



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

February 12, 2016

Bill Campbell
36620 Newberry Estates
Westland, Michigan 48185

Dear Mr. Campbell:

The Department of State (Department) has completed its investigation of the complaint filed by you against Bill Johnson, which alleged that Mr. Johnson violated section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of your complaint.

You filed your complaint on July 14, 2015. Mr. Johnson filed an answer on August 17, 2015, and you filed a rebuttal statement on August 31, 2015. The Department requested additional information from Mr. Johnson on January 7, 2016. Mr. Johnson provided this additional information on January 11, 2016.

Your complaint alleged that Mr. Johnson unlawfully used public resources by assembling and posing with city personnel and city-owned resources to take pictures for use in his campaign material, and by using a photo taken at the "City Senior Center" in his campaign material.

In support of your complaint, you provided a copy of a mailer, which included pictures of Mr. Johnson with police officers and police cars, with fire personnel and a fire/rescue truck, and a picture of Mr. Johnson with citizens sitting at a picnic table.

In his answer to the complaint, Mr. Johnson asserted that "there was no cost to the City in taking these pictures." He also asserted that his campaign paid for the mailers. He finally asserted that "[a]nyone in the City can have their picture taken with . . . a police officer or firefighter. The vehicles are often parked in public. Anyone can also have their picture taken outside public buildings like the Senior Center."

In your rebuttal statement, you state that non-incumbents are not allowed to go to the same city-sponsored functions as the incumbent candidates and that non-incumbents do not have the same access or privileges as the incumbents.

The MCFA prohibits a public body or an individual acting on its behalf from using or authorizing the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the nomination or election of a candidate. MCL 169.204(1), 169.206(1). A person who knowingly

violates this provision may be charged with a misdemeanor offense. MCL 169.257(4). In order to find a violation, the Department must determine that a person acting on behalf of a public body expended public resources for prohibited campaign activity. The expenditure of public funds must have "ascertainable monetary value" to meet this threshold.

Senior Center Photo

Mr. Johnson denies that there was any expenditure of public funds with regard to this photo. After reviewing the evidence submitted by both parties, the Department concludes that no evidence has been offered that would allow the Department to determine an ascertainable monetary value in connection with a picture being taken of Mr. Johnson outside of the Senior Center.

Fire Personnel Photo

On January 7, 2016, the Department asked Mr. Johnson to clarify where and when the picture of Mr. Johnson and the firefighters and rescue truck was taken. Mr. Johnson responded on January 11, 2016 that the picture "was taken at an annual fundraiser opened to the public [,]" and that the event was held at the Hellenic Cultural Center.

Because this was a public fundraising event for a fallen firefighter, and the firefighters and rescue truck were at this public event, the Department concludes that no evidence has been offered that shows that an expenditure of public funds was made in connection with the taking of this picture.

Further, if the Department did find that an expenditure had been made in connection with this picture, section 57 of the MCFA contains an exception that allows the use of a public facility if any candidate has the same opportunity to use that facility. MCL 169.257(1)(d). This picture was taken at a public event, and it is the Department's understanding that many people had their pictures taken with the firefighters and truck at this event. No evidence has been provided that would support a determination that another candidate was denied the opportunity to have a picture taken with the firefighters or truck at this event.

The Department notes that you stated that you and the other non-incumbents were never notified of photo opportunities, nor were the non-incumbents given the same access or privilege as the incumbent councilmembers. However, this exception to section 57 does not contain any notice requirements; it only requires that the opportunity not be denied to any candidate.

Police Personnel Photo

On January 7, 2016, the Department asked Mr. Johnson to clarify where and when the picture of Mr. Johnson and the police officers and police cars was taken. Mr. Johnson responded on January 11, 2016 that the picture was taken at the police department "during a shift change at no cost to the city."

Mr. Johnson denies that any public funds were expended with regard to this photo. In the absence of any evidence to the contrary, the Department takes Mr. Johnson at his word that this photo was taken during a shift change and there was no cost to the city for this picture to be taken.

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Based on the above, the Department finds that the evidence provided does not support a determination that any public funds were expended in connection with the taking of these photos. Therefore, your complaint is dismissed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State