



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

June 22, 2016

Penny S. Shults
1770 Kinmount Drive
Orion, Michigan 48359

Dear Ms. Shults:

The Department of State (Department) received a formal complaint filed by Mary MacMaster against you, alleging that you violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The investigation and resolution of this complaint is governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq.* Copies of the complaint and supporting documentation are 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).

Ms. MacMaster alleges that you improperly used public funds by using your township email account for campaign purposes.

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 the date of this letter. 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 answer will be provided to Ms. MacMaster, 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 penalties provided in section 57(4) of the Act.

Penny S. Shults
June 22, 2016
Page 2

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

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Mary L. MacMaster

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

RECEIVED/FILED
MICHIGAN DEPT OF STATE

2016 JUN 17 PH 3: 38

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	MARY L. MacMaster	Daytime Telephone Number (248) 391-8436
Mailing Address	3539 CAPALDI CIRCLE	
City	ORION TOWNSHIP	State MI Zip 48359

Section 2. Alleged Violator		
Name	PENNY S. SHULTS	
Mailing Address	1770 KINMOUNT DRIVE	
City	ORION	State MI Zip 48359

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

Section(s) of the MCFA violated: 169.257- Section 57

Explain how those sections were violated:

Using township clerk office e-mail - pshults@oriontownship.org to communicate her political campaign for ORION Township Clerk - LETTER ENCLOSED explaining all details. along with copies of letters that I had sent a Freedom of INFORMATION Request for.

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

Copies of FOIA Request and response from twsp clerks OFFICE
Copies of 3 e-mails promoting political Campaign.

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

Mary MacMaster
Signature of Complainant

June 14, 2016
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

**From: Mary MacMaster, 3539 Capaldi Circle, Orion Twp., MI 48359
(248) 391-2436**

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

June 14, 2016

On May 16, 2016 I attended our Orion Township Board Meeting at 7 P.M. During public comments I spoke to the board on the issue of the Michigan Campaign Finance Act 388 of 1976. In particular I read 169.257 – Section 57 that disallows a public body or a person using their office property for political campaign purposes. Our Orion Township Clerk Penny Shults was in attendance at the board meeting.

On June 6, 2016 I e-mailed and also postal mailed a Freedom of Information Act request to our Orion Township Clerk's office of which I have enclosed a copy. On June 10, 2016 I received a response to my FOIA in the mail. I have also enclosed a copy for you of the response.

There were 6 double-sided pages contained in the response from the Orion Township Clerk's office. Three of the pages contained e-mails that the Orion Township Clerk Penny Shults had responded to using her official government office supplied e-mail address ... which is: pshults@oriontownship.org.

All of the below official government supplied e-mails by Orion Township Clerk Penny Shults listed below were sent out in June 2016 after I had addressed the issue on Section 57 at our township board on May 16, 2016. (copies are enclosed in this mailing)

- 1. From: Penny Shults – "<mailto:pshults@oriontownship.org>" on June 2, 2016 at 3:02 PM
To: Bertolini, Phillip R. asking him to endorse her candidacy for Orion Township Clerk.**
- 2. From: Penny Shults – "<mailto:psults@oriontownship.org>" on June 5, 2016 at 5:57 AM
Responding to an Angie Gallegos and soliciting help for her campaign fundraiser and also offering to pay two persons for working her fundraiser.**
- 3. From: Penny Shults – "<mailto:psults@oriontownship.org>" on June 6, 2016 at 11:15 AM
Once again responding to an Angie Gallegos in regards to her political campaign fundraiser for Orion Township Clerk.**

Sincerely,



Mary L. MacMaster



Copy

Charter Township of Orion
Request for Disclosure of Township Records
Under the Freedom of Information Act

All Information must be TYPED or PRINTED except for written signatures

Company Name (if applicable) or Organization (if any)		Daytime Phone Area Code (248) 391 - 2436
Requester's Name Mary MacMaster		Evening Phone Area Code (248) 391 - 2436
Address (Street & Number) 3539 CAPALDI CIRCLE		Fax Area Code () -
City ORION TWP.	State MI	ZIP Code 48369
		Email:

I wish to examine receive a copy of the following materials: (Please provide detailed descriptions of materials being requested and specify number of copies needed of each. If you need additional space, please continue on back.)

My FOIA request on this date of June 6, 2016 is to request that I receive any and all of the Orion Township Clerk Penny Shults' office e-mail that would be in any way related to any of her political campaigning either being received or going out from her Orion Township office e-mail address server.

I am requesting one (1) copy of each and any found e-mail documentation.

PAID

JUN 10 2016

Charter TWP of Orion
Treasurer's Office

I understand that the Township may take ten (10) additional business days, if necessary, to fill my request due to the diverse locations or large volume of the material. I understand that if it is determined that some or all of the materials which I have requested to review or have copied may not be disclosed, I will receive a written denial including the reason for denial and explaining my right to appeal. I also understand that I may be charged with costs associated with this request, as provided in FOIA.

Mary MacMaster

Signature of Requester

June 6, 2016

Date

Please submit completed request to: Orion Township Clerk's Office
2525 Joslyn Rd.
Lake Orion, MI 48360

Phone: (248) 391-0304 ext. 104
Fax: (248) 391-9984
Email: pshults@oriontownship.org

FOR OFFICE USE ONLY

Received by		Copy Charge	\$ 60¢
Approval		Mail Charge	\$
Forwarded to	<i>Attney</i>	Labor Charge	\$
FOIA Information Due (5 Days)	<i>6/13/16</i>	TOTAL	\$
10 Day Extension Letter Sent		Deposit (if required)	\$
Completion Date	<i>6/8/16</i>	Paid	
Requester Contacted	<i>6/8/16 via mail</i>	Copies Picked Up On	

Township: Keep original and provide copy, along with Public Summary, to requestor at no charge.

Copy

Charter Township of Orion, Oakland County
2525 Joslyn Road
Lake Orion, 48360
Phone: 248-391-0304

Notice of Granting FOIA Request

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Date Received: 06/06/2016

Check if received via: Email Fax Other Electronic Method

Date of This Notice: 06/08/2016
(Please Print or Type)

Date delivered to junk/spam folder: _____
Date discovered in junk/spam folder: _____

Name	Mary MacMaster	Phone	248-391-2436
Firm/Organization		Fax	
Street	3539 Capaldi Circle	Email	
City	Orion	State	MI
		Zip	48359

Please note: A copy of the Township's FOIA policies are available at <http://www.oriontownship.org/Home.aspx>.

Request for: Copy Certified copy Record inspection Subscription to record issued on regular basis
Delivery Method: Will pick up Will make own copies onsite Mail to address above Email to address above
 Deliver on digital media provided by the township: _____

FOIA Request Granted for the Record(s) You Requested: (listed here or see attached copy of original request)
After conducting a good faith effort to provide copies of "any and all of the Orion Township Clerk Penny Shults' office e-mail that would be in any way related to any of her political campaigning either being received or going out from her Orion Township office e-mail address server" in response to your Freedom of Information Act request, we have pages listed on the cost/itemization form.

Separations or Deletions: Pursuant to MCL 15.244, the following information and/or section(s) were separated or deleted from the records provided:

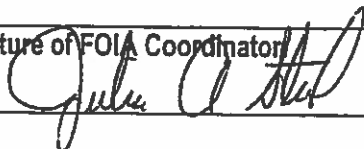
Copies of the records are ready to be picked up upon receipt of your check payable to "The Charter Township of Orion" or cash. Credit cards not accepted. See the attached cost itemization and remit: **\$ 0.60.**

You may inspect the records at the Township office and order copies of those records after that inspection. Please call the Clerk's office to schedule an appointment to review the file.

A deposit in the amount of _____ is required for the reasons stated:

Other (describe): _____

Signature of FOIA Coordinator



Date:

6/8/16

①
Penny Shults

From: Bertolini, Phillip R <bertolinip@oakgov.com>
Sent: Thursday, June 02, 2016 3:06 PM
To: Penny Shults
Subject: RE: address

Penny – Please use my personal email address for these types of emails. It is phil-bertolini@comcast.net. Thanks.

Phil

X **From:** Penny Shults [<mailto:pshults@oriontownship.org>]
Sent: Thursday, June 2, 2016 3:02 PM
To: Bertolini, Phillip R <bertolinip@oakgov.com>
Subject: Re: address

So good to talk with you Phil. Would you give me the honor of endorsing my candidacy for Orion Township Clerk? If so may I include your name and a quote from you with my promotion materials?

Penny Shults

On Jun 1, 2016, at 3:29 PM, Bertolini, Phillip R <bertolinip@oakgov.com> wrote:

Sure....

1200 N. Telegraph Rd. Bldg 49 West
Pontiac, MI 48341

(248) 858-0815

From: Penny Shults [<mailto:pshults@oriontownship.org>]
Sent: Wednesday, June 1, 2016 9:55 AM
To: Bertolini, Phillip R <bertolinip@oakgov.com>
Subject: address

Hi Phil,

Hope your day is going great! May I get your business mailing address and phone number please?

"God uses ordinary people to do extraordinary things."

*Penny S. Shults, MMC, CMMC
Township Clerk*

Charter Township of Orion
2525 Joslyn Rd.
Lake Orion, MI 48360
P: (248) 391-0304, ext. 104
F: (248) 391-9984

②
Penny Shults

From: Penny Shults
Sent: Monday, June 06, 2016 5:57 AM
To: Angie Gallegos
Subject: Re: Fund Raiser on Thursday

Good morning. So glad this will work out for GIGi. Aasha will be joining us at 6:30 after she gets out of work. No RSVP is needed.

Penny Shults

On Jun 5, 2016, at 4:54 PM, Angie Gallegos [REDACTED] wrote:

Yes she could totally do that. Thank you. Is there an rsvp for the fundraiser? I am hoping we join you- just wanted to run it by Steve first.

~~*~~On Saturday, June 4, 2016, Penny Shults <pshults@oriontownship.org> wrote:

Good morning Angie. I wanted to touch base with you first before I spoke with Gigi. If you could also share this email with Mindy that would be wonderful.

I see both girls are raising funds for their Haiti mission trip and I thought they might like an opportunity to earn some money.

My campaign fundraiser is Thursday and I need two people to help serve, clean, refill food, dessert, and drink stations. The food will already be prepared and we are just serving tacos pop water cookies and cake. Their responsibility will include filling up the lettuce and cheese and sour cream and salsa chips cookies. Wiping down surfaces. Refilling the drink station. If possible they can wear black skirt or slacks and white tops and Beautiful smiles!

If this meets with your approval,

Would Aasha and GiGi be interested in working for \$10 per hour each from 5-8 on Thursday, June 9, at friendship Park? My Mom will help with direction and oversight as well.

Joyfully
Penny Shults

3

Penny Shults

From: Penny Shults
Sent: Monday, June 06, 2016 11:15 AM
To: 'Angie Gallegos'
Subject: RE: Fund Raiser on Thursday

That would be so very nice! Thank you Angie!

*Penny S. Shults, MMC, CMMC,
Township Clerk
Charter Township of Orion*

From: Angie Gallegos [REDACTED]
Sent: Monday, June 06, 2016 7:19 AM
To: Penny Shults
Subject: Re: Fund Raiser on Thursday

Would you like me to help Gigi until Aasha gets there? (My help is free •)

Also Gigi has raised her Haiti funds!! So her time serving at the fundraiser will go toward her fine arts trip to Louisville.

Thank you!

On Monday, June 6, 2016, Penny Shults <pshults@oriontownship.org> wrote:
Good morning. So glad this will work out for GIGi. Aasha will be joining us at 6:30 after she gets out of work. No RSVP is needed.

Penny Shults

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Joyfully
Penny Shults



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

July 14, 2016

Mary MacMaster
3539 Capaldi Circle
Orion, Michigan 48359

Dear Ms. MacMaster:

The Department of State received a response to the complaint you filed against Penny Shults, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

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

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Penny Shults

RECEIVED/FALSO
MICHIGAN DEPT OF STATE

2016 JUL 13 AM 9:35

ELECTIO.S/CREM SEAL

June 30, 2016

Bureau of Elections, Lori A. Bourbonais
Richard H. Austin Building 1st Floor
430 W. Allegan
Lansing, MI 48918

Dear Ms. Bourbonais,

On May 16, 2016, Mary McMasters came to the Orion Township Board of Trustees meeting and spoke about campaign-finance laws to address the issue that I used my township email address and my township cell phone number on my Affidavit of Identity that was filed with my Nominating Petitions. This information is listed in Oakland County records for candidates that have filed for office.

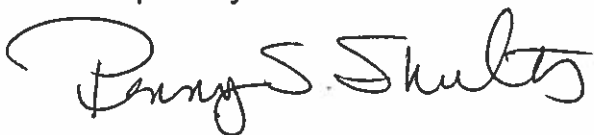
I spoke with an attorney after the board meeting and asked if I violated campaign law by placing the township email address and township cell phone number on my Affidavit of Identity. He suggested I contact Oakland County Elections.

On May 17, 2016 I contacted Oakland County and asked if they would change my email address and my phone number. Oakland County said they could not change it and that many of the other communities did the same thing. They also indicated that if I changed my affidavit of identity after the filing deadline that I would be guilty of a misdemeanor.

The information Mary McMasters provided in her formal complaint are copies of emails I sent from my township email address. I have stopped using my email address for anything election related and did not receive any funds as a result of the emails. I have contacted IT Right our email provider and included their response with this letter.

Please contact me if additional information is needed or if there are steps that I should take to correct my error.

Respectfully



Penny S Shults
1770 Kinmount Drive
Orion MI 48359
pshults@comcast.net
248-770-7671

Penny Shults

From: I.T. Right <support@itright.com>
Sent: Tuesday, June 28, 2016 3:25 PM
To: Penny Shults
Subject: Ticket Time Entry Created: T20160628.0757 - How much does it cost to send an email (Orion Township)

Ticket Time Entry Created: T20160628.0757 - How much does it cost to send an email (Orion Township)

Summary Notes:

Hello Penny,

The email is hosted up in office 365 and costs around \$3.50 per user per month for email access, but there is no cost associated on a per email basis. The \$3.50 cent per month user fee allows almost unlimited sending of email. Perhaps they are looking for something else? Let me know if there is something different.

Jarud Koenigsknecht
I.T. Right

===== General Ticket Information =====

Ticket Number: T20160628.0757
Account Name: Orion Township
Assigned To: ()
Contact Name: Penny Shults
Queue Name: Level I Support

Reported By: Penny Shults
Source: Email
Due Date: 06/29/2016 04:03 PM (ET)
Estimated Hours: 0.00
Priority: Medium
Status: Complete
Initiating Resource Name: Jarud Koenigsknecht

Ticket Title:
How much does it cost to send an email

Ticket Description:
Hello,

A formal complaint has been filed with the Bureau of Elections alleging that I violated the Michigan Campaign Finance Act and sent two emails from this Township email address to people who do not work for Orion Township (outside email).

I contacted the Bureau of Elections and they instructed me to contact the Township's email provider to find out how much it cost the Township for someone to send an email.

Would you be able to provide this information? Please respond to this email so I have a record.

Thank you kindly.

"God uses ordinary people to do extraordinary things."

Penny S. Shults, MMC, CMMC
Township Clerk
Charter Township of Orion
2525 Joslyn Rd.
Lake Orion, MI 48360
P: (248) 391-0304, ext. 104
F: (248) 391-9984
E: pshults@oriontownship.org
W: www.oriontownship.org

===== Client Portal =====

You can access your service ticket via our client portal by clicking the following link:

<https://ww3.autotask.net/ClientPortal/ExecuteCommand.aspx?ci=301102&Code=OpenTicketDetail&TicketID=948202>

If you do not have access to the client portal and would like to use it, please let us know.

===== Technician =====

If you are an I.T. Right staff member, you can access this ticket by clicking the following link:

<https://ww3.autotask.net/Autotask/AutotaskExtend/ExecuteCommand.aspx?Code=OpenTicketDetail&TicketID=948202>

Bourbonais, Lori (MDOS)

From: Penny Shults <pshults@comcast.net>
Sent: Wednesday, July 06, 2016 3:38 PM
To: Bourbonais, Lori (MDOS); Penny Shults
Subject: Re: Formal Complaint

The correct date for my cell phone being activated was June 25 not July 2.

Sent from XFINITY Connect Mobile App

----- Original Message -----

From: Penny Shults
To: bourbonaisl@michigan.gov
Cc: Penny Shults
Sent: July 6, 2016 at 10:57 AM
Subject: Formal Complaint

Dear Ms. Bourbonais,

Would you be so kind to include this with my response letter dated June 30, 2016.

I purchased my own cell phone the same day that I received notice from the state regarding the formal complaint filed by Mary McMaster.

This new cell phone was activated on Saturday, July 2, 2016 and I have stopped using The township cell phone for anything election related

I took this additional steps as both of the emails that were included with the original complaint were sent from the cell phone.

Penny Shults
248-770-7671



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

July 28, 2016

Penny Shults
1770 Kinmount Drive
Orion, Michigan 48359

Dear Ms. Shults:

This letter concerns the complaint that was recently filed against you, which relates to a purported violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The Department of State has received a rebuttal statement from the complainant, a copy of which is enclosed with this letter.

Section 15(10) of the MCFA, MCL 169.215(10), requires the Department to determine within 45 business days from the receipt of the rebuttal statement whether there is a reason to believe that a violation of the Act has occurred. Ms. MacMaster's complaint remains under investigation at this time. At the conclusion of the review, all parties will receive written notice of the outcome of the complaint.

Sincerely,

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

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Mary MacMaster

Rebuttal Attached



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

Rec'd
RECEIVED JUL 25 2016
MICHIGAN DEPT. OF STATE
2016 JUL 25 PM 3:29
ELECTIONS/GREAT SEAL

①

July 14, 2016

Mary MacMaster
3539 Capaldi Circle
Orion, Michigan 48359

Dear Ms. MacMaster:

The Department of State received a response to the complaint you filed against Penny Shults, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

Lori A Bourbonais

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Penny Shults

Rebuttal Attached -

Mary MacMaster
3539 Capaldi Circle, Orion Twp., MI 48359
(248) 391-2436

To: Bureau of Elections,
Richard H. Austin Bldg., 1st Floor
430 West Allegan Street
Lansing, MI 48918

July 19, 2016

Attention Lori A. Bourbonais:

My original complaint, dated June 14, 2016 was in regards to the Orion Township Clerk Penny Shults using her Orion Township government provided e-mail address: pshults@oriontownship.org for illegal campaign purposes. The clerk took illegal advantage of this capability to the disadvantage of a political competitor and opponent.

My complaint to the Michigan Bureau of Elections was only in regards to her illegal usage of her government provided e-mail service and, not about the cell phone provided to her by the Orion Township government.

I had informed everyone on the Orion Township Board at its public meeting on May 16, 2016 that it would be a violation of the Michigan Campaign Finance Act 388 of 1976 P.A. - 388, MCL 169.201 for any township board member to use either their township government supplied e-mail or cell phone for any campaign purposes.

Despite having heard the information I conveyed to the board and the complete board receiving a copy of the MCL on May 16th, I discovered through a FOIA request that the Orion Township Clerk Penny Shults continued to use her township government provided e-mail service for her campaign purposes in early June of 2016. Penny Shults not once, not twice ... but at minimum of at least three times used her Orion Township government provided e-mail service for her political campaign purposes.

The Orion Township Clerk Penny Shults who is in charge of Orion Township's local elections did obviously and knowingly violate the above stated section of the Michigan Campaign Finance Act.

Penny Shults continued to violate the written law despite the information I provided. Penny Shults did not bother to attempt to garner a personal e-mail address or to purchase a personal cell phone until after she received the notification of my complaint from the Bureau of Elections. Therefore it is my opinion that she is guilty of knowingly committing a misdemeanor act and thus should be subjected to the MCL defined violation penalties for the acts that she knowingly committed.

Sincerely,



Mary MacMaster - Orion Twp.,



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

September 26, 2016

Penny Shults
1770 Kinmount Drive
Orion, Michigan 48359

Dear Ms. Shults:

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

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).

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, 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. MCL 169.215(10)(a). The objective of an informal resolution is "to correct the violation or prevent a further violation [.]" *Id.*

Ms. MacMaster filed her complaint on June 17, 2016. You filed an answer to the complaint on July 13, 2016, and Ms. MacMaster filed a rebuttal statement with the Department on July 25, 2016.

Ms. MacMaster alleged that you improperly used your Orion Township (Township) email for campaign purposes.

As evidence, Ms. MacMaster provided copies of three emails sent by you from your Township email. The first asked the recipient if he would endorse your candidacy, the other two asked for workers for one of your campaign fundraisers.

In your response you stated that you had stopped using your Township email for anything election related. You further stated that you had also purchased your own cellphone and stopped using your Township cellphone for anything election related.

Penny Shults
September 26, 2016
Page 2

The evidence provided to the Department supports a reason to believe that you used Township resources to further your nomination or election in contravention of section 57 of the Act.

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 Ms. MacMaster’s complaint against you informally through execution of the enclosed conciliation agreement, which requires you to pay a civil fine in the amount of \$50.00. **If you wish 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 \$50.00 fine, on or before October 17, 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 your 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 Ms. MacMaster’s complaint informally, it is required by MCL 169.215(10)-(11) to:

- 1) Refer the matter to the Attorney General with a request that his office prosecute you 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,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State



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

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GREAT SEAL

In the Matter of:

Penny Shults
1770 Kinmount Drive
Orion, Michigan 48359

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 Penny Shults (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 §169.257(1) by making improper expenditures by using her Orion Township email address to send 3 campaign-related emails.

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 a civil fine in the amount of \$50.00 has been paid to the State of Michigan.

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, 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.

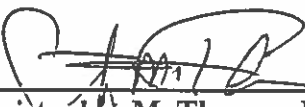
The Secretary of State and Respondent further agree that Respondent's performance under this agreement shall be given due consideration in any subsequent proceedings.

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.

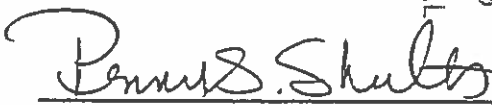
The Secretary of State and Respondent finally agree that the signatories below are authorized to enter into and bind the parties to this agreement, and have done so by signing this agreement on the date below.

RUTH JOHNSON
SECRETARY OF STATE

RESPONDENT



Christopher M. Thomas, Director
Bureau of Elections



Penny Shults

Date: 10-4-16

Date: 9-30-2016

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