



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

October 17, 2013

Dennis Banaszak
614 14th Street
Bay City, Michigan 48708

Dear Mr. Banaszak:

The Department of State (Department) received a formal complaint filed against you by Andrew Niedzinski, 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.* A copy of the complaint and supporting documentation is enclosed with this letter.

Mr. Banaszak alleges that you have improperly used public funds to mail campaign literature.

In Michigan, it is unlawful for a public body or an individual acting on its behalf to use or authorize 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 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(3).

In support of his complaint, Mr. Niedzinski provided copies of a campaign letter paid for by your candidate committee, which states "I ask you to cast your ballot for Dennis W. Banaszak, to help return me to a position where I can work for you to keep this city strong." Mr. Niedzinski also provided a copy of an envelope bearing the Bay City logo, which he alleges was used to mail the campaign letter.

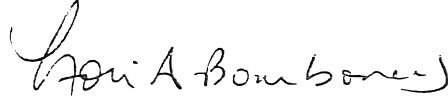
The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

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 reply will be provided to Mr. Niedzinski, 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 57(3) of the Act.

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

Sincerely,

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

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Andrew Niedzinski

Michigan Department of State
Campaign Finance Complaint Form

Reset Form

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.*).

Please print or type all information.

I allege that the MCFA was violated as follows:

Section 1. Complainant		
Your Name Andrew Niedzinski	Daytime Telephone Number (989) 992-7864	
Mailing Address 321 S. Birney St.		
City Bay City	State MI	Zip 48708

Section 2. Alleged Violator		
Name Dennis Banaszak		
Mailing Address 614 14th St.		
City Bay City	State MI	Zip 48708

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

Section(s) of the MCFA violated:

~~Section 57~~ Section 57

Explain how those sections were violated:

Candidate and current city commissioned mailed a campaign letter using an official City of Bay City envelope that is ~~not~~ used by sitting commissioners for official business only.

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

The attached contains two items: (copies attached; originals available if needed)

1.) the envelope used for the mailing (this is an official city of Bay City document)

2.) the letter sent in above referenced envelope - note the use of the words "vote for" and the disclaimer at the bottom of each page.

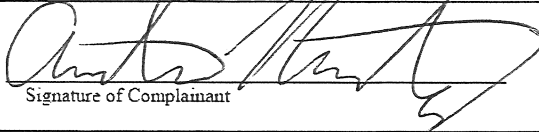
2003 OCT 10 AM 9:13

BUREAU OF ELECTIONS
MICHIGAN DEPT OF STATE

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


Signature of Complainant

10/9/2013
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

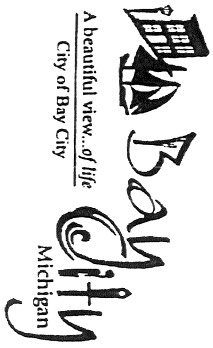
Signature of Complainant

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 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



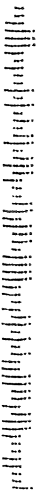
Dennis Banaszak
3rd Ward City Commissioner
301 Washington Avenue
Bay City, MI 48708

METROPLEX MI 48708
01 OCT 2013 PM 16:1



<EIPERT

48708753320



How wonderful is it to drive east over Veteran's Memorial Bridge and no longer have our view obscured by those old towers? How great is it to see the pumpkin colored new roof on City Hall, next to it the new Y, and the new buildings rising on the Uptown site? It took twenty two years to get from stone piles and ugly green industrial buildings to the new development occurring today. Fortunately for me, I was there at the start, when the Columbus Avenue Citizens District Council decided that we needed to do more than let the property continue in its industrial use. I was Chairman of the CDC then, and I became the Third Ward City Commission shortly thereafter, which allowed me to continue the struggle to work the deal that allowed the City to take possession of the site. In the interim, countless cleanup dollars have been spent to make the property developable. As your current City Commissioner I was able to vote to allow the Shaheen's to take the development reigns, and I am so pleased to have had that honor and been a part of the largest influx of infrastructure and building construction that this city has ever seen. After fifty years of decline we can take pride in the investment occurring within our City Limits and what it will mean for the future of this city.

This year I am faced with a challenger for your vote for City Commissioner. To say that the last four years I have served as your City Commissioner have been difficult would be an understatement, and while I welcome a competitor, how would he have fared? Would he have voted to ask our unions to take the 11% cut that they agreed to? Would he have implemented the Public Safety transition and laid off the ten fire fighters that we needed to cut to balance the General Fund, and hence the City budget? Would he have voted to raise taxes to cover the Road Improvement bond that we are liable for? Would he have voted to restructure our water and sewer rates to stop the spiral of increases that could have driven even more people from the city? I have my doubts, yet I can't say for certain that he wouldn't have voted as I did on these issues; my votes were based on how well I understood what it would take to keep our budget balanced and our credit rating intact, and that understanding comes from my experience in having overseen eight city budgets. None of these votes were popular, but they all needed to be made if this city was going to maintain its fiscal stability.

The most important vote that I have cast, at least in terms of those looking to unseat me, was getting rid of our Prevailing Wage ordinance. As your Commissioner I have to look at getting the best results for every one of your tax dollars that we spend, and I simply can not justify paying an artificially higher wage for work that can be done at a savings to you the taxpayer.

(over)

I've heard the arguments supporting the prevailing wage, but none of them convinced me it is anything more than price fixing. In these tough economic times, with funding from Washington and Lansing all but dried up, I feel we can't afford it. The local Democrat Party is pushing my opponent hard in an effort to get the ordinance back on the books; even though our offices are non-partisan, meaning candidates are not supposed to get backing by any party. I'm not sure how you feel about prevailing wage, but I have to ask you if this one issue is enough to cost me your vote. Do you really want to vote for my opponent; a one issue candidate with no experience; never even having paid a tax or utility bill, to represent you at a time when our finances are still fragile in light of the depression this state has endured?

My decades of experience in Civil Engineering helped me represent the City in negotiations for our new water filtration plant; a process that required fourteen different municipalities to agree to work together, putting past prejudices behind them, to finance, construct and govern a county-wide facility that will bring us high quality drinking water. It was a monumental task, but construction is already under way.

Our City government is running as lean as it ever has, and since I believe that which governs least governs best, I am pleased and at the same time proud of the efforts staff has made to continue to provide the best services possible for the tax dollars we have to spend. Single stream recycling is one such service enhancement; everything that can be recycled can now be placed in a single container – no sorting or cleaning required, to be placed at the curb. This is one area where you can help to keep rates low because it costs less to recycle than it does to bury waste in a landfill; so please, do your part. Our automatic meter installation program is getting ready to start as well, which will make our billing process more accurate and reduce losses that increase our rates. Part of that process includes a major modernization of our financial and billing software which will propel our processes into this 21st century.

It has been an honor to serve as your Commissioner, and I'd like to continue serving you for a second term. I ran four years ago specifically because I knew that tough decisions had to be made, and I knew that as unpopular as they were going to be, based on my past experience I could make them; and I have.

So I ask you for your vote, I ask you to cast your ballot for Dennis W. Banaszak, to help return me to a position where I can work for you to keep this city strong. Thank you.

Bourbonais, Lori (MDOS)

From: Bourbonais, Lori (MDOS)
Sent: Tuesday, October 22, 2013 5:14 PM
To: 'dbanaszak@sbbsnet.net'
Subject: Campaign Finance Complaint
Attachments: Niedzinski v Banaszak Notice of Complaint and Complaint.pdf

Mr. Banaszak,

I have attached a pdf of the letter and complaint.

Lori Bourbonais
Bureau of Elections
Michigan Department of State

Bourbonais, Lori (MDOS)

From: Bourbonais, Lori (MDOS)
Sent: Thursday, October 31, 2013 10:32 AM
To: dbanaszak@sbbsnet.net
Subject: Campaign Finance Complaint
Attachments: envelope.pdf

Mr. Banaszak,

Yesterday, I received the hard copy of the notice and complaint for the campaign finance complaint filed against you by Mr. Niedzinski. It was returned by the USPS as undeliverable because Mr. Niedzinski provided an incorrect address for you. I have attached a copy of the envelope with the return-to-sender sticker. You did not receive the complaint until I sent you a copy via e-mail at 5:14 on October 22, 2013. The Department considers this to be received by you on October 23, 2013.

Please call me at your earliest convenience. Your response to this office was originally due today (10 business days from the date of the October 17, 2013 letter). Due to the late notice you received, the Department will extend this time if you have not yet responded.

I apologize for any inconvenience. My direct line is (517) 241-0395.

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

Bourbonais, Lori (MDOS)

From: dbanaszak@sbbsnet.net
Sent: Wednesday, November 06, 2013 2:07 PM
To: Bourbonais, Lori (MDOS)
Subject: Re: Campaign Finance Complaint
Attachments: BoE Response.JPG

Lori,

As we discussed on the telephone this day please find attached a scanned image of my response letter. I understand this will serve as my official response and I need not mail a hard copy to you. If you need anything else please don't hesitate to contact me.

On Thursday 31/10/2013 at 9:31 am, "Bourbonais, Lori (MDOS)" wrote:

Mr. Banaszak,

Yesterday, I received the hard copy of the notice and complaint for the campaign finance complaint filed against you by Mr. Niedzinski. It was returned by the USPS as undeliverable because Mr. Niedzinski provided an incorrect address for you. I have attached a copy of the envelope with the return-to-sender sticker. You did not receive the complaint until I sent you a copy via e-mail at 5:14 on October 22, 2013. The Department considers this to be received by you on October 23, 2013.

Please call me at your earliest convenience. Your response to this office was originally due today (10 business days from the date of the October 17, 2013 letter). Due to the late notice you received, the Department will extend this time if you have not yet responded.

I apologize for any inconvenience. My direct line is (517) 241-0395.

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State



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

December 9, 2013

Andrew Niedzinski
321 South Birney Street
Bay City, Michigan 48708

Dear Mr. Niedzinski:

The Department of State received a response to the complaint you filed against Dennis Banaszak, 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 cursive script that reads "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

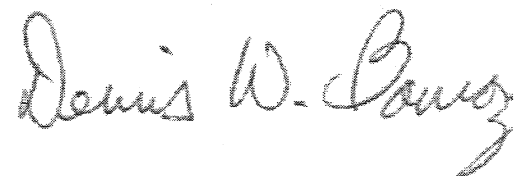
c: Dennis Banaszak

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

Dear Ms. Bourbonais,

As pertains to the complaint filed by Mr. Andrew Niedzinski in regards to my use of official stationery in my re-election campaign; I admit to doing so. I offer no excuse for what I did, because I should have known better. I hope this admission of guilt will allay any need for an investigation and the unnecessary expenditure of taxpayer dollars for same. I await whatever punishment your office deems appropriate.

Apologetically Yours,

A handwritten signature in dark ink, reading "Dennis W. Banaszak". The signature is written in a cursive, flowing style.

Dennis W. Banaszak

617 14th Street

Bav Citv. MI 48708



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

February 10, 2014

Dennis Banaszak
617 14th Street
Bay City, Michigan 48708

Dear Mr. Banaszak:

The Department of State (Department) has concluded its initial investigation of the complaint filed by Andrew Niedzinski against you, which alleged that you violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of Mr. Niedzinski's complaint, which was filed on October 10, 2013. After receiving delayed notice due to an incorrect address provided by the complainant, you filed an answer to the complaint on November 6, 2013. Mr. Niedzinski did not file a rebuttal statement with the Department.

Mr. Niedzinski alleged that you mailed a campaign letter using Bay City Commissioner envelopes, which were paid for by Bay City.

In Michigan, it is unlawful for a public body or an individual acting on its behalf to use or authorize 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 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(3).

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.*

As evidence, Mr. Niedzinski provided a copy of an envelope which appears to bear a Bay City logo and a return address of "Dennis Banaszak, 3rd Ward City Commissioner, 301 Washington Avenue, Bay City, MI 48708." Mr. Niedzinski also provided the letter which was purportedly mailed in the envelope. This letter states, in part, "[s]o I ask you for your vote, I ask you to cast your ballot for Dennis W. Banaszak [.] The letter also indicates that it was paid for by your candidate committee.

In your answer, you admit that you used "Bay City stationary" in your re-election campaign.

Because you admit to using Bay City resources to distribute campaign literature, the Department concludes that there may be a reason to believe that a violation of section 57 of the Act has occurred. Upon making this determination the Department is required by law to attempt to resolve the matter informally. MCL 169.215(10).

By February 24, 2014, please provide the Department with the number of Bay City envelopes that you used to mail your campaign literature, the cost of each envelope, along with the type, number, and cost of any other public resources belonging to Bay City that you may have used in producing this literature. Also, please indicate whether Bay City paid the cost of postage for this mailing. If Bay City did pay the postage, please provide the total cost of the postage. The Department will use this information to facilitate an informal resolution of Mr. Niedzinski's complaint.

Please be advised that if the Department is unable to resolve the matter through informal methods, the Department must refer the matter to the Attorney General for enforcement of the criminal penalty provided in MCL 169.257(3). MCL 169.215(10)(a).

Sincerely,

A handwritten signature in dark ink, appearing to read "Lori Bourbonais", with a stylized flourish at the end.

Lori Bourbonais
Bureau of Elections
Michigan Department of State

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

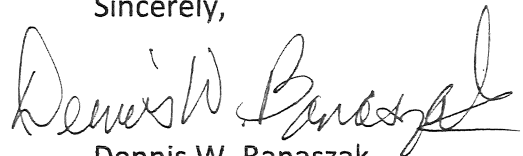
Dear Ms. Bourbonais,

In regards to the use of City resources alleged by Mr. Andrew Niedzinski to which I admitted using Bay City resources in the form of City provided envelopes printed with the Bay City logo, I used 72 such envelopes worth a total of \$2.70 according to the City Clerk.

The mailing was sent to absentee voters whose names appeared on a list I obtained, and paid for, from the City Clerk. The fliers that were delivered were not paid for or created using City funds or equipment. The postage consisted of standard First Class stamps that were paid for from my campaign funds.

As a result of not being re-elected I returned the remaining City provided envelopes to the City Clerk for disposal as per her requirements. Again, I regret and apologize for this violation. I hope this information will be sufficient to provide an informal resolution to this issue so I can put it behind me as a lesson learned.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis W. Banaszak". The signature is fluid and cursive, with the last name being more prominent.

Dennis W. Banaszak

617 14th Street

Bay City, MI 48708

2011 OCT 21 PM 4:05
BUREAU OF ELECTIONS
11000 1ST FLOOR
LANSING, MI 48918



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

February 25, 2014

Dennis W. Banaszak
617 14th Street
Bay City, Michigan 48708

Dear Mr. Banaszak:

The Department of State (Department) has concluded its investigation of the complaint filed by Andrew Niedzinski against you, 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 Mr. Niedzinski's complaint, which was filed on October 10, 2013. You filed an answer to the complaint on November 6, 2013. Mr. Niedzinski did not file a rebuttal statement with the Department. At the Department's request, you provided additional information on February 21, 2014.

The MCFA and corresponding administrative rules require the Department to ascertain whether there may be "reason to believe that a violation of this act has occurred." MCL 169.215(10), R 169.55(3). The Department has carefully considered the written statements and supporting documentation and has determined that the evidence submitted meets this evidentiary standard. Upon a finding that there may be "reason to believe that a violation of this act has occurred[.]" the Department is required by law to "endeavor to correct the violation or prevent a further violation by using informal methods." MCL 169.215(10).

Mr. Niedzinski alleged that you improperly used Bay City envelopes to mail campaign literature.

The MCFA prohibits a public body or an individual acting on its behalf from "us[ing] or authoriz[ing] 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).

By letter dated February 10, 2014, the Department notified you of its determination that the evidence provided supported a conclusion that a violation of the Act had occurred. The Department requested that you provide the Department with the number of envelopes that you used to mail your campaign literature, the cost of each envelope, along with the type, number, and cost of any other Bay City resources that you may have used in producing this literature, and the total cost of postage if it was paid for by Bay City.

You provided this information to the Department in a letter filed on February 21, 2014. You stated that the only public resources used by you to produce and mail your campaign letter were 72 envelopes. The Department confirmed with the Bay City Clerk that the cost to Bay City for the 72 envelopes was \$2.70. You also stated that your campaign committee paid for the postage

to mail your literature. The Department has determined that the taxpayers of Bay City subsidized the cost of mailing your campaign literature in the amount of \$2.70. This activity plainly violates MCL 169.257.


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 Mr. Niedzinski's complaint against you through execution of the enclosed conciliation agreement, which requires that the \$2.70 in improper expenditures be reimbursed to the Bay City by March 14, 2014. While reimbursement does not cure a section 57 violation, the purpose of this settlement is to correct the violation and deter you from committing any further violations of section 57 in the future.

If you wish to enter into the conciliation agreement, please return the original signed document to this office, along with proof of reimbursement of \$2.70 to Bay City by March 14, 2014.

Please be advised that if the Department is unable to resolve Mr. Niedzinski'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

Enclosure



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

BUREAU OF ELECTIONS
MI DEPT OF STATE

2014 MAR 10 AM 8:53

In the Matter of:

Dennis W. Banaszak
617 14th Street
Bay City, Michigan 48708

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 Dennis Banaszak (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 the Respondent violated MCL §169.257(1) by making improper expenditures in the amount of \$2.70 by using public funds to mail campaign literature.

Therefore, the Respondent, without admitting any issue of law or fact, except as stated herein, hereby voluntarily enters into this conciliation agreement and assures the Secretary of State that he will comply with the Act and the Rules promulgated to implement the Act.

By executing this conciliation agreement, the Respondent certifies that \$2.70 has been reimbursed to Bay City, which is equal to the amount of his improper expenditures.

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

The Secretary of State and the 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 the 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



Christopher M. Thomas, Director
Bureau of Elections

Date: 3/14/14

RESPONDENT



Dennis W. Banaszak

Date: 3/3/14