

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

June 21, 2016

Jim Cottrell 3750 Laberdee Road Adrian, Michigan 49221

Dear Mr. Cottrell:

The Department of State (Department) received a formal complaint filed by Barbara McClure 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 signs. 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 her complaint, Ms. McClure provided pictures of signs which state, "Jim Cottrell for State Representative [.]" There does not appear to be a paid-for-by statement on these signs.

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 the complaint, you are required to do so within 15 business days of the date 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, 1<sup>st</sup> 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 Ms. McClure, 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

Jim Cottrell June 21, 2016 Page 2

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 Department of State

c: Barbara McClure

## Campaign Finance Complaint Form Michigan Department of State

RECEIVED/FILED MICHIGAN DEPT OF STATE

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 seg.). Ail information on the form must be provided along with an original signature and Evidence Please SEAL print or type all information.

allege that the MCFA was violated as follows:		
Section 1. Complainant		
Your Name Backara McClure		Daytime Telephone Number 517-673-7705
Mailing Address 412 E. Slawry St.	_	
Terumseh	State M/	Zip 49286
Section 2. Alleged Violator		
Vame Jim Cottrell		
Mailing Address 3750 Laberdee Rd.	_	
Adrian	State \( \lambda \)	Zip 49221
Section 3. Alleged Violations (Use additional sheet	t if more space is	needed.)
Section(s) of the MCFA violated:   believe section 169	1.247 (	(Enclosed)
Explain how those sections were violated:		
James Cottsell, who is runn	ing for	State Representative,
is posting signs that do	•	The state of the s
disclaimer. I contacted t	the Sec	retary of State
Election Division to descri	be the	signs and pursue
a course of action to f	ile a co	emplaint.
Evidence that supports those allegations (attach copies of pertinent do		
See pictures. The enclosed	photos	of a Cottrell for
See pictures. The enclosed State Representative signs Contain the required disc	revec	al the signs do not
Contain the required disc	laimer.	

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	Dartara Welline	6/8/16		
Section	5. Certification without Evidence (St	applemental to Section 4)		
Section	3. Certification without Evidence (St	applemental to occuon +)		
section 4 under the by evide	4 of this form be included in every cor	e, information, or belief, there are specifically identified factual y evidence after a reasonable		
		· · · · · · · · · · · · · · · · · · ·		
х	Signature of Complainant	Date		
responsite \$1,000	ble for a civil violation of the MCFA. Th	n who files a complaint with a false certification is the person may be required to pay a civil fine of up tred by the Michigan Department of State and the 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

#### COMPLAINT PROCESS

Section 15 of the MCFA governs the filing and processing of complaints. If you believe someone has violated the MCFA, you may file a written complaint. The complaint must include all of the following:

2016 JUN 14 PH 2: 09

- Your name, address and telephone number.
- The alleged violator's name and address.

ELECTIONS/GREAT SEAL

- A description in reasonable detail of the alleged violation, including the section or sections of the MCFA you believe were violated, an explanation of how you believe the MCFA was violated, and any other pertinent information.
- Evidence which supports your allegations.
- A certification that:

To the best of your knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence.

 If after a reasonable inquiry under the circumstances, you are unable to certify that certain specifically identified factual contentions of the complaint are supported by evidence, you may also certify that:

To the best of your knowledge, information, or belief, there are grounds to conclude that those specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry.

• Your signature immediately after the certification or certifications.

WARNING: Section 15(8) of the MCFA (MCL 169.215) provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. Under section 15(16) of the MCFA (MCL 169.215), the Secretary of State may require a person who files a complaint with a false certification to:

- Pay the Department some or all of the expenses incurred by the Department as a
  direct result of the filing of the complaint.
- Pay the alleged violator some or all of the expenses, including, but not limited to, reasonable attorney fees, incurred by that person as a direct result of the filing of the complaint.
- Pay a civil fine of up to \$1,000,00.

A compliant may be dismissed if any required information is not included, or if the complaint is determined to be frivolous, illegible, or indefinite. All parties are notified of dismissed complaints.

When a complaint meets the above requirements, the Department notifies the alleged violator that a complaint has been filed and provides a copy of the complaint. The alleged violator will have an opportunity to file a response. The compliant filer will have an opportunity to file a rebuttal to any response. All parties receive periodic reports concerning the actions taken by the Department on a complaint.

If the Department finds no reason to believe that the allegations are true, the complaint will be dismissed.

If the Department finds that there may be reason to believe your allegations are true, the Department must attempt to correct the violation or prevent further violations by informal methods such as a conference, conciliation, or persuasion, and may enter into a conciliation agreement with the alleged violator.

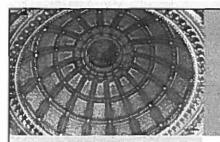
If the Department is unable to correct the violation or prevent further violations informally, an administrative hearing may be held to determine whether a civil violation of the MCFA has occurred, or the matter may be referred to the Attorney General for the enforcement of criminal penalties. An administrative hearing could result in the assessment of a civil penalty. Such a hearing would be conducted in accordance with the Michigan Administrative Procedures Act. An order issued as a result of such a hearing may be appealed to the appropriate circuit court.

Accepted complaints and all supporting documentation including responses and rebuttal statements are made available on the Department's website as required by the MCFA at the conclusion of the process.

Questions? Contact us at:

Michigan Department of State Bureau of Elections Richard H. Austin Building – 1st Floor 430 West Allegan Street Lansing, Michigan 48918 Phone: 517-373-2540

Email: <u>Disclosure@Michigan.gov</u>



### MICHIGAN LEGISLATURE

Michigan Gompiled Laws Complete Through PA 141 of 2016

Senate: Adjourned until Tuesday, June 7, 2016 10:00:00 AM

### NAVIGATE SECTIONS

MCL Chapter Index

Chapter 169

Act 388 of 1976

Section 169,247

### Legislature

Bills **Appropriation Bills** Calendars Committees Committee Bill Records Committee Meetings Concurrent Resolutions Initiatives/Alternative Measures Joint Resolutions Journals Legislators Public Act (Signed Bills) Resolutions Rules Session Schedules Search - Basic Search - Advanced

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Req Outdated Acts
Basic MCL Search
Advanced MCL Search
Public Act MCL Search
Michigan Constitution
Chapter Index
Executive Orders
Executive Reorgs
Historical Documents
See the MCL Tables

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Email Notifications

#### **Document - Section 169.247**

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Document	Html Version	Pdf Version
Section 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.	7 KB	10 KB
Download Time for 56K Modem	1.2 seconds	1.5 seconds
Download Time for Broadband	0.1 seconds	0.1 seconds

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

August 9, 2016

Barbara McClure 412 East Shawnee Street Tecumseh, Michigan 49286

Dear Ms. McClure:

The Department of State received a response to the complaint you filed against Jim Cottrell, 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.

The Department further notes that it withdraws the July 21, 2016 determination letter issued in error in this matter, and I apologize for the error.

Sincerely,

Lori' A. Bourbonais Bureau of Elections

Michigan Department of State

Bombonas

c: Jim Cottrell

#### Bourbonais, Lori (MDOS)

From:

Jim Cottrell <cott50@hotmail.com>

Sent:

Thursday, June 23, 2016 2:31 PM

To:

Bourbonais, Lori (MDOS)

Subject:

Campaign Signs w/ Disclosure

Attachments:

Campaign Sign Disclaimer - 4.jpg; Campaign Sign Disclaimer - 3.jpg

Dear Lori Bourbonais,

As per our phone conversation earlier today (June 23, 2016) I have attached photos of my campaign sign and my disclaimer. The disclaimer is there, however it was printed in black ink on the blue background. It is not visible from a distance, but easily seen up close. Since most political disclaimers are typically printed so small they are hard to read, I didn't feel this was a violation. And again, it is legible. Perhaps in the future I should make it more obvious.

Due to the reflective nature of the signs, it was hard to get a good photo of the disclaimer, but you should be able to see it's there. If need be, I can send more close-ups.

Please let me know if there is anything else I can do to help you resolve this matter.

Thank you.

Sincerely,

Jim Cottrell 517-918-2584

State Representative



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

February 3, 2017

Barbara McClure 412 East Shawnee Street Tecumseh, Michigan 49286

Dear Ms. McClure:

The Department of State (Department) has concluded its investigation of the complaint you filed against Jim Cottrell, which concerned an alleged violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 et seq. This letter concerns the disposition of your complaint.

You filed your complaint on June 4, 2016, and Mr. Cottrell filed a response to the complaint on June 23, 2016. You did not file a rebuttal statement with the Department.

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).

You alleged that Mr. Cottrell failed to include a complete and correct paid-for-by statement on his campaign signs. As evidence, you provided pictures of signs which stated, "Jim Cottrell for State Representative [.]" There did not appear to be a paid-for-by statement on the signs.

In his answer to the complaint, Mr. Cottrell asserted that the paid-for-by statement was on the signs but "it was printed in black ink on the blue background." Mr. Cottrell acknowledged that the paid-for-by statement on the signs was not visible from a distance, but he asserted that it was easily seen close up. In support of his assertions, Mr. Cottrell provided close-up pictures of the signs, which showed the dark paid-for-by statement on the dark background.

Because the evidence offered tends to show that Mr. Cottrell's signs contained a complete and proper paid-for-by statement, your complaint is dismissed.

Singerely,

Lori A. Bourbonais Bureau of Elections

Michigan Department of State

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c: Jim Cottrell