



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

October 29, 2015

Kara Ellis
Super Cute, LLC
5870 Midland Road
Freeland, Michigan 48623

David Schauman
Schauman Construction Company
P.O. Box 522
Freeland, Michigan 48623

Barry Huckleby
Freeland Antique Mall, LLC
5868 Midland Road
Freeland, Michigan 48623

Dear Ms. Ellis, Mr. Schauman, and Mr. Huckleby:

The Department of State (Department) received a formal complaint filed against Super Cute, LLC, Schauman Construction Company, and Freeland Antique Mall (Companies) by Catherine Zemanek, alleging that the Companies violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The investigation and resolution of these complaints 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.

The MCFA requires a committee to file a statement of organization within 10 days after a committee is formed. 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.* By statutory definition, a committee is formed when "a person¹ receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for or against . . . the qualification, passage, or defeat of a ballot question . . . if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year." MCL 169.203(4). A statement of organization must be filed within 10 days of reaching one of these \$500.00 thresholds.

¹ "Person" is defined as "a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly." MCL 169.211(2).

October 29, 2015

Page 2

Ms. Zemanek alleges that the Companies have acted jointly and made expenditures exceeding the \$500.00 threshold and have not filed a statement of organization.

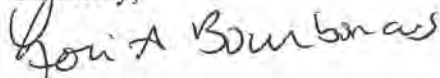
The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

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 Ms. Zemanek, 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 24(1) 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: Catherine Zemanek

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 Catherine Zemanek	Daytime Telephone Number 989 573 3628	
Mailing Address 8655 Kochville		
City Saginaw	State Mi	Zip 48603

Section 2. Alleged Violator		
Name Super Cute LLC, Shauman Construction/Rentals, Freeland Antique Mall (see attachments)		
Mailing Address 5870 Midland/5868 Midland/5474 Garfield		
City Freeland	State MI	Zip 48623

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

Section(s) of the MCFA violated:

169.247 Disclosure / 169.224 STATEMENT OF ORGANIZATION

Explain how those sections were violated:

These companies are spending and acting like a ballot question committee but have failed to file as a committee.

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

Attached is billboard for a "yes" vote. Phone contact w/ billboard company revealed the cost of the billboard was \$900 - over the threshold for filing as a Ballot Question Committee. Attached sheets show entity information for 3 separate entities which claim to have paid for the billboards.

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

Catherine L. Zemanek
Signature of Complainant

10/20/15
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:

The violators have spent money over the
spending threshold without filing as a
ballot question committee. They have
used the billboard as an advertisement
rather than follow the campaign finance
laws.

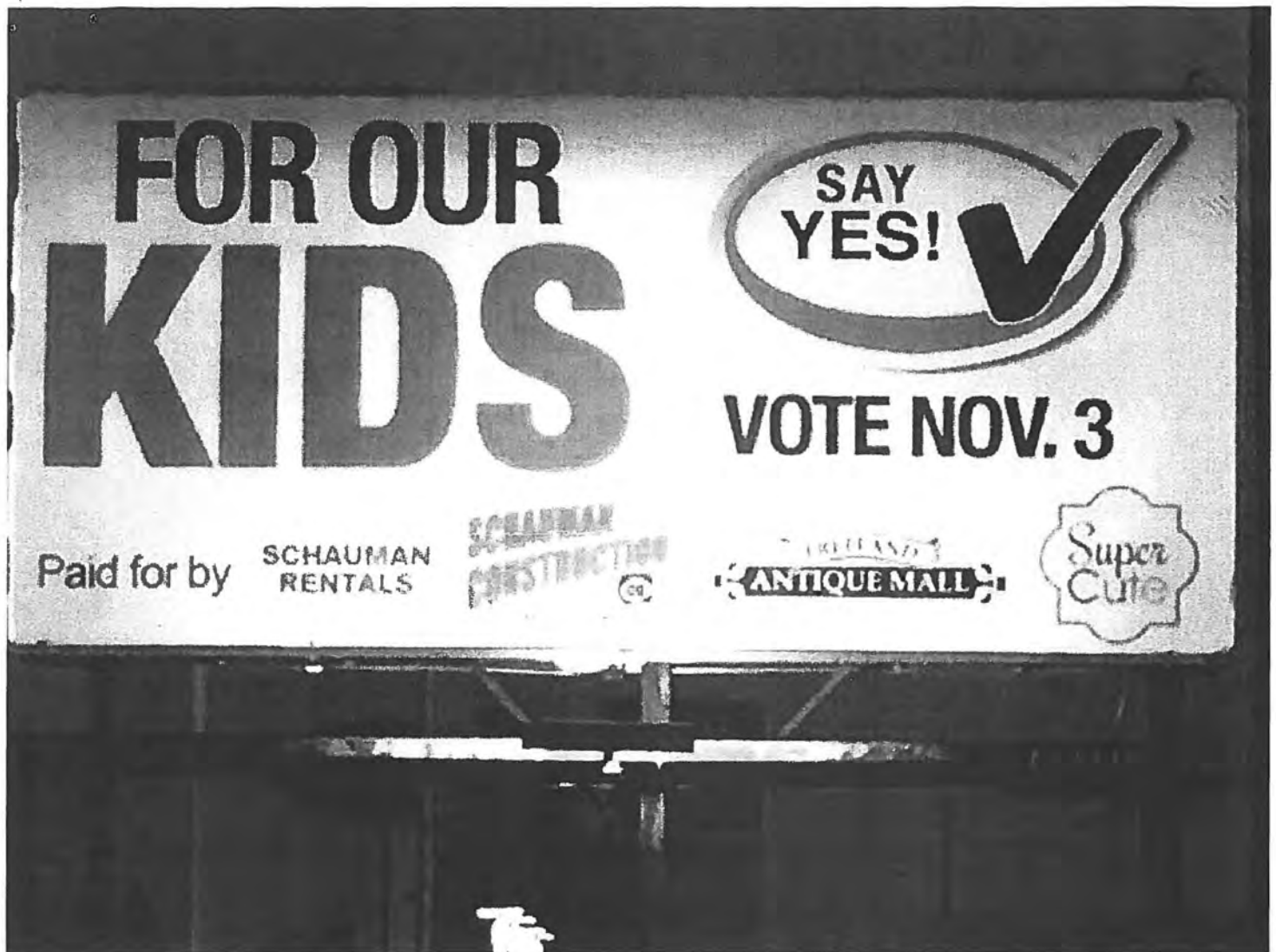
X Catherine L. Zemanek
Signature of Complainant

10/20/15
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



SIGN LOCATION M-47 SOUTH OF FREELAND



Department of Licensing and Regulatory Affairs

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CORPORATE ENTITY DETAILS

Searched for: SCHAUMAN CONSTRUCTION CO.

ID Num: 436786

Entity Name: SCHAUMAN CONSTRUCTION CO.

Type of Entity: Domestic Profit Corporation

Resident Agent: DAVID A SCHAUMAN

Registered Office Address: 5474 GARFIELD RD SAGINAW MI 48603

Mailing Address: P.O. Box 522 FREELAND MI 48623

Formed Under Act Number(s): 284-1972

Incorporation/Qualification Date: 5-1-1991

Jurisdiction of Origin: MICHIGAN

Number of Shares: 50,000

Year of Most Recent Annual Report: 15

Year of Most Recent Annual Report With Officers & Directors: 11

Status: ACTIVE **Date:** Present[View Document Images](#)[Return to Search Results](#)[New Search](#)[Michigan.gov Home](#) | [Business Entity Search Home](#) | [Contact Corporations](#) | [Corps Home](#) | [LARA Home](#)
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LIMITED LIABILITY COMPANY DETAILS

Searched for: FREELAND ANTIQUE MALL, LLC**ID Num:** E54731**Name:** FREELAND ANTIQUE MALL, LLC**Type:** Domestic Limited Liability Company**Resident Agent:** BARRY HUCKEY**Registered Office Address:** 5868 MIDLAND RD FREELAND MI 48623**Mailing/Office Address:****Formation/Qualification Date:** 12-12-2014**Jurisdiction of Origin:** MICHIGAN**Managed by:** Members**Status:** ACTIVE **Date:** Present[View Document Images](#)[Return to Search](#)[New Search](#)

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LIMITED LIABILITY COMPANY DETAILS

Searched for: SUPER CUTE, LLC**ID Num:** E2304G**Name:** SUPER CUTE, LLC**Type:** Domestic Limited Liability Company**Resident Agent:** KARA ELIZABETH ELLIS**Registered Office Address:** 5870 MIDLAND RD FREELAND MI 48623**Mailing/Office Address:****Formation/Qualification Date:** 6-10-2013**Jurisdiction of Origin:** MICHIGAN**Managed by:** Members**Status:** ACTIVE **Date:** Present[View Document Images](#)[Return to Search](#)[New Search](#)

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[State Web Sites](#) | [Accessibility Policy](#) | [Link Policy](#) | [Security Policy](#)

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

November 30, 2015

Catherine Zemanek
8655 Kochville
Saginaw, Michigan 48603

Dear Ms. Zemanek:

The Department of State received a response to the complaint you filed against Super Cute LLC, Freeland Antique Mall, LLC, and Schauman Construction Company, 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: Katherine M. Baluha, Esq.

KATHERINE M. BALUHA
ATTORNEY AT LAW



OFFICE ADDRESS:
5798 MIDLAND ROAD
FREELAND, MI 48623

TEL: (989) 573-8330
FAX: (989) 573-8332

November 11, 2015

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

RE: Catherine Zemanek v. Super Cute, LLC, Freeland Antique Mall, LLC, and Schaudman Construction Co.

2015 NOV 17 PM 3:50
ELECTIONS/GREAT SEAL

Dear Ms. Bourbonais,

Please find enclosed a Response to Campaign Finance Act Complaint with regard to the abovementioned Complainant and Respondents and Proof of Mailing, which is provided pursuant to Section 15(5) of the Michigan Campaign Finance Act, MCL 169.215 (5). As this section requires, this Response is being provided within the 15 days from the date of mailing, postmarked November 2, 2015, of the letter and information provided by the Secretary of State.

Please direct all further correspondence of this matter to my attention at 5798 Midland Road, Freeland, Michigan 48623 and please feel free to contact my office with any questions or concerns at (989) 573-8330.

Very truly yours,

Katherine M. Baluha, Esq.
KATIE MARIE LAW, PC

Cc: Mr. David Schauman (Respondent)
Ms. Kara Ellis (Respondent)
Mr. Barry Huckleby (Respondent)
Ms. Catherine Zemanek (Complainant)

MICHIGAN DEPARTMENT OF STATE

BUREAU OF ELECTIONS

CATHERINE ZEMANEK,

Complainant,

v.

SUPER CUTE, LLC,
SCHAUMAN CONSTRUCTION COMPANY,
& FREELAND ANTIQUE MALL, LLC,

Respondents.

RESPONSE TO CAMPAIGN FINANCE ACT COMPLAINT

Pursuant to Section 15(5) of the Michigan Campaign Finance Act (MCFA),
MCL 169.215(5), Respondents, by their undersigned attorney, answer the Complaint as
follows:

FACTUAL BACKGROUND

Respondents, Super Cute, LLC and Freeland Antique Mall, LLC are Limited Liability Companies that are located in Freeland, Michigan. Respondent, Schauman Construction Company, is a Domestic Profit Corporation located in Freeland, Michigan. On November 3, 2015, a special vote was held in the Freeland Community School District, specifically in Tittabawassee, Kochville, Frankenlust, and Thomas Townships, with regard to a bond proposal that was initiated by Freeland Community School District. Respondents were proponents of the bond proposal and in hopes of showing that there were businesses in the district that were in favor of the bond, they each, along with a resident of the community, contributed a portion of the expense to post a billboard (billboard panel 10441 owned by Lamar Companies) that asked that residents vote yes in favor of the bond. Mr. Ron Schauman, a resident of Freeland School District and member of the Home Builders Association of Saginaw, Inc. (HBAS), was aware that the



5798 Midland Rd.
Freeland, MI 48623
Tel: (989) 573-8330
Fax: (989) 573-8332

HBAS had contracted with Lamar Companies to rent several billboards in the surrounding area. HBAS did, in fact, rent 15 billboard panels from Lamar. Of the 15 billboards, Mr. Schauman rented 4 of those panels from HBAS, for his own personal use and being an avid supporter of the community and school district decided to rent one more of HBAS' panels to support the upcoming bond proposal at a cost of Four Hundred and Seventy-Five Dollars (\$475.00) per panel. Mr. Schauman, was then approached by Respondents, whom each agreed to pay a portion for his panel to show community business support of the bond, as well. Invoices that evidence the exchange from Lamar Companies to HBAS and from HBAS to Mr. Schauman are attached and incorporated as Exhibits A and B.

On October 22, 2015, Complainant, Catherine Zemanek, filed a Campaign Finance Act complaint with Department of State consisting of two alleged violations against the Respondents:

“169.247 Disclosure/169.224 Statement of Organization. These companies are spending and acting like a ballot question committee but have failed to file as a committee”.

Complainant further alleges in her complaint as evidence of the alleged violations that she contacted the “billboard company” whom allegedly revealed the cost of the billboard was Nine Hundred Dollars (\$900.00). Complainant further states in her complaint the following:

“The violators have spent money over the spending threshold without filing as a ballot question committee. They have used the billboard as an advertisement rather than follow the campaign finance laws.”

DISCUSSION AND RESPONSE

Pursuant to R169.52(2) of the rules promulgated by the Secretary of State to implement the Campaign Finance Act, a person who believes a violation of the MCFA has occurred may file a written complaint which describes in reasonable detail the alleged violation, and identifies all available evidentiary material. In this instance,



Complainant simply cites to violation of 169.247 and 169.224 of the MCFA, as having been violated by Respondents. Complainant did not identify any specific section, paragraph, or sub-paragraph as having been violated, which leaves Respondents to speculate regarding which section, paragraph, or sub-paragraph of the rules, if any, are the subject of her complaint, which leaves her in violation of Rule 52(2), R169.52(2). For this reason alone, the complaint must be dismissed.

Complainant identifies the alleged violators, pursuant to section 15(5), however, she claims that "Schauman Construction/Rentals" is one of the alleged violators. Complainant then clearly attached Department of Licensing and Regulatory Affairs information that relates to Schauman Construction Company. Complainant clearly misnamed the alleged violator and attached her own evidence of such, which alone makes her liable to Section 15(8) of MCFA.

Further, Rule 52(2) requires that the Complainant describe in reasonable detail the alleged violation and identify all available evidentiary material. In this instance, the only evidence submitted was a picture of the billboard panel that Respondents purchased with Mr. Schauman and internet site pages from Department of Licensing and Regulatory Affairs which show the Respondents' company entity details. The picture of the billboard simply shows whom ultimately ended up being in use of the panel in question, which does not answer the question of who sold the rights to use the panel and for how much it was sold to Respondents. The LARA website pages have absolutely no bearing to this complaint, as it does not show who the owner of each entity is but only the resident agents of each entity. There was no evidence submitted to show how much was spent in the acquisition of the panel to the Respondents, which is what the entire complaint is based on. Further, the Complainant obviously did not get the specific information with regard to whom had already purchased the billboard panel, but it is assumed was only given a quote for the billboard panel if rented. However, HBAS clearly was given a better rate based on the amount of panels rented. Complainant did not satisfy the requirements of Rule 52(2).

Further, Complainant claims that Respondents are acting as a ballot question committee without having filed as such. In order to be considered a committee based on



Complainant simply cites to violation of 169.247 and 169.224 of the MCFA, as having been violated by Respondents. Complainant did not identify any specific section, paragraph, or sub-paragraph as having been violated, which leaves Respondents to speculate regarding which section, paragraph, or sub-paragraph of the rules, if any, are the subject of her complaint, which leaves her in violation of Rule 52(2), R169.52(2). For this reason alone, the complaint must be dismissed.

Complainant identifies the alleged violators, pursuant to section 15(5), however, she claims that "Schauman Construction/Rentals" is one of the alleged violators. Complainant then clearly attached Department of Licensing and Regulatory Affairs information that relates to Schauman Construction Company. Complainant clearly misnamed the alleged violator and attached her own evidence of such, which alone makes her liable to Section 15(8) of MCFA.

Further, Rule 52(2) requires that the Complainant describe in reasonable detail the alleged violation and identify all available evidentiary material. In this instance, the only evidence submitted was a picture of the billboard panel that Respondents purchased with Mr. Schauman and internet site pages from Department of Licensing and Regulatory Affairs which show the Respondents' company entity details. The picture of the billboard simply shows whom ultimately ended up being in use of the panel in question, which does not answer the question of who sold the rights to use the panel and for how much it was sold to Respondents. The LARA website pages have absolutely no bearing to this complaint, except to show the liability of Complainant herself for misnaming the alleged violator, as it does not show who the owner of each entity is but only the resident agents of each entity. There was no evidence submitted to show how much was spent in the acquisition of the panel to the Respondents, which is what the entire complaint is based on. Further, the Complainant obviously did not get the specific information with regard to whom had already purchased the billboard panel, but it is assumed was only given a quote for the billboard panel if rented. However, HBAS clearly was given a better rate based on the amount of panels rented. Complainant did not satisfy the requirements of Rule 52(2).



Further, Complainant claims that Respondents are acting as a ballot question committee without having filed as such. In order to be considered a committee based on 169.203 Section 3(4), the Respondents would have to receive contributions or make expenditures for the purpose of influencing or attempting to influence the action of voters for or against the ballot question and, most importantly contributions or expenditures must be made of \$500.00 or more in a calendar year. Based on the exhibits and information provided by Respondents they clearly do not meet such requirements to be considered a committee by the MCFA. Further, based on the information provided in Complainants complaint, there was no evidence provided to support her allegations. Based on this information the complaint should be dismissed. Respondents did not violate any section, paragraph or sub-paragraph of 169.224.

It is also worth noting, pursuant to 169.247 Section 47(1), "...an individual other than a candidate, is not subject to this subsection if the individual is acting independently and not acting as an agent for a candidate or any committee..." The subsection speaks to the necessity of claiming whom it was that paid for the information disseminated in the billboard, therefore Respondents not only did not violate 169.247, they had no obligation to post whom it was that paid for the billboard in the first place because they did so individually, and did so only to show their businesses' support of the Freeland Community School District and community of Freeland, Michigan.

Given the Complainant's utter failure to identify a specific provision of the Michigan Campaign Finance Act that has allegedly been violated by Respondents, the complete lack of evidence to support the allegations in the complaint, and the complete disregard to the actual facts, it is respectfully requested that the complaint submitted by Catherine Zemanek be dismissed. Further, the complaint that Complainant certified with her signature clearly states, "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. Respondents request that along with any and



all other fines available for Complainant's violations, Complainant be ordered to incur any and all of Respondent's attorney fees and costs incurred in defending this complaint.

Respectfully submitted,
KATIE MARIE LAW, P.C.

Dated: November 11, 2015

By:


KATHERINE M. BALUHA (P77340)
Attorney for Respondents
5798 Midland Road
Freeland, Michigan 48623
(989) 573-8330
kbaluha@katiemarielaw.com



5798 Midland Rd.
Freeland, MI 48623
Tel: (989) 573-8330
Fax: (989) 573-8332



INVOICE

2417

QUESTIONS? CONTACT 888-407-8582
OR (225) 826-1000CUSTOMER: HOME BUILDERS ASSOCIATION OF SAGINAW
ADVERTISER: HOME BUILDERS ASSOCIATION OF SAGINAW

INVOICE NO: 108445002

CUSTOMER
CONTRACT NO:LAMAR CUSTOMER NO: 530735
LAMAR CONTRACT NO: 2445065

INVOICE DATE: 10/12/2015

DUE DATE: 11/11/2015

MARKET / MEDIA TYPE / DESIGN / LOCATION	CONTRACT SERVICE DATES	PANLL NUMBER	PANEL TAB ID	ILLUM	AMOUNT
1 - SAGINAW, MI (155-MJF8514)					
155-Saginaw, MI					
Media Type: Posters					
M-84 1.6 MI N/O TITTABAWASSEE W/S F/N	10/12/15-11/8/15	10341	289788	Yes	
M-84 (BAY RD) .3 MI S/O TITTABAWASSEE W/ S F/N		10392	289796	Yes	
M-84 (BAY RD) 2.2MI S/O TITTABAWASSEE E/ S F/S		10403	289799	Yes	
* M-47 1.5 MI S/O FREELAND RD E/S F/NW		10441	289806	Yes	
DAVENPORT & MASON S/S F/E TOP		10495	289816	Yes	
M-46 GRATIOT 8.5 MI W/O C/L N/S F/E		10515	289820	Yes	
M-46 GRATIOT 4.5 MI W/O C/L N/S F/E		10525	289822	Yes	
M-48 GRATIOT 2.7 MI W/O C/L S/S F/W FFR		10566	289832	Yes	
W GENESEE .2 MI E/O MICHIGAN AVE S/S F/E		10785	289859	Yes	
M-84 .9 MI N/O TITTABAWASSEE E/S F/N		11582	289852	Yes	
M-84 1.9 MI S/O TITTABAWASSEE E/S F/N		11622	289956	Yes	
M-84 1.9 MI N/O TIPPY W/S F/S TOP		11983	290013	Yes	
M-84 1.7 MI N/O TITTABAWASSEE E/S F/S		49043	289951	Yes	
US-10 4 MI W/O I-75 N/S F/E BOT		50098	290730	Yes	
US-10 4 MI W/O I-75 N/S F/W TOP		50097	290731	Yes	
Total Panels:15					6,000.00

STATE TAX	COUNTY or PARISH TAX	CITY	AMOUNT
0.00	0.00	0.00	6,000.00

REMITTANCE STUB - Please send this with payment

Thank you for doing business with Lamar. Your
payment of this invoice is greatly appreciated.SIT <http://payments.lamar.com>

0005307351064450020000006

CUSTOMER

HOME BUILDERS ASSOCIATION OF SAGINAW
3165 CABARET TRL S
SAGINAW, MI 48603-2284

NET 30 DAYS

AMOUNT DUE

6,000.00

US DOLLARS

Lamar Office Use Only

108445002
530735-0pr:10/12/2015 ac:10/15/2015
Contract/Plan/AdvertiserMAIL
PAYMENT 
TOLAMAR COMPANIES
P.O. BOX 96030
BATON ROUGE, LA

PLEASE SEE REVERSE FOR IMPORTANT INFORMATION!

EXHIBIT

tabbles

A

Home Builders Association of Saginaw, Inc.

Invoice3165 Cabaret Trail South
Saginaw, MI 48603-2284

Date	Invoice #
8/31/2015	15368

Bill To
Ron Schauman P.O. Box 522 Freeland, MI 48623

PAID
09/14/2015

Terms	Account #
Due on receipt	543882

Description	Qty	Rate	Amount
billboard power buy - one billboard - panel 10441 M-47	1	475.00	475.00

Total \$475.00**Payments/Credits** -\$475.00**Balance Due** \$0.00Like us on Facebook
www.facebook/HBASaginaw

Web Site

hbas.org**EXHIBIT****3**

tabbles

MICHIGAN DEPARTMENT OF STATE

BUREAU OF ELECTIONS

CATHERINE ZEMANEK,

Complainant,

v.

SUPER CUTE, LLC,
SCHAUMAN CONSTRUCTION COMPANY,
& FREELAND ANTIQUE MALL, LLC,

Respondents.

PROOF OF MAILING

I, Katherine M. Baluha, certify that, on November 11, 2015, I sent by first-class mail a copy of a **Response to Campaign Finance Act Complaint** to:

Ms. Catherine Zemanek at 8655 Kochville Road, Saginaw, MI 48603;
Department of State at 430 West Allegan Street, Lansing, MI 48918.

Dated: November 11, 2015

By:


KATHERINE M. BALUHA (P77340)
Attorney for Respondents
5798 Midland Road
Freeland, Michigan 48623
(989) 573-8330
kbaluha@katiemarielaw.com



5798 Midland Rd.
Freeland, MI 48623
Tel: (989) 573-8330
Fax: (989) 573-8332



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

December 17, 2015

Katherine M. Baluha, Esq.
KATIE MARIE LAW, PC
5798 Midland Road
Freeland, Michigan 48623

Dear Ms. Baluha:

This letter concerns the complaint that was recently filed against Super Cute, LLC, Freeland Antique Mall, LCC, and Schauman Construction Co. by Catherine Zemanek, 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 60 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. Zemanek'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 dark ink, reading "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Catherine Zemanek

MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

CATHERINE ZEMANEK,

Complainant

v

SUPERCUTE, LLC;
SCHAUMAN CONSTRUCTION COMPANY; AND
FREELAND ANTIQUE MALL, LLC.

Respondents

COMPLAINANT'S REBUTTAL TO RESPONDENT

Respondent made response to a complaint I filed, rather than simply file a Statement of Organization with a reporting waiver and avoid this continuing violation. In failing to file the statement they subject themselves to fines that increase every day. Now they are trying to manipulate the facts in a desperate attempt to avoid the law.

When I became involved in this election I read the Bureau of Elections manual and learned what my legal responsibilities were, and I filed a Ballot Question Statement of Organization with the County Clerk. As this campaign progressed I saw a huge billboard for a "yes" vote, and I could tell from its face that it was illegal. First, it had a "paid for by" designation, but the businesses listed were not campaign committees (see attached exhibit B). Second, I knew this Billboard was worth more than the \$500 threshold for filing, but I called the sign company just to make sure. Prior to filing a complaint in this matter I looked these companies up on LARA and I phoned the sign company Lamar Advertising, and they verified the normal charge for billboards was over \$900. Subsequent phone contact confirmed that \$995 would be the actual normal charge for a minimum 4 week run, and Lamar sent written confirmation breaking down the cost (see attached exhibit A). Sign rental is \$845/month and production cost is a one-time fee of \$150, for a total value of \$995. Any discount from that amount is an in-kind contribution, as I learned from a quick review of the state campaign finance manual.

Respondent claims that the group spent or received less than \$500 on the billboard and therefore was not required to file a Statement of Organization. However, the estimate from the Billboard Company shows the pre-discount billboard price, including production, was \$995. Respondent fails to include the amount of the \$520 discount they received on the sign (from the sign company, HBAS or Mr. Schauman) as an in-kind contribution. That discount is *not available to the general public* and so was clearly an in-kind contribution and must be counted against the filing threshold.

Michigan's Campaign Finance Act requires groups participating in Michigan elections to form and register committees. Committees are groups that receive contributions or make expenditures to influence voters for or against the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question. As soon as an organization or group of persons receives **\$500.00 in contributions** (including in-kind contributions) or makes independent expenditures totaling \$500.00 in a calendar year to influence voters for or against the qualification, passage or defeat of one or more ballot questions in Michigan, the organization or group of persons has 10 calendar days to form and register a Committee.

MCR 169.204 defines "Contribution" to include in-kind "discounts":

- (1) **"Contribution"** means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, *forbearance*, loan, or donation of money or *anything of ascertainable monetary value*, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, for the qualification, passage, or defeat of a ballot question, or for the qualification of a new political party.
- (2) **Contribution includes** the full purchase price of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and other fund-raising events; an individual's own money or property other than the individual's homestead used on behalf of that individual's candidacy; *the granting of discounts or rebates not available to the general public*; or the granting of discounts or rebates by broadcast media and newspapers not extended on an equal basis to all candidates for the same office; and the endorsing or guaranteeing of a loan for the amount the endorser or guarantor is

liable. Except for the purposes of section 57, contribution does not include a contribution to a federal candidate or a federal committee.

MCL 169.209(3) says: "In-kind contribution or expenditure" means a contribution or *expenditure other than money*.

See also page 10 of the Michigan Ballot Question Manual:

In-kind contributions are goods, services and facilities provided to the committee at no cost or at a discount. An in-kind contribution could be a donation of office supplies to the committee, a person paying off a debt incurred by the committee, someone paying the salaries of persons who are working on the ballot question campaign or a person donating professional services to the committee. *The value of an in-kind contribution is the fair market value of the goods or services or the usual rental charge of a facility for office space or a fund raiser. If the committee receives a discount unavailable to the general public, the value of the in-kind contribution is the amount discounted.*

It appears respondent was attempting to skirt the campaign finance disclosure laws when they asserted the cost of the sign was \$475 (respondent business owner Barry Huckleby had claimed a different cost of \$495 during a late-night harassing phone call to complainant). Rather than simply file a Statement of Organization, and declare a reporting waiver for total spending under \$1,000, respondents chose instead to make harassing phone calls to me threatening financial retaliation for filing the complaint (police report available on request). Respondent could have avoided almost all fines for late filing of the Statement of Organization by filing one sheet of paper and no subsequent reports. For all their money and power, their actions and manipulations are too clever by half.

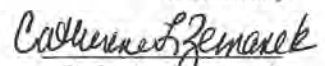
The fair market value for the billboard was clearly \$995. The group claims to have solicited donations from each other to cover the first \$475, and they actually solicited an in-kind contribution in the form of discount of \$520 (from Lamar Advertising or HBAS or Mr. Schauman, whom respondent now claims helped actually pay for the sign individually but who was not listed as an individual in the "paid for by" disclosure.)

Respondents make a misleading assertion that the sign panel cost (not value) was \$475. Respondents willfully fail to explain away the \$150 production fee charged for each panel, which was an in-kind contribution from *someone*. Add that \$150 to the claimed \$475 the threshold for filing was still exceeded by \$125, let alone the additional sign discount.

That signage in question was worth \$995 on the open market and therefore exceeds the \$500 filing threshold. Someone, not the respondents, who claimed to pay only \$475 for the Billboard, owned the rights to that discounted sign. *Someone donated that discount* to the respondent, and took them over the \$500 filing threshold by doing so. If Mr. Schauman earned a discount on that sign by engaging in a volume buy of 16 signs (the respondent group did not make or participate in the discounted buy), *then that discount did not belong to the group until it was later donated to it as an in-kind contribution from the individual Ron Schauman*. So, if, as respondent seems to claim, MR. Schauman was the person who got the discounted sign, and had the group pay part of his discounted price for the sign, then the amount of the discount was at least a \$520 in-kind contribution from Mr. Schauman to the group.

Respondents try to obfuscate the facts, and their indiscretions, and act as if they are above the law, and even claim I somehow did something wrong by reporting them to the Bureau of Elections. Rather than make a simple and contrite corrective action they continue to attempt to reverse the blame for their own misconduct. Reporting their blatant misconduct to the Elections Division was the correct action to take, from my perspective as a citizen housewife trying not to have my voice drowned out by wealthy players who clearly know the rules but won't follow them.

Submitted,


Catherine Zemanek

Dated: 12-7-15



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

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November 30, 2015

Catherine Zemanek
8655 Kochville
Saginaw, Michigan 48603

Dear Ms. Zemanek:

The Department of State received a response to the complaint you filed against Super Cute LLC, Freeland Antique Mall, LLC, and Schauman Construction Company, 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
Bureau of Elections
Michigan Department of State

c: Katherine M. Baluha, Esq.

10100 Thor Drive, Freeland, MI 48623
Phone: 888-407-9552 Fax: 989-692-2430

Lamar Advertising
Saginaw, MI #155

Fax

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Panel: 10443

TAB Unique ID: 289807
Location: M-47 1.8 MI S/O FREELAND RD E/S F/S/E
Lat/Long: 43.5081/-84.1150
Media/Style: Poster/Retro
***Weekly Impressions:** 56310
Panel Size: 10' 6" x 22' 9" Spec Sheet
Vinyl Size: 10' 6.5" x 22' 9.5"
Facing/Read: South East/Right
Illuminated: YES
Current Advertiser: FIREHOUSE SUBS

*Impression values based on: 18+ yrs



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

March 9, 2016

Katherine M. Baluha, Esq.
KATIE MARIE LAW, PC
5798 Midland Road
Freeland, Michigan 48623

Dear Ms. Baluha:

The Department of State (Department) has completed its investigation of the complaint filed against Super Cute, LLC; Freeland Antique Mall, LLC; and Schauman Construction Co. (Respondents) by Catherine Zemanek, which alleged that Respondents violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of Ms. Zemanek's complaint.

Ms. Zemanek filed her complaint on October 22, 2015. You filed a written response on November 17, 2015, and Ms. Zemanek filed a rebuttal statement on December 8, 2015.

Ms. Zemanek alleged that Respondents expended more than \$500.00 on a billboard soliciting a "yes" vote on a ballot question and failed to: (1) file as a ballot question committee, and (2) include a proper paid-for-by statement on the sign.

Failure to Form a Ballot Question Committee

The MCFA requires a committee to file a statement of organization within 10 days after a committee is formed. 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.* By statutory definition, a committee is formed when "a person¹ receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for or against . . . the qualification, passage, or defeat of a ballot question . . . if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year." MCL 169.203(4). A statement of organization must be filed within 10 days of reaching one of these \$500.00 thresholds.

Ms. Zemanek alleged that Respondents acted jointly and made expenditures for a billboard exceeding the \$500.00 threshold, subjecting Respondents to the registration and reporting

¹ "Person" is defined as "a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly." MCL 169.211(2).

requirements of the Act. As evidence, Ms. Zemanek provided a picture of a billboard which stated, "FOR OUR KIDS SAY YES! VOTE NOV. 3 [.]". The sign indicated that it was paid for by the Respondents.

In your response, you explained that the Home Builders Association of Saginaw (HBAS) purchased 15 billboard panels from Lamar Companies for \$6,000.00, meaning HBAS paid \$400.00 per panel. As evidence of the transaction, you provided the invoice from Lamar Companies to HBAS showing the locations and numbers of the 15 rented panels and a total rental price of \$6,000.00. Ron Schauman then rented several of the billboards from HBAS, including the one used for the "SAY YES!" sign that is the subject of the complaint. You provided as evidence a paid invoice for this panel from HBAS to Ron Schauman showing a rental price of \$475.00 for the billboard panel.

In her rebuttal statement, Ms. Zemanek contends that according to Lamar Company, a comparable billboard rental would cost \$900.00 and Respondents received a discount not available to the general public on the sign. However, the evidence provided supports a conclusion that HBAS rented the panel for \$400.00 and then charged respondents *more* than the actual cost, and no special discount was given to Respondents.

The evidence provided to the Department does not support a reason to believe that Respondents received contributions or made expenditures of more than \$500.00. Because Respondents did not reach the \$500.00 threshold, they are not subject to registration and reporting requirements of the Act. Therefore, this portion of Ms. Zemanek's complaint is dismissed.

Failure to Include a Complete and Correct Identification Statement

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).

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.*

Ms. Zemanek alleged that Respondents failed to include a complete and correct identification statement on the billboard. It appears from the picture of the billboard provided by Ms. Zemanek that the paid-for-by statement omits the addresses of Respondents.

In your response you asserted that Respondents "had no obligation post whom it was that paid for the billboard ... because they did so individually" to show that the businesses support the Freeland Community School District and the community.

Section 47 does not apply to an individual (other than a candidate) who is acting independently. Here, however, it is clear from the billboard itself and from your answer that the billboard was not the result of one person acting independently, but the result of Respondents acting together, and the identification requirement in section 47(1) does apply.

Katherine M. Baluha, Esq.
March 9, 2016
Page 3

The Department believes that the evidence tends to show that the billboard failed to contain a proper paid-for-by statement in violation of section 47(1) of the Act. 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 notes that the funders' names do appear on the billboard, which appears to be an attempt at disclosure, albeit imperfect.

The Department is advising Respondents that section 47(1) and R 169.36(2) require them 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 the person(s) paying for the materials. Note that all printed materials that refer to an election produced in the future must include this identification statement.

Please be advised that this notice has served to remind Respondents of their obligation under the Act to identify their election-related 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(6), 215(10).

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Lori A. Bourbonais". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Catherine Zemanek