-kind contributions to candidates.

misdemeanor offense. MCL 169.257(4). Finally, 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 or conduct an administrative hearing for enforcement of a civil violation. MCL 169.215(10)(a), (b). The objective of an informal resolution is “to correct the violation or prevent a further violation [.]” *Id.*

First, Mr. Drolet alleged that Mr. Ghanam filed an incomplete or inaccurate campaign statement for the Macomb Businesses United PAC (Committee) by failing to include a fundraiser schedule with the Committee’s 2016 April Quarterly statement. Mr. Drolet alleged that the Committee held a fundraiser on April 7, 2016 in conjunction with Warren Mayor James Fouts’ State of the City address. As evidence, Mr. Drolet provided a copy of a page from the State of the City program and a copy of an ad stating that a ticket to the event cost \$40.00.

In your response to the complaint, you stated that while the Committee “completely and accurately reported all of its contributions and expenditures” on its 2016 April Quarterly Statement, a fundraiser schedule was not filed with the statement. You further stated that as soon as the omission was brought to Mr. Ghanam’s attention, the schedule was filed immediately. A review of the Department’s records indicates that Mr. Ghanam filed an Amended 2016 April Quarterly statement, including the fundraiser schedule, on July 13, 2016.

The Department notes that while a fundraising schedule² was not included with the Committee’s original 2016 April Quarterly statement, the statement itself did include all the detailed information regarding contributions received by the Committee and expenditures made by the Committee during the reporting period. Because the Committee disclosed this information in a timely manner and promptly filed an amended statement containing the fundraiser schedule, although a technical violation of section 33 occurred when the Committee failed to include the fundraiser schedule with its original 2016 April Quarterly statement, no enforcement action will be taken.

Second, Mr. Drolet alleged that Mr. Ghanam violated section 57 of the Act by using or authorizing the use of public funds for the fundraiser for the Committee. As evidence, Mr. Drolet provided a copy of a city water bill insert with an ad for the State of City Speech directing water customers to call the Mayor’s office to purchase a ticket to the event, a “TV Warren Government Channel Program Schedule” indicating times the speech was shown, and emails from city officials and employees discussing preparations for the event.

You pointed out in your response that none of the emails included as evidence were addressed to or from Mr. Ghanam, nor was he copied on any of the emails. Further, you asserted in your answer that Mr. Ghanam did not create the water bill insert, nor did he have the authority to direct or control the content of the insert. You also asserted that Mr. Ghanam does not have the authority to authorize or direct TV Warren to appear at any event.

² The fundraiser schedule only contains a summary total of contributions received and expenditures made for a particular fundraiser. MCL 169.226(d).

The Department notes that many of the emails provided by the complainant discuss capturing footage of police cars, the Communications Director's schedule, and other footage³ needed for the event. You asserted Mr. Ghanam, the Deputy Public Service Director, has no authority to direct the Warren Communications Department or Warren TV.

The Department further notes that the complainant included a link to an article in the Macomb Daily as evidence with his complaint. In that article, Mr. Ghanam denies any knowledge of the water bill insert and Richard Sabaugh, the Warren Public Service Director, admitted to being responsible for the insert. The Department further notes that readers of this ad are directed to call the Mayor's office for tickets and it lists the Mayor's phone number, not Mr. Ghanam's or the Committee's.

It appears to the Department that while it is possible that City funds may have been spent in contravention of the Act with regard to the Committee's fundraiser, no evidence has been provided that *Mr. Ghanam* used or authorized the use of those City funds.

Third, Mr. Drolet alleged that the Committee accepted prohibited contributions from corporations or labor organizations. As evidence, Mr. Drolet provided a copy of the "Special Thank You to Today's Sponsors" page from the State of City program. Additionally, Mr. Drolet stated that the "April Quarterly Report filed by the PAC shows that a number of the sponsors and contributors are corporate entities [.]"

In your response, you asserted that "the contributors set forth on the 2016 April Quarterly Campaign Statement filed by Macomb Businesses United PAC are individuals, committees or limited liability companies with one exception." You stated that after reviewing the complaint, it was discovered that the committee did accept a contribution from NTH Consultants LTD, which is an assumed name of a corporation. You asserted that Mr. Ghanam was not aware that NTH Consultants LTD was a corporation, and upon discovery of this information he immediately refunded the contribution. You provided a copy of the refund check with your answer.

Based on your admission that the Committee accepted a contribution from a prohibited source and the Department's review of the Committee's 2016 April Quarterly statement, the Department concludes that the evidence supports a conclusion that there may be reason to believe a violation has occurred.

Upon making this determination the Department is required by law to attempt to resolve the matter informally. MCL 169.215(10). The Department offers to resolve Mr. Drolet's complaint against Mr. Ghanam informally through execution of the enclosed conciliation agreement.

If Mr. Ghanam wishes to enter into the conciliation agreement, please return the original signed document to P.O. Box 20126, Lansing, Michigan 48901-0726 by August 3, 2018. A copy of the conciliation agreement signed by the Secretary of State's authorized representative will be returned to you promptly.

³ Footage requested included fireworks, parks and rec, senior housing, new roads, etc.

Eric Doster
July 20, 2018
Page 4

Please be advised that if the Department is unable to resolve Mr. Drolet's complaint informally, it is required by MCL 169.215(10)-(11) to 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 of each improper contribution, plus up to \$1,000.00 for each violation of the Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi", written in a cursive style.

Adam Fracassi
Bureau of Elections
Michigan Department of State

**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**

ATTORNEYS AT LAW

19500 HALL ROAD
SUITE 100
CLINTON TOWNSHIP, MICHIGAN 48038

(586) 412-4900

www.KHLBlaw.com

WRITER'S E-MAIL: rhuth@KHLBlaw.com
FACSIMILE: (586) 412-4949

ROBERT W. KIRK *
ROBERT S. HUTH, JR.
CRAIG W. LANGE
RAEHEL M. BADALAMENTI
MARYANNE J. DENEWETH
MICHAEL C. TAYLOR
ROSEMARY V. DAVIS
PATRICK S. MCKAY
ELIZABETH P. ROBERTS
ROBERT T. CAROLLO, JR.
RYAN J. L. FANTUZZI **
ROBERT J. PENROD

* Also Member of Florida Bar
** Also Member of Virginia Bar

July 27, 2018

Via E-Mail: FracassiA@michigan.gov and First Class Mail

Adam Fracassi
Bureau of Elections
Michigan Department of State
Richard H. Austin Bldg., 1st Fl.
430 W. Allegan
Lansing, MI 48918

Re: **In the Matter of: City of Warren, One City Square, Warren, Michigan**

Dear Mr. Fracassi:

Enclosed please find a Conciliation Agreement executed by Richard Sabaugh, along with a copy of a check in the amount of \$761.90 payable to the City of Warren and paid receipt.

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

Very truly yours,

**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**



Robert S. Huth, Jr.

RSH/smh

Enclosures

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2018 JUL 31 PM 1:36
ELECTIONS/GREAT SEAL



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

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2018 JUL 31 PM 3: 58
ELECTIONS/GREAT SEAL

In the Matter of:

Gust Ghanam, Treasurer
Macomb Businesses United
32068 Margaret
Warren, Michigan 48093

CONCILIATION AGREEMENT

Pursuant to MCL §169.215(10) of the Michigan Campaign Finance Act (the Act), MCL §169.201 *et seq.*, the Secretary of State and Gust Ghanam (Respondent) hereby enter into a conciliation agreement with respect to certain acts, omissions, methods, or practices prohibited by the Act.

The Secretary of State alleges that there may be reason to believe that Respondent violated MCL §169.254, Mich Admin Rule 169.35, by accepting a corporate contribution in the total amount of \$500.00.

Therefore, Respondent hereby voluntarily enters into this conciliation agreement and assures the Secretary of State that Respondent will comply with the Act and the Rules promulgated to implement the Act.

By executing this conciliation agreement, Respondent certifies that the corporate contribution has been returned.

The Secretary of State and Respondent further agree that this agreement is in effect and enforceable for four years from the date it is signed by the Secretary of State or her duly authorized representative.

The Secretary of State and Respondent further agree that this agreement, unless violated, shall constitute a complete bar to any further action by the Secretary of State with respect to the alleged violation that resulted in the execution of this agreement.

The Secretary of State and Respondent further agree that the complaint and investigation that resulted in this agreement are disposed of and will not be the basis for further proceedings against Respondent, except pursuant to this agreement.

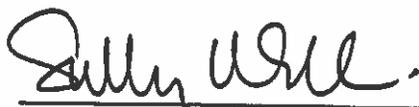
The Secretary of State and Respondent further agree that this agreement will not prevent the Secretary of State from taking action for violations of this agreement.

The Secretary of State and Respondent further agree that Respondent's performance under this agreement shall be given due consideration in any subsequent proceedings.

The Secretary of State and Respondent further agree that this agreement, when signed, shall become a part of the permanent public records of the Department of State.

The Secretary of State and Respondent finally agree that the signatories below are authorized to enter into and bind the parties to this agreement and have done so by signing this agreement on the date below.

RUTH JOHNSON
SECRETARY OF STATE



Sally Williams, Director
Bureau of Elections

Date: _____

8/1/18

RESPONDENT



Gust Ghanam, Treasurer
Macomb Businesses United

Date: _____

7/26/2018



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

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2010 JUL 31 PM 1:37
ELECTIONS/GREAT SEAL

In the Matter of:

City of Warren
One City Square
Warren, Michigan

CONCILIATION AGREEMENT

Pursuant to MCL §169.215(10) of the Michigan Campaign Finance Act (the Act), MCL §169.201 *et seq.*, the Secretary of State and the City of Warren through an authorized representative (Respondent) hereby enter into a conciliation agreement with respect to certain acts, omissions, methods, or practices prohibited by the Act.

The Secretary of State alleges that there may be reason to believe that the Respondent violated MCL §169.257(1) by making or authorizing improper expenditures in the amount of \$761.90 by authorizing the use of city resources to advertise and produce materials for a fundraiser sponsored by a Political Action Committee (PAC) at which Mayor James Fouts gave a State of the City address.

Therefore, the Respondent, without admitting any issue of law or fact, except as stated herein, hereby voluntarily enters into this conciliation agreement and assures the Secretary of State that it will comply with the Act and the Rules promulgated to implement the Act.

By executing this conciliation agreement, the Respondent certifies that the City of Warren has been reimbursed \$761.90, which is equal to the amount of its improper expenditures.

Upon payment, Respondent shall provide documentation evidencing reimbursement to the City of Warren of the total amount.

The Secretary of State and the Respondent further agree that this agreement is in effect and enforceable for four years from the date it is signed by the Secretary of State or her duly authorized representative.

The Secretary of State and the Respondent further agree that this agreement, unless violated, shall constitute a complete bar to any further action by the Secretary of State with respect to the alleged violation that resulted in the execution of this agreement.

The Secretary of State and the Respondent further agree that the complaint and investigation that resulted in this agreement are disposed of and will not be the basis for further proceedings, except pursuant to this agreement.

The Secretary of State and the Respondent further agree that this agreement will not prevent the Secretary of State from taking action for violations of this agreement.

The Secretary of State and the Respondent further agree that the Respondent's performance under this agreement shall be given due consideration in any subsequent proceedings.

The Secretary of State and the Respondent further agree that this agreement, when signed, shall become a part of the permanent public records of the Department of State.

The Secretary of State and the Respondent finally agree that the signatories below are authorized to enter into and bind the parties to this agreement and have done so by signing this agreement on the date below.

**RUTH JOHNSON
SECRETARY OF STATE**

RESPONDENT



Sally Williams, Director
Bureau of Elections



Authorized Representative
City of Warren

Date: 7/31/18

Date: 7-26-18

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Wednesday, August 1, 2018 5:04 PM
To: 'Eric Doster'
Subject: Ghanam Signed Conciliation Agreement
Attachments: ghanam agmt.pdf

Hi Eric,

Please find attached a copy of the signed conciliation agreement related to the complaint filed by Leon Drolet. The Department now considers this complaint resolved, and its file on the matter is now closed. If you have any questions, please do not hesitate to contact me.

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 373-2540



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

July 31, 2018

Robert S. Huth, Jr.
Attorney for City of Warren
Kirk, Huth, Lange & Badalamenti, PLC
19500 Hall Road
Suite 100
Clinton Township, Michigan 48038

Via USPS & Email: shurley@khlblaw.com & rhuth@khlblaw.com

Dear Mr. Huth:

Enclosed is a signed copy of the conciliation agreement entered into concerning the City of Warren's alleged violations of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* The Department now considers this matter closed and resolved.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

August 1, 2018

Leon Drolet
46116 Lookout Drive
Macomb Township, Michigan 48044

Dear Mr. Drolet:

The Department of State has concluded its investigation of the complaint that you filed against Gust Ghanam, which concerned an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the final resolution is provided as an enclosure with this letter. The Department now considers this action resolved and its file on the matter has been closed.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State