



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

May 15, 2018

Committee to Elect Matthew Swartzlander
728 Jasper
Jackson, Michigan 49203

Dear Mr. Swartzlander:

The Department of State (Department) has completed its investigation of the complaint filed against you by John King, which alleged that you violated section 47(1) of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.247(1), by failing to include a complete and correct identification statement on certain campaign-related material. This letter concerns the disposition of Mr. King's complaint.

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). A knowing violation 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(6).

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.*

Mr. King filed his complaint on October 20, 2017, and you filed a written response which was received on November 15, 2017.

First, the Department apologizes for the delay in resolving this complaint. Regrettably, your answer was misfiled in our office and it was not brought to our attention until recently.

Mr. King alleged that you failed to include your address in your paid-for-by statements on your campaign materials. In support of his complaint, Mr. King provided pictures of signs which stated, "Matt Swartzlander for Jackson's 6th Ward[.]" It appeared that your committee's address was omitted from the paid-for-by statements on these materials.

In your response you admitted that you were "unaware that the address needed to be included." You further stated that all signage that was out has been collected and will be corrected by adding the address before they are used in the future.

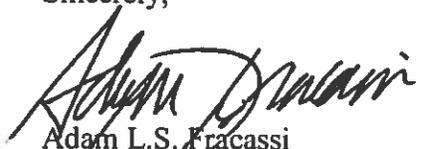
While the Department believes that the evidence tends to show that your campaign material failed to contain a complete paid-for-by statement and a technical violation occurred, section 15(10) of the MCFA requires the Department to “endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion [.]”

The Department is advising you that section 47(1) and R 169.36(2) require you to print a complete and accurate identification statement on all campaign materials, consisting of the phrase “paid for by” followed by the full name and address of your committee. Note that all printed materials that refer to an election or your candidacy produced in the future must include this identification statement.

Please be advised that this notice has served to remind you of your obligation under the Act to identify your 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(6), 215(10).

The Department now considers this matter closed and will take no further action against you at this time.

Sincerely,



Adam L.S. Fracassi
Bureau of Elections
Michigan Department of State

c: John King



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

October 27, 2017

Committee to Elect Matthew Swartzlander
728 Jasper
Jackson, Michigan 49203

Dear Mr. Swartzlander:

The Department of State (Department) received a formal complaint filed by John King against you, alleging that you violated section 47(1) of the Michigan Campaign Finance Act (MCFA), 1976 PA 388, MCL 169.247(1), by failing to include a complete and correct identification statement on certain campaign material. A copy of the complaint is provided as an enclosure with this letter.

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), Mich. Admin. R 169.36(2). A knowing violation 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(6).

In support of his complaint, Mr. King provided a picture of a sign which states, "MATT SWARTZLANDER FOR JACKSON'S 6TH WARD [.]". Your committee's address appears to be omitted from the paid-for-by statement on the sign.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of your receipt of this letter. Please include any evidence that reflects any corrective measures you have taken to bring your campaign material into compliance with the MCFA. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply will be provided to Mr. King, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [.]". MCL 169.215(10). Note that the Department's

enforcement powers include the possibility of entering a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 47(6) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 241-0395.

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Secretary of State

c: John C. King

Attn: Lori Bourbonnais
Department of State, Bureau of Elections
Richard H. Austin Building, 1st Floor
430 West Allegan Street
Lansing, MI 48918

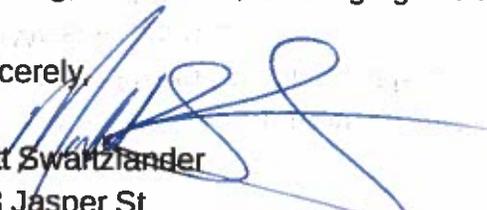
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MICHIGAN DEPT OF STATE
ELECTIONS/GREAT SEAL
2017 NOV 15 AM 9:27

Dear Ms. Bourbonnais and Mr. King,

This letter is in follow up to the letter received regarding violation MLC 169.247. This was an unknowing violation of the act, I was unaware that the address needed to be included. I was under the impression that only the part, "Paid for by the Committee to Elect Matthew Swartzlander," that was included was required. Others the reviewed the sign before printing did not catch the error. All signs that were out have been retrieved and will be corrected by adding the address before they are used again. This was my first time running and I will be taking things that I have learned to the next opportunity.

Mr. King, Thank You, for bringing this to my attention.

Sincerely,


Matt Swartzlander
728 Jasper St
Jackson, MI 49203



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

October 27, 2017

Committee to Elect Matthew Swartzlander
728 Jasper
Jackson, Michigan 49203

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The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of your receipt of this letter. Please include any evidence that reflects any corrective measures you have taken to bring your campaign material into compliance with the MCFA. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply will be provided to Mr. King, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [.]". MCL 169.215(10). Note that the Department's

**Campaign Finance Complaint Form
Michigan Department of State**

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MICHIGAN DEPT OF STATE
ELECTIONS
2017 OCT 20 PM 2:22
TAMM SEAL

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (the MCFA, 1976 PA 388, as amended; MCL 169.201 et seq.) All information on the form must be provided along with an original signature and evidence. Please print or type all information.

I allege that the MCFA was violated as follows:

Section 1. Complainant		
Your Name	John C. King	Daytime Telephone Number (517) 784-3282
Mailing Address	203 3rd Street Apt. A	
City	State	Zip
Jackson	MI	49201

Section 2. Alleged Violator		
Name	Committee to Elect Matthew Swartzlander	
Mailing Address	728 Jasper	
City	State	Zip
Jackson	MI	49203

Section 3. Alleged Violations (Use additional sheet if more space is needed.)

Section(s) of the MCFA violated:

169.247

Explain how those sections were violated:

The candidate's yard signs do not contain the address of the person paying for the signs as required by law.

Evidence that supports those allegations (attach copies of pertinent documents and other information):

Enclosed picture of yard sign taken Sunday, October 15, 2017

Section 4. Certification (Required)

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

X

John C. King
Signature of Complainant

10/15/2017
Date

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

Section 15(6) of the MCFA (MCL 169.215) requires that the signed certification found in section 4 of this form be included in every complaint. However, if, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence, you may also make the following certification:

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

X

Signature of Complainant

Date

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

Mail or deliver the completed complaint form with an **original signature and evidence** to the following address:

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

★ MATT ★
SWARTZLANDER
FOR JACKSON'S 6TH WARD

Paid for by the Committee to Elect Matthew Swartzlander

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

169.247 Printed matter or radio or television paid advertisement having reference to election, candidate, or ballot question; name and address; identification or disclaimer; size and placement; rules; exemption; statement that payment made "with regulated funds"; communication exempted under section 6(2)(j); violation as misdemeanor; penalty; prerecorded telephone message.

Sec. 47.

(1) Except as otherwise provided in this subsection and subject to subsections (3) and (4), a billboard, placard, poster, pamphlet, or other printed matter having reference to an election, a candidate, or a ballot question, shall bear upon it an identification that contains the name and address of the person paying for the matter. Except as otherwise provided in this subsection and subsection (5) and subject to subsections (3) and (4), if the printed matter relating to a candidate is an independent expenditure that is not authorized in writing by the candidate committee of that candidate, in addition to the identification required under this subsection, the printed matter shall contain the following disclaimer: "Not authorized by any candidate committee". An individual other than a candidate is not subject to this subsection if the individual is acting independently and not acting as an agent for a candidate or any committee. This subsection does not apply to communications between a separate segregated fund established under section 55 and individuals who can be solicited for contributions to that separate segregated fund under section 55.

(2) A radio or television paid advertisement having reference to an election, a candidate, or a ballot question shall identify the sponsoring person as required by the Federal Communications Commission, bear an identification that contains the name of the person paying for the advertisement, and be in compliance with subsection (3) and, except as otherwise provided by subsection (5), with the following:

(a) If the radio or television paid advertisement relates to a candidate and is an independent expenditure, the advertisement shall contain the following disclaimer: "Not authorized by any candidate".

(b) If the radio or television paid advertisement relates to a candidate and is not an independent expenditure but is paid for by a person other than the candidate to which it is related, the advertisement shall contain the following disclaimer:

"Authorized by.....".

(name of candidate or name of candidate committee)

(3) The size and placement of an identification or disclaimer required by this section shall be determined by rules promulgated by the secretary of state. The rules may exempt printed matter and certain other items such as campaign buttons or balloons, the size of which makes it unreasonable to

add an identification or disclaimer, from the identification or disclaimer required by this section.

(4) Except for a communication described in subsection (5) and except for a candidate committee's printed matter or radio or television paid advertisements, each identification required by this section shall also indicate that the printed matter or radio or television paid advertisement is paid for "with regulated funds". Printed matter or a radio or television paid advertisement that is not subject to this act shall not bear the statement required by this subsection.

(5) A communication otherwise entirely exempted from this act under section 6(2)(j) is subject to both of the following:

(a) Must contain the identification required by subsection (1), (2), or (7) if that communication references a clearly identified candidate or ballot question within 60 days before a general election or 30 days before a primary election in which the candidate or ballot question appears on a ballot and is targeted to the relevant electorate where the candidate or ballot question appears on the ballot by means of radio, television, mass mailing, or prerecorded telephone message.

(b) Is not required to contain the disclaimer required by subsection (1) or (2).

(6) A person who knowingly violates this section is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 93 days, or both.

(7) A prerecorded telephone message that in express terms advocates the election or defeat of a clearly identified candidate, or the qualification, passage, or defeat of a ballot question, shall bear an identification that contains the name and telephone number, address, or other contact information of the person paying for the prerecorded telephone message, and shall be in compliance with subsection (4). A prerecorded telephone message subject to this subsection is not required to contain a disclaimer.

History: 1976, Act 388, Eff. June 1, 1977 ;-- Am. 1978, Act 348, Imd. Eff. July 12, 1978 ;-- Am. 1996, Act 225, Imd. Eff. May 30, 1996 ;-- Am. 2001, Act 250, Eff. Mar. 22, 2002 ;-- Am. 2012, Act 277, Imd. Eff. July 3, 2012 ;-- Am. 2013, Act 252, Imd. Eff. Dec. 27, 2013 ;-- Am. 2015, Act 269, Imd. Eff. Jan. 6, 2016

Compiler's Notes: Section 2 of Act 225 of 1996, which amended this section, provides: "Section 2. If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable."