



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

November 8, 2013

Christopher Jackson  
Detroit Forward  
1442 Brush Street, Suite 4  
Detroit, Michigan 48226

Peter Ewask  
Michigan Community Education Fund  
571 Randolph Street  
Northville, Michigan 48167

Dear Mr. Jackson and Mr. Ewask:

The Department of State (Department) received a formal complaint filed against Detroit Forward and the Michigan Community Education Fund (MCEF) by Jason Gourley, alleging that Detroit Forward and the MCEF 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.* Copies of the complaint and supporting documentation are 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 offense. *Id.* By statutory definition, a committee is formed when "a person receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of a candidate . . . 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.

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

Mr. Gourley alleges that MCEF made expenditures exceeding the \$500.00 threshold and has not filed a statement of organization or filed any required campaign finance statements.

Additionally, the MCFA requires filed campaign finance statements and reports to be complete and accurate. MCL 169.233. A treasurer who knowingly files an incomplete or inaccurate

statement or report may be subject to a civil fine of up to \$1,000.00, or the amount of an undisclosed contribution or expenditure, whichever is greater. MCL 169.233(10), (11).

The further Act prohibits a contribution "made, directly or indirectly, by any person in a name other than by which that person is identified for legal purposes." MCL 168.241(3). A knowing violation of section 41 is a misdemeanor offense. MCL 168.241(4). The MCFA also requires a person who receives a contribution, other than by written instrument, and who acts as an intermediary to disclose the name and address of the intermediary and the name and address of the contributor. MCL 169.242(1). A knowing violation of this section is a misdemeanor offense. MCL 169.242(5).

Mr. Gourley alleges that MCEF was established to act as "an illegal conduit for contributions to Detroit Forward to avoid donor disclosure." He alleges that Detroit Forward "creat[ed] a shell entity, the [MCEF], and funnel[ed] contributions through it to Detroit Forward in an effort to conceal the true identities of Detroit Forward's contributors."

In support of his complaint, Mr. Gourley provided Detroit Forward's Statement of Organization, the MCEF corporate entity details from the Michigan Department of Licensing and Regulatory Affairs website, and MCEF's Articles of Incorporation. Mr. Gourley also listed four contributions received by Detroit Forward from MCEF between October 17, 2013 and October 28, 2013.

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.

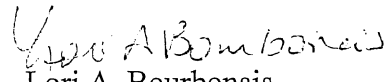
**If you wish to file a written response to this complaint, you are required to do so within 15 business days of the date of this letter. You may file one answer signed by both of you, or you may each submit your own answer.** Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1<sup>st</sup> Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply or replies will be provided to Mr. Gourley, 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 sections 24(1), 33(8), 41(4), and 42(5) of the Act.

Christopher Jackson  
Peter Ewask  
November 8, 2013  
Page 3

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: Jason Gourley

2013 NOV -5 PM 3:30



1901 St. Antoine, 6<sup>th</sup> Floor  
Detroit, Michigan 48226

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

Re: Complaint against Detroit Forward PAC and Michigan Community Education Fund

Dear Ms. Bourbonais:

Detroit Forward, a political action committee supporting Benny Napoleon's candidacy for Mayor of Detroit, has filed false and misleading campaign statements, and has intentionally and blatantly concealed the identities of its contributors in violation of the law. Therefore, Turnaround Detroit files this complaint under MCL 169.215 and asks the Department to immediately take action to stop Detroit Forward's deceptive practices.

Detroit Forward has violated numerous statutory requirements by creating a shell entity, the "Michigan Community Education Fund," and funneling contributions through it to Detroit Forward in an effort to conceal the true identities of Detroit Forward's contributors.

Detroit Forward's operator and treasurer is Christopher T. Jackson. *Ex. A.* On September 26, 2013, Christopher T. Jackson also incorporated the Michigan Community Education Fund ("Fund"). *Ex. B, State of Michigan, Dep't of Licensing and Regulatory Affairs, Corporate Entity Details.* According to state filings, the fund is a "nonprofit organization ... within the meaning of section 501(c)(4) of the internal revenue code."<sup>1</sup> *Ex. B.* The true purpose of the Fund has been to act as an illegal conduit for contributions to Detroit Forward to avoid donor disclosure.

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<sup>1</sup> Although the fund asserts status as a 501(c)(4), there is currently no record of it filing an IRS form 990, which is required for such entities.

In the few weeks since Mr. Jackson formed the Fund, the Fund has bankrolled Detroit Forward, making the following contributions, according to Detroit Forward's campaign statement and late contribution report:

<u>Date</u>	<u>Amount</u>
October 17, 2013	\$25,000
October 20, 2013	\$39,000
October 28, 2013	\$70,000
October 28, 2013	\$15,000
<b><u>Total so far</u></b>	<b><u>\$149,000</u></b>

To put these donations into context, Detroit Forward's reported contributions since the August primary total only \$271,000, meaning that 55% of Detroit Forward's contributions in this period have come from this secret "shadow PAC" operated by Detroit Forward's treasurer, Christopher Jackson.

It is obvious that the Fund was formed for the purpose of funneling secret contributions to Detroit Forward. The Fund does not publically report its donors, so by using the Fund as a conduit, Detroit Forward can and is concealing the source or sources of over half of its contributions.

This scheme is illegal, and violates the following provisions of the MCFA:

- MCL 169.226, which requires that political action committees itemize all contributions over \$50.00, including the true name and address of each individual or entity who contributed to the PAC, and the individual's occupation, employer, and place of business;
- MCL 169.231(1), which requires that where a contribution is controlled by, or made at the direction of, another person or entity must be reported by the person making the contribution and is regarded as a contribution attributed to both persons;
- MCL 169.242, which states that a person or entity who accepts a contribution on behalf of another and that acts as the intermediary or agent of the contributor shall disclose to the recipient the intermediaries name and the name and address of the actual source of the contribution;

- MCL 169.270 which requires reporting and attribution of contributions controlled or directed by another person.

In addition, the Fund itself is a political committee, required to have filed a statement of organization. MCL 169.224. A "committee" is a "person who receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the ... election of a candidate." MCL 169.203(4). The Fund has obviously made expenditures of funds to Detroit Forward. Detroit Forward's purpose is to influence the action of voters in the Detroit mayoral campaign. Yet the Fund has not filed a statement of organization, as required by law, or any campaign finance reports.

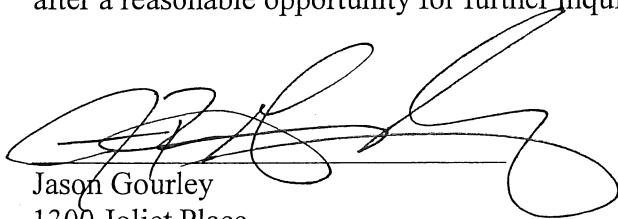
Across the country, election officials are cracking down on such conduct, which has resulted in multi-million dollar fines. For example, just last week in California, a contributor was notified that it must pay \$11 million in fines over allegations that it acted as an illegal conduit for campaign funds. *Ex. C.*

Here, both Detroit Forward and the Fund are controlled by the same individual, Christopher T. Jackson. Mr. Jackson set up the Fund in at the end of September, 2013, in the midst of a political campaign. The Fund has only been in existence a matter of weeks, yet has already donated \$149,000 to Detroit Forward, which accounts for 55% of the PACs donations since the August primary.

Shadow PACs like the Fund should not be allowed to be the conduit for secret donations in this election. The Fund should be required to file a statement of organization and campaign finance reports, and the Fund and Detroit Forward should be penalized to the fullest extent of the law for their blatant and intentional circumvention of Michigan's campaign finance laws.

#### CERTIFICATION

To the best of my knowledge, information, and belief, formed after reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence or there are grounds to conclude that the specified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry:



Jason Gourley  
1300 Joliet Place  
Detroit, Michigan 48207  
(313) 259-7777

# EXHIBIT A



MICHIGAN DEPARTMENT OF STATE  
BUREAU OF ELECTIONS

ORIGINAL OR AMENDED  
INDEPENDENT EXPENDITURE POLITICAL COMMITTEE STATEMENT OF ORGANIZATION FORM  
Corporations, Unions or Domestic Dependent Sovereigns (Independent Expenditure PACs)

1. Committee ID#: 82-155792

2. Type of Filing:

☒ Original

☐ Amendment

Eff. Date:

3. Date Committee was Formed in Michigan: 04/17/2013

4a. Full Name of Committee (must include affiliate or sponsor):

Detroit Forward

4b. The Sponsor's Name is:

N/A Detroit Forward

4c. Acronym or Abbreviation (If any):

5a. Complete Comm. Mailing Address (May be PO Box):

1442 Brush Street Suite 4

Detroit

MI 48226

5b. Complete Comm. Street Address (May not be PO Box):

1442 Brush Street Suite 4

Detroit

MI 48226

Committee Phone#: 313-727-2148

Committee Fax#:

Committee E-mail Address: DetroitForwardNow@gmail.com

6. Treasurer Name and Complete Address:

Jackson Christopher T.

1442 Brush Street Suite 4

Detroit

MI 48226

Phone#: 313-727-2148

E-mail Address: DetroitForwardNow@gmail.com

☐ OUT-OF-STATE COMMITTEE TREASURER IRREVOCABLE WRITTEN  
STIPULATION: I stipulate and agree that any legal process affecting this  
committee served on the Secretary of State or an agent designated by the  
Secretary of State shall have the same effect as if personally served on me  
and all other principals of this committee. I further agree that this  
appointment shall remain in force as long as any liability of this committee  
remains outstanding within the State of Michigan.

7. Designated Record Keeper Name and Complete Address:

Moskwa Shelly R.

1442 Brush Street Suite 4

Detroit

MI 48226

Phone#: 202-253-6453

E-mail Address: DetroitForwardNow@gmail.com

8. ☐ REPORTING WAIVER REQUEST: If the committee does not expect to  
receive or expend in excess of \$1,000 in a calendar year and checks this  
box; the filing requirement of pre, post, annual campaign statements is  
waived. The Reporting Waiver will be automatically lost if the committee  
exceeds the \$1,000 threshold.

9. Name and Address of Depositories or Intended Depositories of  
committee funds.

a. Official Depository

First Independence Bank

400 Michigan Avenue

Detroit

MI 48226

b. Secondary Depository

10. Verification: I/We certify that:

- All reasonable diligence was used in the preparation of the above  
statement and that the contents are true, accurate and complete to the  
best of my/our knowledge or belief.
- If filing electronically, I/we further agree that the signatures below shall  
serve as the signatures that verify the accuracy and completeness of  
each statement filed electronically by the committee. I/We certify that  
all reasonable diligence will be used in the preparation of each  
statement electronically filed by this committee and that the contents  
of each statement will be true, accurate and complete to the best of  
my/our knowledge or belief.
- This committee is organized exclusively for the purpose of making  
independent expenditures that are not in any way directly or indirectly  
"coordinated" with any candidate, candidate committee, political party,  
or political party committee, consistent with applicable case law,  
including but not limited to Michigan Chamber of Commerce et al v  
Terri Lynn Land, \_\_\_ FSupp2d \_\_\_ (WD MI, 2010). This committee  
also intends to raise funds in unlimited amounts.

(Sign Name and Date below)

Jackson Christopher T.

04/18/2013

Current Treasurer

Date

Moskwa Shelly R.

04/18/2013

Designated Record Keeper (Required only if  
filing electronically)

Date



# EXHIBIT B



## Department of Licensing and Regulatory Affairs

MICHIGAN.GOV



Michigan's  
Official  
Web Site

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[Business Entity Search Home](#) | [Corps Home](#) | [Contact Corporations](#) | [LARA Home](#)

### CORPORATE ENTITY DETAILS

Searched for: MICHIGAN COMMUNITY EDUCATION FUND

ID Num: 71452A

Entity Name: MICHIGAN COMMUNITY EDUCATION FUND

Type of Entity: Domestic Nonprofit Corporation

Resident Agent: PETER EWASEK

Registered Office Address: 571 RANDOLPH ST NORTHVILLE MI 48167

Mailing Address: MI

Formed Under Act Number(s): 162-1982

Incorporation/Qualification Date: 9-26-2013

Jurisdiction of Origin: MICHIGAN

Number of Shares: 0

Year of Most Recent Annual Report:

Year of Most Recent Annual Report With Officers & Directors:

Status: ACTIVE Date: Present

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*Michigan Department of Licensing and Regulatory Affairs*

*Filing Endorsement*

***This is to Certify that the ARTICLES OF INCORPORATION - NONPROFIT***

***for***

***MICHIGAN COMMUNITY EDUCATION FUND***

***ID NUMBER: 71452A***

***received by facsimile transmission on September 26, 2013 is hereby endorsed***

***Filed on September 26, 2013 by the Administrator.***

***The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.***

***In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 27TH day of September, 2013.***



A handwritten signature in black ink, appearing to read "A. Schefke".

**Alan J. Schefke, Director  
Corporations, Securities & Commercial Licensing Bureau**

CSCL/CD-502 (Rev. 02/13)

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU		
Date Received		
	This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.	
Name	Christopher T. Jackson	
Address	PO Box 442143, 1401 W. Fort Street	
City	State	ZIP Code
Detroit	MI	48244
		EFFECTIVE DATE:

Document will be returned to the name and address you enter above.  
If left blank, document will be returned to the registered office.

**ARTICLES OF INCORPORATION**  
**For use by Domestic Nonprofit Corporations**  
(Please read information and instructions on the last page)

*Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:*

**ARTICLE I**

The name of the corporation is:

Michigan Community Education Fund

**ARTICLE II**

The purpose or purposes for which the corporation is organized are:

The Corporation is a nonprofit organization that shall operate exclusively for social welfare purposes within the meaning of section 501(c)(4) of the Internal Revenue Code of 1986, as amended, which shall include but not be limited to voter registration and education. No part of the net earnings of the Corporation shall inure to the benefit of or be distributed to any director, employee, or other individual, partnership, estate, trust or corporation having a personal or private interest in the Corporation. Compensation for services actually rendered in attending to the affairs of the Corporation shall be limited to reasonable amounts. The Corporation shall not carry on any activity not permitted to be carried on by a corporation exempt from federal income tax under section 501(c)(4) of the Code.

**ARTICLE III**

1. The corporation is organized upon a Nonstock basis.  
(Stock or Nonstock)

2. If organized on a stock basis, the total number of shares which the corporation has authority to issue is \_\_\_\_\_.  
If the shares are, or are to be, divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class are as follows:

### ARTICLE III (cont.)

3. a. If organized on a nonstock basis, the description and value of its real property assets are: (If none, insert "none")  
none
- b. The description and value of its personal property assets are: (If none, insert "none")  
none
- c. The corporation is to be financed under the following general plan:  
Fundraising from individuals, non-profits and other entities
- d. The corporation is organized on a Directorship basis.  
(Membership or Directorship)

## ARTICLE IV

1. The name of the resident agent at the registered office is:
- Peter Ewasek
2. The address of its registered office in Michigan is:
- 571 Randolph Street Northville , Michigan 48167  
(Street Address) (City) (ZIP Code)
3. The mailing address of the registered office in Michigan if different than above:
- N/A , Michigan                       
(Street Address or PO Box) (City) (ZIP Code)

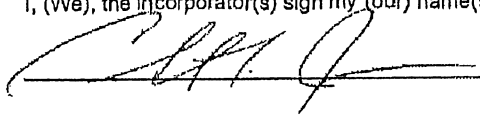
## ARTICLE V

The name(s) and address(es) of the incorporator(s) is (are) as follows:

[illegible]

Use space below for additional Articles or for continuation of previous Articles. Please identify any Article being continued or added. Attach additional pages if needed.

I, (We), the Incorporator(s) sign my (our) name(s) this 25<sup>th</sup> day of September, 2013

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT C



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
428 J Street • Suite 620 • Sacramento, CA 95814-2329  
(916) 322-5660 • Fax (916) 322-0886

October 24, 2013

Mr. Joel Fox  
Mr. James Lacy  
Mr. Barrett Garcia  
Small Business Action Committee PAC  
30011 Ivy Glenn Drive, Suite 223  
Laguna Niguel, CA 92677

**Re: Notice of Duty to Turn Over Contributions to the State of California  
Government Code section 85701**

Dear Mr. Fox:

The Fair Political Practices Commission ("Commission") has jurisdiction to investigate and prosecute violations of the Political Reform Act of 1974 (the "Act").<sup>1</sup> On October 17, 2013, the Commission approved a civil agreement for judgment finding that the Center to Protect Patient Rights (CPPR) failed to report itself as the source of a campaign contribution through Americans for Responsible Leadership (ARL) to your campaign committee, the Small Business Action Committee PAC, FPPC ID#1270683. A copy of the Commission's approved judgment is enclosed for your reference.

Section 85701 provides that any candidate or committee that receives a contribution where the source is not identified must turn the contribution over to the General Fund of the State of California. Pursuant to this statute, we request that you make payment in the amount of \$11,000,000 for the contribution made to you and your committee by CPPR and ARL.

Please remit a cashier's check in the amount of **\$11,000,000** made payable to the "General Fund of the State of California," and send or deliver the check to my attention on or before **November 30, 2013**. Upon receipt of payment in full, we will provide you with written acknowledgment of satisfaction of your obligation under Section 85701. We hope to resolve this matter in an informal and expeditious manner, and we appreciate your cooperation in ensuring that contributions that were illegally made are turned over to the General Fund of the State of California.

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<sup>1</sup> The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.



as required by law. If we do not receive full payment by November 30, 2013, it will become necessary to take formal steps to collect the funds.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at (916) 323-6424.

Very truly yours,

Gary S. Winuk, Chief  
Enforcement Division

Enclosure

## Bourbonais, Lori (MDOS)

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**From:** Bourbonais, Lori (MDOS)  
**Sent:** Friday, November 22, 2013 5:16 PM  
**To:** 'Karen Zeglis'  
**Subject:** RE: Extension request

Karen,

The Department acknowledges your request for an extension of time to file an answer to the campaign finance complaint filed by Turnaround Detroit against Detroit Forward and the Michigan Education Fund. The Department understands that you have been recently retained to represent Detroit Forward and the Michigan Education fund in this matter, and it finds that there is good cause to grant a 15-business day extension pursuant to MCL 169.215(5). Your answer is now due by December 27, 2013. Please note that the Department indicated in its letter dated November 8, 2103 that it will accept one answer on behalf of both Detroit Forward and the Michigan Education Fund, or two separate answers.

Sincerely,

Lori A. Bourbonais  
Bureau of Elections  
Michigan Department of State

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**From:** Karen Zeglis [<mailto:kzeglis@up-law.com>]  
**Sent:** Friday, November 22, 2013 11:53 AM  
**To:** Bourbonais, Lori (MDOS)  
**Subject:** Extension request

Lori,

Thank you for speaking with me this morning. I represent Detroit Forward and the Michigan Community Education Fund, and I am requesting an extension on behalf of both in their responses to the complaint filed by Turnaround Detroit. As discussed, this request is based on some inadvertent confusion related to another complaint filed by Detroit Forward against Turnaround Detroit, as well as the earlier involvement of another law firm.

The initial deadline for the responses is December 4<sup>th</sup>, and I am requesting an extension of an additional fifteen business days to December 27<sup>th</sup>.

Thank you for your consideration of this extension request, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,  
Karen Zeglis

Karen A. Zeglis  
Utrecht, Kleinfeld, Fiori, Zeglis & Partners  
1900 M Street, NW  
Suite 500  
Washington, DC 20036

P: 202-778-4012 (direct)

F: 202-842-5825

This message is intended only for the use of the Addressee and may contain information that is privileged or confidential, including information subject to statutory confidentiality provisions. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify the sender immediately.



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

December 26, 2013

Jason Gourley  
1300 Joliet Place  
Detroit, Michigan 48207

Dear Mr. Gourley:

The Department of State received a response to the complaints you filed against Detroit Forward and the Michigan Community Education Fund, which concern alleged violations of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* Copies of the responses are 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, 1<sup>st</sup> 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: Karen Zeglis

# UTRECHT, KLEINFELD, FIORI, ZEGLIS & PARTNERS

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ATTORNEYS AT LAW

1900 M Street, NW Suite 500 Washington, DC 20036

Main (202) 778-4000

Facsimile (202) 842-5825

www.up-law.com

2013 DEC 23 PM 4:23

BUREAU OF ELECTIONS  
MI DEPT OF STATE

December 19, 2013

Lori A. Bourbonais  
Bureau of Elections  
Michigan Department of State  
430 W. Allegan  
First Floor  
Lansing, MI 48918

## **RE: Complaint Filed Against the Michigan Community Education Fund**

Dear Ms. Bourbonais,

This letter responds to your letter dated November 8, 2013, informing the Michigan Community Education Fund of a complaint filed against it by Turnaround Detroit.

The complaint filed by Turnaround Detroit ("Complainant") is based purely on speculation and does not offer any evidence of a violation of Michigan laws. As stated in the response filed on behalf of Detroit Forward, a Michigan independent expenditure political committee, the Complainant has made these groundless accusations in retaliation for a previous complaint filed by Detroit Forward, which shows that Complainant failed to comply with the Michigan Campaign Finance Act (the "Act"). The Michigan Community Education Fund ("MCEF") has not violated any Michigan law.

### **1. MCEF Operates as a Section 501(c)(4) Social Welfare Organization and Is Not a Michigan Political Committee.**

MCEF is organized as a section 501(c)(4) organization of the Internal Revenue Code of 1986, as amended, and incorporated as a nonprofit corporation in the state of Michigan. As stated in its Articles of Incorporation (provided as an attachment by the Complainant), MCEF operates for social welfare purposes, which includes but is not limited to voter registration and education. MCEF specifically represents in its Articles of Incorporation that it will not carry on any activity not permitted under federal law to be undertaken by 501(c)(4) organizations.

Federal tax regulations allow a 501(c)(4) organization to engage in limited political activity, so long as such activity does not constitute the primary purpose of the organization.<sup>1</sup> This permissible political activity may include making contributions to independent expenditure political committees, such as Detroit Forward.

There is no requirement under Michigan law that requires a nonprofit corporation to register as a political committee if its only activity is making a contribution to an independent expenditure political committee. In fact, requiring independent expenditure political committee donors to register as political committees is contrary to the court decisions establishing the right for corporations to engage in independent activity.<sup>2</sup> The only guidance issued to Michigan independent expenditure political committees is a dedicated page within the Department's website.<sup>3</sup> There is no rule that requires registration and reporting by donor organizations to independent expenditure political committees. Unless and until the legislature or the Department issues more specific guidelines, no registration obligation exists under Michigan law for donors to independent expenditure political committees.

## **2. MCEF May Contribute to Michigan Independent Expenditure Political Committees.**

Independent expenditure political committees may accept contributions from incorporated entities (and other previously prohibited contributors) in any amount, so long as the committees make communications that are in fact independent of a candidate or political party. Michigan law does not impose a percentage-based limit on the types of funds independent expenditure political committees may accept; an independent expenditure political committee could accept 100% of its funds from incorporated entities.

There is no Michigan law that prohibits an incorporated nonprofit corporation like MCEF from making a contribution to a Michigan independent expenditure political committee. Though the complaint includes several inflammatory descriptions of these permissible contributions, such as "funneling" and "scheme," the Complainant only cites to sections of the Act that regulate reporting by Michigan political committees as the legal basis for these allegations.

Further, the Complainant does not provide any evidence to support the allegations of wrongdoing. Page 2 of your November 8<sup>th</sup> letter to MCEF describes the sole evidence provided by Complainant in support of the allegations of wrongdoing:

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<sup>1</sup> Treas. Reg. §1.501(c)(4)-1(a)(2)(i).

<sup>2</sup> *Citizens United v. Federal Election Comm'n*, 558 U.S. 310 (2010); *SpeechNow.org v. Federal Election Comm'n*, 599 F.3d 686 (2010); *Michigan Chamber of Commerce v. Land*, 725 F.Supp.2d 665 (WD Mich 2010).

<sup>3</sup> Michigan Department of State, *Independent Expenditures by Corporations, Unions and Domestic Dependent Sovereigns*, U.S. Supreme Court Decision Issued January 21, 2010, *Citizens United v. Federal Election Commission*, available at [http://www.michigan.gov/sos/0,1607,7-127-1633\\_8723\\_15274-230880--,00.html](http://www.michigan.gov/sos/0,1607,7-127-1633_8723_15274-230880--,00.html) (last visited Dec 6, 2013).

“In support of his complaint, [Complainant] provided Detroit Forward’s Statement of Organization, the MCEF corporate entity details from the Michigan Department of Licensing and Regulatory Affairs website, and MCEF’s Articles of Incorporation. [Complainant] also listed four contributions received by Detroit Forward from MCEF between October 17, 2013 and October 28, 2013.”

The Complainant’s scurrilous allegations are not based in law or in fact.<sup>4</sup> Simply attaching publicly available registration records and a list of publicly reported contributions is an insufficient basis for the Department to proceed with an investigation of this complaint.

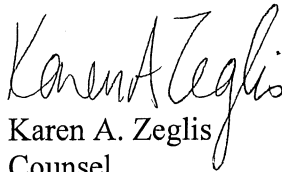
**3. Enforcement Actions of Other States Are Not Relevant to the Issues Before the Department.**

The Complainant’s reference to a California enforcement action is irrelevant to the issues before the Department. That case centered upon an entirely different set of facts and circumstances than the situation between Detroit Forward and MCEF. Further, the California Fair Political Practices Commission determined the level of the fine based upon its analysis and application of California law. Again, a matter in another state governed by a completely different set of laws is not evidence of wrongdoing by MCEF, and should not change the analysis or application of current Michigan law.

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For the foregoing reasons, the Department should immediately dismiss the complaint by Turnaround Detroit.

Sincerely,



Karen A. Zeglis  
Counsel  
Michigan Community Education Fund

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<sup>4</sup> The lack of evidence provided in the complaint suggests that Complainant took this action in retaliation for an earlier complaint filed by Detroit Forward against Complainant.

# UTRECHT, KLEINFELD, FIORI, ZEGLIS & PARTNERS

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December 19, 2013

2013 DEC 23 PM 4:23  
BUREAU OF ELECTIONS  
MI DEPT OF STATE

Lori A. Bourbonais  
Bureau of Elections  
Michigan Department of State  
430 W. Allegan  
First Floor  
Lansing, MI 48918

## RE: Complaint Filed Against Detroit Forward

Dear Ms. Bourbonais,

This letter responds to your letter dated November 8, 2013, informing Detroit Forward of a complaint filed against it by Turnaround Detroit.

As described in detail below, the complaint filed by Turnaround Detroit ("Complainant") is based purely on speculation and does not offer any evidence of a violation of Michigan laws.<sup>1</sup> Detroit Forward has complied with all reporting requirements applicable to independent expenditure political committees under the Michigan Campaign Finance Act (the "Act").

### **1. Detroit Forward Operates as a Michigan Independent Expenditure Political Committee.**

The Supreme Court of the United States, in its landmark decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010), held that corporations and labor organization are permitted to spend unlimited funds on communications that expressly advocate for or against a candidate, so long as such communications are conducted independently of candidates and political parties. As a result of *Citizens United* and its progeny, the United States District Court for the Western District of Michigan held that corporations and labor unions may make contributions to political committees organized exclusively for the purpose of making

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<sup>1</sup> The Complainant apparently has made these groundless accusations in retaliation for a previous complaint filed by Detroit Forward, showing that Complainant failed to comply with the Michigan Campaign Finance Act.



independent expenditures and that are not coordinated with any candidate, campaign or political party committee.<sup>2</sup>

In response to these court decisions, the Michigan Department of State (“Department”) recognizes independent expenditure-only political committees. These committees may raise funds in unlimited amounts and accept contributions from a variety of sources, including corporations, labor unions and domestic sovereigns. The Department created a new registration form for these unique committees and provides additional guidance on its website.<sup>3</sup>

Detroit Forward filed its Independent Expenditure Political Committee Statement of Organization form on April 17, 2013 and engaged in independent expenditure activity during the 2013 election cycle.

**2. Detroit Forward Complies with Applicable Reporting Requirements for Independent Expenditure Political Committees in Michigan.**

Since its inception, Detroit Forward has complied fully with all reporting requirements under the Act. The Complainant lists four specific sections of the Act but fails to offer any evidence of a violation by Detroit Forward; mere speculation and innuendo are insufficient grounds for the Department to find reason to believe that a violation has occurred.

a. Detroit Forward has disclosed its donors as required by the Act.

The Complainant alleges that Detroit Forward violated MCL §169.226, which, according to the Complainant, “requires that political action committees itemize all contributions over \$50.00, including the true name and address of each individual or entity who contributed to the PAC, and the individual’s occupation, employer, and place of business.”

This allegation is false and not supported by the facts. Detroit Forward has disclosed the origin of 100% of its contributions; every donor to Detroit Forward has been identified on the reports filed with the Department pursuant to applicable Michigan law.

b. There is no evidence provided to the Department that contributions accepted by Detroit Forward were controlled by or made at the direction of another person.

The Complainant cites the following two sections of the Act related to control or direction of contributions:

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<sup>2</sup> *Michigan Chamber of Commerce v. Land*, 725 F.Supp.2d 665 (WD Mich 2010). See also *SpeechNow.org v. Federal Election Comm’n*, 599 F.3d 686 (2010).

<sup>3</sup> Michigan Department of State, *Independent Expenditures by Corporations, Unions and Domestic Dependent Sovereigns*, U.S. Supreme Court Decision Issued January 21, 2010, *Citizens United v. Federal Election Commission*, available at [http://www.michigan.gov/sos/0,1607,7-127-1633\\_8723\\_15274-230880--,00.html](http://www.michigan.gov/sos/0,1607,7-127-1633_8723_15274-230880--,00.html) (last visited Dec 6, 2013).

- “MCL 169.231(1), which requires that where a contribution is controlled by, or made at the direction of, another person or entity must be reported by the person making the contribution and is regarded as a contribution attributed to both persons;” and
- “MCL 169.270, which requires reporting and attribution of contributions controlled or directed by another person.”

The Complainant does not provide any evidence or additional discussion of the supposed violations beyond summarizing these two sections of the law, so it is unclear what the Complainant is alleging that Detroit Forward failed to disclose. The Complainant appears to be arguing that Christopher Jackson is individually controlling or directing the contributions from the Michigan Community Education Fund (“MCEF”). Since there are no contribution limits applicable to Michigan independent expenditure political committees, this allegation is solely an attribution issue and the remedy could only be to amend the reports to attribute the MCEF contributions as contributions controlled by Mr. Jackson as an individual. This remedy would be contrary to the facts at hand, as organizations such as MCEF are permitted to make contributions directly to independent expenditure political committees. Amending the reports to attribute these contributions to Mr. Jackson individually would lead to significant confusion and misrepresentation on the public record.

Further, requiring such an amendment could lead to unfair and potentially unconstitutional attribution requirements. For example, if the Department requires such attributions, then an executive director of a permissible donating organization would have to treat donated funds as personal contributions. This attribution requirement could prevent the individual from donating permissible personal funds where contribution limits apply. Such a result is contrary to the language and purpose of these sections of the Act. The Department should not require individual attribution to leaders of organizations that make contributions.

As stated clearly above, Detroit Forward has fully complied with all applicable reporting requirements for independent expenditure political committees.

- c. There is no evidence provided to the Department related to intermediary or agency issues.

The fourth provision cited by the Complainant, MCL §169.242, centers upon intermediaries and agents, which the Complainant summarizes in the following manner: “a person or entity who accepts a contribution on behalf of another and that acts as the intermediary or agent of the contributor shall disclose to the recipient the intermediaries [*sic*] name and the name and address of the actual source of the contribution.”

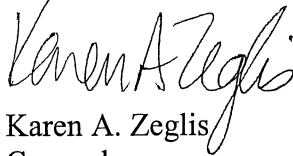
Once again, the Complainant is citing a section that does not apply to the facts before the Department and offers no evidence to substantiate this supposed violation. There are no issues related to intermediaries or agents present. MCEF is permitted to make contributions in any amount to Detroit Forward. Detroit Forward correctly identified MCEF as the source of the funds, pursuant to the laws applicable to independent expenditure political committees. Again,

the sole remedy for this supposed violation would be to identify Mr. Jackson as an intermediary between MCEF and Detroit Forward; this remedy would confuse the public record and be contrary to the facts and circumstances in this matter.

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For the foregoing reasons, the Department should immediately dismiss the complaint by Turnaround Detroit.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen A. Zeglis". The signature is fluid and cursive, with the first name "Karen" being more prominent.

Karen A. Zeglis  
Counsel  
Detroit Forward