



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

March 5, 2013

Linda Vance  
140 Woodruff Lake Road  
Highland, Michigan 48357

Dear Ms. Vance:

The Department of State (Department) has concluded its review of the complaint you filed against Mary McDonell concerning alleged violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of your complaint.

You alleged that Ms. McDonell omitted her committee's address on certain campaign-related material and that she used or authorized the use of public resources to make a contribution or expenditure.

You filed the complaint on October 15, 2012. Ms. McDonell filed a written response on November 9, 2012, and you filed a written rebuttal statement on December 3, 2012.

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).

Additionally, the Act prohibits a public body or an individual acting on its behalf from using or authorizing the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the nomination or election of a candidate. MCL 169.204(1), 169.206(1). A person who knowingly violates this provision may be charged with a misdemeanor offense. MCL 169.257(3).

**Section 47.** You alleged that neither Ms. McDonell's Facebook page nor her campaign banner contained her committee's address in a paid-for-by statement.

As evidence, you provided a printout from the "Retain Mary McDonell" Facebook page and a picture of a parade banner which states "MARY MCDONELL For Highland Township Clerk [.]". It appeared that there was no paid-for-by statement on the Facebook page and that the committee's address was omitted from the paid-for-by statement on the banner.

In response, Ms. McDonell stated that no money was expended to create or maintain the Facebook page and that the paid-for-by statement on the banner did contain her committee's address. As evidence, Ms. McDonell provided a close-up picture of the paid-for-by statement on the banner. The committee's address is visible in this picture.

MCL 169.247 requires certain printed campaign material to bear a disclaimer indicating who paid for the item. Absent any evidence that the "Retain Mary McDonell" Facebook page has any ascertainable monetary value or that an expenditure was made to create or maintain the page, the portion of your complaint relating to the Facebook page is dismissed. Additionally, after reviewing the evidence submitted by the parties, the Department has concluded that the campaign banner does bear the proper identification statement, and the Department does not have a reason to believe that Ms. McDonell violated section 47 of the MCFA. As a result, the portion of your complaint relating to the banner is dismissed.

**Section 57.** You further alleged that Ms. McDonell "used township facilities to conduct her re-election campaign." You alleged that some of her campaign materials were delivered to, displayed in, and distributed from the township hall, that some of her petitions were signed in the township hall, and that her campaign flyer and Facebook page included the township's phone number as a means to contact her for campaign purposes. As evidence, you provided a campaign postcard which listed the township's phone number and a picture of campaign flyer which you alleged was hanging from a cabinet in the clerk's office.

In response Ms. McDonell stated that the campaign flyer was not in a place that was viewable by the public and that it was removed immediately by the employee who posted it when she was asked to do so. Further Ms. McDonell denied actively campaigning in the office and stated that she did not recall anyone signing petitions in the office. Ms. McDonell did admit that campaign-related mailers were delivered to the township office, but she also provided a statement from the printer which indicated that it was the printer's error that caused the mailers to be delivered to the township office. Ms. McDonell further acknowledged that the township phone number did appear on some of her printed campaign material. She also stated that this material was destroyed after the complaint was filed and that she will refrain from using the township phone number on campaign material in the future. Ms. McDonell further stated that she did not receive any campaign-related phone calls at the township office. Finally, Ms. McDonell provided a letter from Judy Kiley, the township treasurer, which stated that Ms. Kiley had witnessed township residents approach Ms. McDonell with questions regarding items on the ballot, but that when the questions became too detailed, Ms. McDonell would ask that the conversation be continued outside of the office.

The Act prohibits a township official from expending public money or using public resources to further the nomination or election of a candidate by making a contribution or expenditure. MCL 169.257. The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the nomination or election of a candidate. MCL 169.204(1), 169.206(1). While it appears that some of Ms. McDonell's campaign literature listed the township's phone number, there is no evidence that indicates Ms. McDonell made or received any campaign-related calls using the township office telephone. The mere printing of the telephone number on a flyer that was paid for by Ms. McDonell's campaign does not rise to the level of an expenditure of township resources. Additionally, no evidence has been provided

that would tend to show that any public resources were expended in furtherance of Ms. McDonell's campaign. No evidence has been provided that refutes Ms. McDonell's assertion that she did not campaign in the township office or that no petitions were signed in the office. Finally, while the Department would warn against displaying any campaign material in the township office, the Department fails to find an ascertainable monetary value in displaying a flyer out of the public view, in the manner demonstrated by the evidence.

Because the evidence does not tend to show that there may be a reason to believe that Ms. McDonell used or authorized the use of public funds for the purpose of furthering her nomination or election, this portion of your complaint is also dismissed.

Sincerely,



Lofi A. Bourbonais  
Bureau of Elections  
Michigan Secretary of State

c: Mary McDonell

