



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

July 9, 2014

Erik Booth
304 Fernwood Drive
Marquette, Michigan 49855

Dear Mr. Booth:

The Department of State (Department) received a formal complaint filed by Nick Smaby 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 your 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(5).

In support of his complaint, Mr. Smaby provided copies of pictures of a sign which states "Erik Booth County Commission – District 6 [.]". The paid-for-by statement on the sign appears to omit your committee's address.

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, 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. Smaby, 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

Erik Booth
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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 47(5) 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 that reads "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Nick Smaby

**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 Nick Smaby	Daytime Telephone Number (906) 360-6425	
Mailing Address 229 Jean St.		
City Marquette	State MI	Zip 49855

Section 2. Alleged Violator		
Name Erik Booth		
Mailing Address 304 Fernwood Drive		
City Marquette	State MI	Zip 49855

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

Section(s) of the MCFA violated: **169.247 Section 47**

Explain how those sections were violated:

Address of person(s) paying for signage is not disclosed on yard signs

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

Photos Attached - I have them date, time and location stamped on my smart phone camera

2014 JUL -1 PM 3:47

BUREAU OF ELECTIONS
MI 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

06-25-14

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

Erik

Booth

County Commission-District 6

U.S. Army Veteran

PAID FOR BY THE COMMITTEE TO ELECT ERIK BOOTH

06-25-14 Front of sign
located at M-28 & Timber Lane
Marquette, MI 49858 Multiple
signs with identical violations
Noted

Erik

Booth

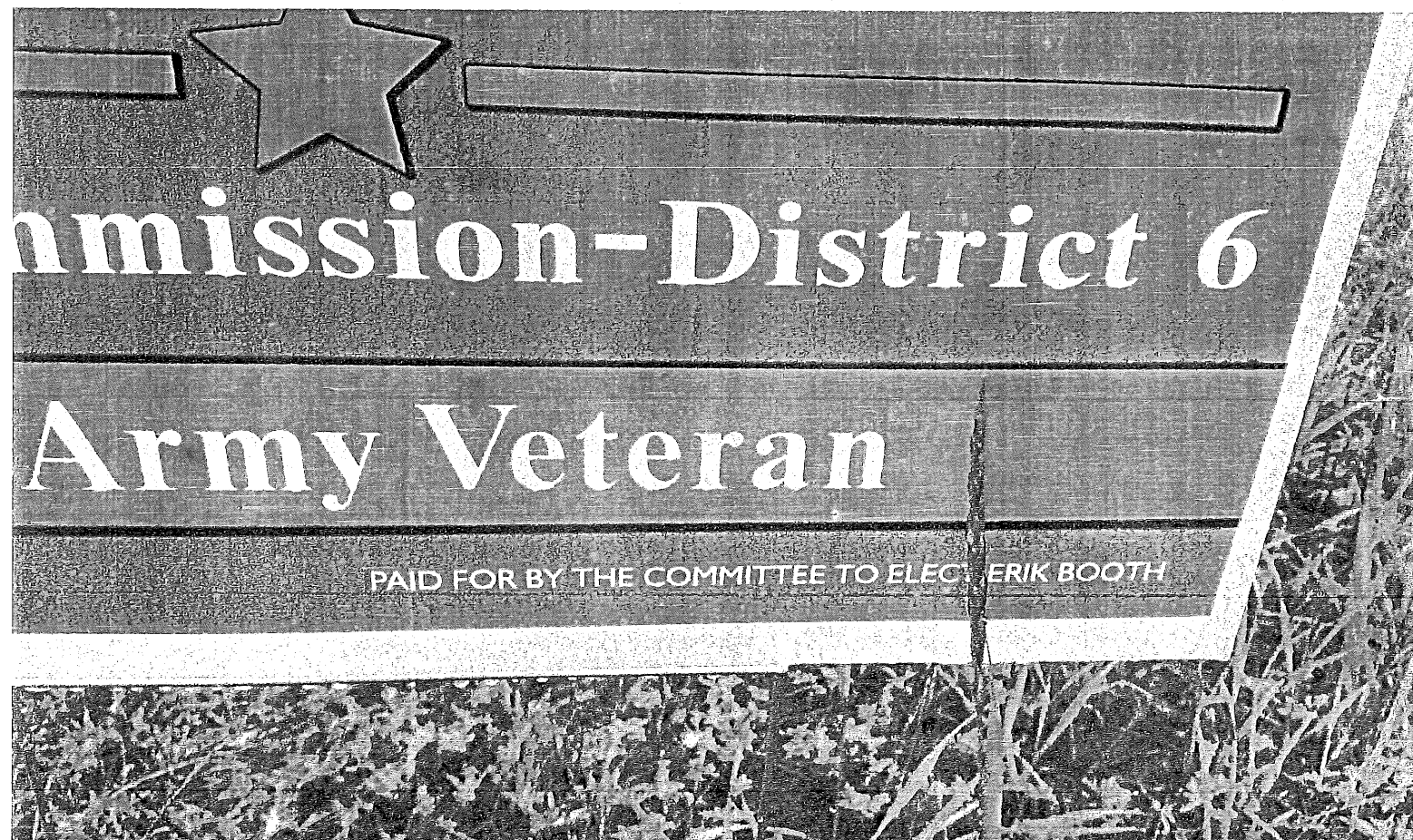


County Commission-District 6

U.S. Army Veteran

PAID FOR BY THE COMMITTEE TO ELECT ERIK BOOTH

6-25-14 Reverse of
Sign



Close-up -- Booth sign
Verbiage 06-25-14



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

July 31, 2014

Nick Smaby
229 Jean Street
Marquette, Michigan 49855

Dear Mr. Smaby:

The Department of State received a response to the complaint you filed against Erik Booth, 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, reading "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Erik Booth

Bourbonais, Lori (MDOS)

From: Erik Booth <erikbooth2001@yahoo.com>
Sent: Wednesday, July 30, 2014 12:38 PM
To: Bourbonais, Lori (MDOS)
Subject: Response to Complaint
Attachments: (2014-07-30) Response to Formal Complaint (3).pdf

Lori,

Please see attached response to your letter dated July 9, 2014.

Erik Booth
Marquette County Commission Candidate
District 6

30 July 2014

State of Michigan
Attn: Lori Bourbonais, Bureau of Elections
430 W. Allegan
Lansing, MI 48918

Dear Ms. Bourbonais:

This letter is a follow up response to your July 9, 2014 letter regarding a formal complaint by Nick Smaby, alleging a violation of the Michigan Campaign Finance Act (MCFA), 1976 PA 388, MCL 69.247(1), by failing to include a complete and correct identification statement on my campaign signs. This written response is being submitted within the 15 business days of the date from your letter.

As discussed with you by telephone on July 17, 2014, my signs were made by a local printing shop that has made political campaign signs before and they were unaware of this requirement. I have made labels for the signs and have attached them to the ones in which I know the location of. Multiple people have been helping me with sign placement; therefore I am not personally aware of all the sign locations. However, this will be corrected on the signs that we find or directly know the locations of. Additionally, any printed materials distributed from the date of this letter will have a business card attached with the address of the Committee to Elect Erik Booth.

As instructed, evidence of corrective measures has been included in this letter.

Please be aware that on July 29, 2014 we filed a police report of vandalism on approximately 20 of my signs. Signs were thrown to the ground, the stands were bent, and the address labels had been torn off. Additionally many of my signs have also been stolen. Therefore, I am notifying your department of this now so that if you receive a report that labels are not on my signs after the date of this letter you have an understanding of the types of unethical acts taking place.

I would also like to personally thank you for your assistance and prompt responses in helping me resolve this matter. The time you took and care you demonstrated in helping me through this matter speaks highly of you, your position, and the Bureau of Elections Department.

I trust this will be enough information for your department to determine that there is no reason to believe that a violation has occurred. Again, thank you for your support in correcting this matter.

Sincerely,
Erik Booth
Marquette County Commission Candidate - District 6
304 Fernwood Drive
Marquette, MI 49855

BUREAU OF ELECTIONS
MI DEPT OF STATE

2014 JUL 30 PM 12:42

E TO ELECT ERIK BOOTH

304 Fernwood Drive Marquette, MI 49855

Corrective measure 1: Address on political signs.

PLEASE VOTE FOR ME AUGUST 5, 2014



**Erik
Booth**
DEMOCRAT

County Commission – District 6
U.S. Army Veteran

PAID FOR BY THE COMMITTEE TO ELECT ERIK BOOTH
304 FERNWOOD, MARQUETTE, MI 49855

Corrective measure 2: Address on political door hangers.



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

October 8, 2014

Erik Booth
304 Fernwood Drive
Marquette, Michigan 49855

Dear Mr. Booth:

The Department of State (Department) has completed its investigation of the complaint filed against you by Nick Smaby, which alleged that you violated section 47(1) of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.247(1), by failing to include a complete and correct identification statement on certain campaign-related material. This letter concerns the disposition of Mr. Smaby's complaint.

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), 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(5).

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.

Mr. Smaby filed his complaint on July 1, 2014, and you filed a written response on July 30, 2014. Mr. Smaby did not file a rebuttal statement with the Department.

Mr. Smaby alleged that your committee's address did not appear in the paid-for-by statement on your campaign signs. In support of his complaint, Mr. Smaby provided copies of pictures of signs which stated "Erik Booth County Commission - District 6 [.]". It appeared that your committee's address was omitted from the paid-for-by statement on the signs.

In your response you indicated that both you and the printer were unaware of the requirement that the committee's address appear in the paid-for-by statement on your printed campaign material. You further indicated that you made labels for the signs and attached them to the signs in known locations. You also stated that you would continue to correct any other signs that you discovered. As evidence of your corrective measures you provided a copy of a picture a sign with the address sticker and a copy of your political door hangers which contained a complete and correct paid-for-by statement.

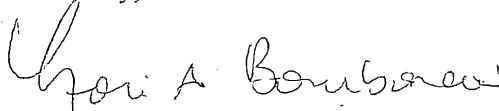
While the Department believes that the evidence tends to show that your campaign material failed to contain a complete paid-for-by statement prior to your corrective action, section 15(10) of the MCFA requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion [.]". The Department is satisfied that you took appropriate corrective measures once the potential violation was brought to your attention.

Additionally, the Department is advising you that section 47(1) and R 169.36(2) require you to print a complete and accurate identification statement on all campaign materials, consisting of the phrase "paid for by" followed by the full name and address of your committee. Note that all printed materials that refer to an election or your candidacy produced in the future must include this identification statement.

Please be advised that this notice has served to remind you of your obligation under the Act to identify your printed matter, and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act. A knowing violation is a misdemeanor offense and may merit referral to the Attorney General for enforcement action. MCL 169.247(5), 215(10).

The Department now considers this matter closed and will take no further action against you at this time.

Sincerely,



Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Nick Smaby