



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

October 20, 2014

Michael Murray
1191 Mizzen Drive
Okemos, Michigan 48864

Dear Mr. Murray:

The Department of State (Department) has concluded its review of the complaint you filed against Todd Courser concerning 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 alleged that Mr. Courser failed to file a Statement of Organization for a candidate committee, along with required campaign finance statements. In support of your complaint you provided a screen shot of Mr. Courser's website, several copies of emails sent by Mr. Courser, and a copy of Mr. Courser's Michigan Republican Party Convention Candidate Permission Document, which was attached to one of the emails.

The Act's definition of a candidate includes an individual who "[r]eceives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure with a view to bringing about the individual's nomination or election to an elective office, whether or not the specific elective office for which the individual will seek nomination or election is known at the time the contribution is received or the expenditure is made." MCL 169.203(1)(c). The Act further requires an individual to form a candidate committee within 10 days once the individual becomes a candidate under the definition provided in the Act. MCL 169.203(2), 169.221(1). A committee shall file a statement of organization within 10 days of its formation. MCL 169.224(1). Late fees may be incurred if the statement of organization is filed late. *Id.* Failure to file a statement of organization for more than 30 days is a misdemeanor. *Id.*

The Act also requires candidate committees to file periodic campaign finance statements and reports. MCL 169.233, 169.235. The failure to file a single campaign statement may trigger late filing fees. MCL 169.233(7), 169.235(3). In certain circumstances, multiple failures to file may constitute a misdemeanor offense. MCL 169.233(8), 169.235(5).

You filed your complaint on April 23, 2014. Mr. Courser filed an answer on May 16, 2014, and you filed a rebuttal statement on June 6, 2014.

In your complaint, you alleged that Mr. Courser met the definition of candidate under section 3(c) of the Act, but did not file a Statement of Organization for a candidate committee. You asserted that from August 13, 2013 until April 19, 2014 Mr. Courser "sent no fewer than 15 mass email messages that included solicitation for funds."

The screen shot that you provided from Mr. Courser's website indicated that Mr. Courser was soliciting donations through his website. This site contained elements that appeared to be an attempt to comply with the MCFA. For example, it asked contributors to confirm that they were United States Citizens and stated that "[l]aw requires we ask for your employer and occupation."

You pointed to several statements made by Mr. Courser in his mass emails, which you contend support your allegations, including:

- "As for myself, I have been rumored to be running for everything under the sun: state representative in my home district; Congress; Michigan Supreme Court; Michigan Board of Education and lieutenant governor." "I have and continue to explore every option available that will advance conservatism and unite the party around those principles. I believe that the Lord will lead and provide for whatever option he directs." September 11, 2013 email.
- "[N]o option is off the table from governor to Congress." September 12, 2013 email.
- "There are people encouraging me to run for the position myself and I am considering that possibility." September 19, 2013 email.
- "I expressed to him that I was also considering a run for lieutenant governor." "At the moment I am not a candidate for office and I have said my decision to run or not run will take place either later this year or the first of next year." September 25, 2013 email.

In Mr. Courser's response, he contended that he "was not a candidate for office during the alleged time from August 13, 2013 to April 19, 2014." Mr. Courser stated that he:

- "[N]ever gave the consent to another person [N] to receive a donation or make an expenditure."
- "[R]eceived no donations for the purpose or view of bringing about [his] nomination to an elective office."
- "[C]learly asked for donations in reference to changing Republican Party leadership" in an August 6, 2013 email and that was "the only time [he] ask[ed] for donations."
- Stated the purpose and view for any donations was to fight "for a STRONGER more CONSERVATIVE Republican Party."
- "[S]pent the entire year working to recruit candidates for Republican Party Precinct Delegates, Republican Party County Chairs and County Executive Committees, Republican Party District Chairs and District Executive Committees, and Party Leadership, including Chairman of the Michigan Republican Party."

Mr. Courser asserted that all donations "were done with the stated purpose of inter-party politics and changing inter-party leadership" and all "solicitation and receipt of funds was done for the stated purpose of inter-Republican Party activities."

Mr. Courser also asserted that he stated that he was not a candidate, and even if “the solicitation or receipt of funds had *not* been for inter-political party purposes, even though there was no decision as to which office was being pursued, any funds could have been placed into an already existing candidate committee that was open during the time alleged.”

Finally, Mr. Courser admits that he was deciding whether to be a candidate during this time period, but contends that merely considering his options did not make him a candidate under the Act.

Mr. Courser provided as evidence:

- A screen shot of a page from his website, which indicates that he “will continue to fight the leftists in [the Republican] party [,]” he “will fight for stronger leadership within the GOP [,]” that he has “been working with the grassroots around the state to build up [the] conservative base and will continue to do so [,]” and that he will continue to “work to educate, inform, message and be at the front lines of advocating for conservatism.”
- A screen shot of the donation page from his website which states, “Please donate to partner with Todd in fighting for a STRONGER more CONSERVATIVE Republican Party. Your money will be used frugally to build a [sic] organization and infrastructure to help conservative candidates for who are willing to step up and fight for a STRONGER and more CONSERVATIVE Republican Party.”
- Several copies of emails, many of which are duplicates of those provided by you.

It is the Department’s long-held position that someone who is “testing the waters” and has not made a clear choice to run for a particular public office becomes a “candidate” as defined by the Act **once monies are accepted or expended in the assistance of the nomination or election of that candidate** – even if that person never formally files to run for office. *See Clarkson Declaratory Ruling*, January 24, 1984 and *Wolpe Declaratory Ruling*, October 22, 1992.

After a careful review of all of the evidence submitted, the Department notes the following:

- The “donate” page on Mr. Courser’s website indicated that the funds were being raised for intraparty purposes. (Party leadership elections are not governed by the Act)
- Mr. Courser did have an active candidate committee during the time frame in question, and no contributions or expenditures were reported. (Citizens to Elect Todd Courser Committee #516244)
- Mr. Courser appears to have used Survey Monkey to create the survey disseminated in January, 2014 and February, 2014 emails. Survey Monkey offers a free survey tool.

While it does appear to the Department that Mr. Courser was contemplating running for public office during the time frame in question that does not, in itself, meet the definition of candidate contained in the Act. The Department takes Mr. Courser at his word that no contributions were

received or monies spent to further his nomination or election for public office and if there were any contributions or expenditures, they would have been properly reported through his existing candidate committee. Mr. Courser asserts that any money raised through his mass emails was solely for intra-political party purposes, and the evidence tends to support this assertion.

The Department also notes that the evidence could support a reason to believe that Mr. Courser made an expenditure when he sent an email with the Michigan Republican Party Convention Candidate Permission Document attached and held himself out to be a potential candidate for Lt. Governor. This email also contained a "donate button." However, the MCFA gives a candidate 10 days after becoming a candidate to file a Statement of Organization. Mr. Courser would have been required to file a Statement of Organization for his Lt. Governor candidacy by April 27, 2014. MCL 169.221. On April 22, 2014, Mr. Courser instead filed to run for 82nd District State Representative, formed a committee for that purpose, and filed a Statement of Organization on April 24, 2014. Although Mr. Courser changed which office he was running for, his Statement of Organization was filed within the time required by law even if the Department considers his date of candidacy to be April 17, 2014.

Because Mr. Courser timely filed his Statement of Organization and has timely filed his subsequent required campaign statements, your complaint is dismissed.

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Todd Courser