



Michigan Department of State
Campaign Finance Complaint Form

BUREAU OF ELECTIONS • RICHARD H. AUSTIN BUILDING - 1st Floor
430 W. ALLEGAN STREET • LANSING, MICHIGAN 48918

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (MCFA). For instructions on how to complete this form, see the Campaign Finance Complaint Guidebook & Procedures document. All spaces are required unless otherwise indicated.

Section 1. Complainant		
Your Name <u>JoAnn DeMeulenaere</u>		Daytime Telephone Number <u>269-208-6442</u>
Mailing Address <u>3391 Cedar Lane</u>		
City <u>Bridgman</u>	State <u>MI</u>	Zip <u>49106</u>
Email (optional) <u>Purduejmd@gmail.com</u>		

Section 2. Alleged Violator		
Name <u>Gloria Payne</u>		
Mailing Address <u>2997 Hinchman Road</u>		
City <u>Bridgman</u>	State <u>MI</u>	Zip <u>49106</u>
Email (optional)		

Section 3. Allegations (Use additional sheets if more space is needed.)

Section(s) of the MCFA alleged to be violated: Section 57

Explain how those sections were violated:

Ms. Payne, used her personal email to conduct official Lake
Two business. While conducting official Lake Two business she
campaigns for her re-election. She also used information provided to
her by registered voters that I do not have to contact voters. She
in the process of providing information about their ballot asked for the
voter to vote for her.

Evidence included with the submission of the complaint that supports the allegations:

Email dated June 12, 2020 at 4:43 pm where Ms. Payne

campaigns for re-election while advising a voter she received
their [Absent] voter Ballot Application" At the end of the email
she stated "Please vote & Re-elect Gloria Payne, Incumbent, for Clerk

Lake Charter Township August 4, 2020

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

John M. DeMeulenaere
Signature of Complainant

Dec-17-2020

Date

Section 5. Certification without Evidence (Supplemental to Section 4)

If, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence as indicated above, you may make the following certification:

I certify that to the best of my knowledge, information, or belief, there are grounds to conclude that the following specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry. Those specific contentions are:

X

Signature of Complainant

Date

Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to \$1,000.00 and some, or all, of the expenses incurred by the Michigan Department of State and the alleged violator as a direct result of the filing of the complaint.

Section 6. Submission

Once completed, mail or hand deliver the complaint form with your evidence to the address below. The complaint is considered filed upon receipt by the Bureau of Elections.

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

Smith, Jessica (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Monday, June 22, 2020 10:47 PM
To: Smith, Jessica (MDOS)
Subject: Fwd: Complaint

Another to open

From: JoAnn DeMeulenaere <purduejmd@gmail.com>
Sent: Wednesday, June 17, 2020 4:08:56 PM
To: Fracassi, Adam (MDOS) <FracassiA@michigan.gov>
Subject: Complaint

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Mr. Fracassi,

Attached please find the completed Michigan Department of State Campaign Finance Complaint Form. Please let me know if you have any trouble accessing the three attachments. I apologize the documents are handwritten.

Thank you for your help.

Sincerely

JoAnnDeMeulenaere

----- Forwarded Message -----

From: Gloria Payne <storageunique@hotmail.com>

Sent: Friday, June 12, 2020, 04:43:23 PM EDT

Subject: This is Gloria A. Payne, Lake Charter Township Clerk (Incumbent)

With the circumstances surrounding this Covid-19 pandemic, and the continued stay at home orders, it is best to avoid door-to-door campaigning, even after certain restrictions have been lifted to keep you and myself safe.

As you know, I am Gloria Payne, your Clerk for Lake Charter Township. This is your opportunity to re-elect me for this position on August 4, 2020, the State Primary election.

This is the election that determines whether or not I will appear on the November 3, 2020 ballot, and be allowed to continue my efforts as Clerk.

I have received your Absent voter Ballot Application and will be issuing the ballots at the end of June, beginning of July, 2020.

The Secretary of State, Joselyn Benson, has encouraged voting by mail. However, just for your information, the polls WILL be open on August 4, 2020 from 7:00 a.m. until 8:00 p.m., to vote in person.

Once you receive your ballot, it can be returned three ways, dropped off at Lake Charter Township Hall, snail mailed or dropped in the red drop box in front of the Ambulance Building (the old fire station) on Shawnee Road. This red drop box is checked daily.

Thank you for your continued support.

Please vote and Re-Elect Gloria Payne, Incumbent, for Clerk, Lake Charter Township
August 4, 2020

Sent from Outlook



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

July 6, 2020

Gloria Payne
2997 Hinchman Road
Bridgmen, MI 49106

Re: *DeMeulenaere v. Payne*
Campaign Finance Complaint
No. 2020-06-44-57

Dear Ms. Payne:

The Department of State (Department) received a formal complaint filed by JoAnn DeMeulenaere against you alleging violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* A copy of the complaint and supporting documentation is enclosed with this letter.

In Michigan, it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

Ms. DeMeulenaere alleges that you used your personal email account improperly to promote and expressly advocate in support of your reelection as Township Clerk by asking residents to vote for you after they sent you their application for an absentee ballot.

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. 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.* An explanation of the investigation process is enclosed with this letter and a copy is available on the Department's website.

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. Due to the ongoing public health emergency, the Department asks that all materials be submitted via email to

Elections@Michigan.gov to my attention. 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 answer will be provided to Ms. DeMeulenaere, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether “there may be reason to believe that a violation of [the MCFA] has occurred [.]” MCL 169.215(10). Note that the Department’s enforcement powers include the possibility of entering a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 57(4) of the Act.

If you have any questions concerning this matter, you may contact me via email.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi", with a stylized flourish at the end.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: JoAnn DeMeulenaere, via email



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

July 27, 2020

JoAnn DeMeulenaere
3391 Cedar Lane
Bridgman, MI 49106

Via Email

Re: *DeMeulenaere v. Payne*
Campaign Finance Complaint
No. 2020-06-44-57

Dear Ms. DeMeulenaere:

The Department of State received a response to the complaint you filed against Gloria Payne, 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, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Gloria Payne

Fracassi, Adam (MDOS)

From: SOS, Elections
Sent: Tuesday, July 21, 2020 3:46 PM
To: Fracassi, Adam (MDOS)
Subject: FW: Attention: Adam Fracassi

From: Gloria Payne <storageunique@hotmail.com>
Sent: Tuesday, July 21, 2020 3:34 PM
To: SOS, Elections <Elections@michigan.gov>
Subject: Attention: Adam Fracassi

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Dear Mr. Fracassi:

This is intended as my reply to the complaint referenced in your letter to me dated July 6, 2020.

As stated clearly in the complaint, then again in your letter, it is alleged that I used my personal email improperly to promote and expressly advocate in support of my reelection as the Township Clerk by asking residents to vote for me after they sent me their application for absentee ballot.

No Public Resource Used

As noted correctly by the complainant, and observed by your letter, I used my personal computer and email account to contact voters. I deliberately avoided the use of resources available to me at the Township so as to not violate the law. It is not alleged that I have improperly used public resources.

Absentee Voter Lists/Email Lists

Although not alleged as wrongdoing, I do want to make clear that I requested and obtained the list of absentee voter applicants, and email addresses, as provided by the Freedom of Information Act. These listings are public records, and are generally available to the public upon request.

I trust that this settles your inquiry and conclusively demonstrates my compliance with law. As the Township Clerk, I take the election process very seriously, and any allegation of wrongdoing is alarming. What I have done is proper, fair, and well within the confines of the law as I understand it.

Cordially,

Gloria Payne

Sent from Outlook

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Monday, July 27, 2020 5:02 PM
To: JoAnn DeMeulenaere
Subject: DeMeulenaere v. Payne - Campaign Finance Complaint
Attachments: Answer Letter.pdf; Answer.pdf

Ms. DeMeulenaere,

Please see the attached. If you would like to file a rebuttal, you have 10 business days to do so.

Adam Fracassi, Election Law Specialist
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Monday, July 27, 2020 5:03 PM
To: 'storageunique@hotmail.com'
Subject: DeMeulenaere v. Payne - Campaign Finance Complaint
Attachments: Answer Letter.pdf

Ms. Payne,

Please see a copy of the attached correspondence. If you have any questions, please let me know.

Adam Fracassi, Election Law Specialist
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901

July 29, 2020

Adam Fracassi
Bureau of Elections
Richard H. Austin Building
430 W. Allegan Street
Lansing, Michigan 48918
Via E-mail: FracassiA@Michigan.gov

Re: DeMeulenaere v. Payne
Campaign Finance Complaint
No. 2020-06-44-57

Mr. Fracassi,

In regard to the above mention matter, my rebuttal follows:

My complaint did not note Ms. Payne used her personal computer to draft her campaign e-mails to registered voters of Lake Township after they requested an absentee ballot. In fact, from the times of the e-mails, I personally observed Ms. Payne's car parked at the township office. This does not align with her statement that she used her personal computer. If she requested the e-mail list, she would not need to be at the township office. As she stated in her response, "I used my personal computer and email account to contact voters." If this were true, she would have no reason to be at the township office after hours transmitting these e-mails. This begs the following questions:

- Was Ms. Payne using the township computer or her personal computer;
- Was Ms. Payne using a list obtained from a FOIA request; and
- Was Ms. Payne using the township Internet to transmit her e-mails. Which she stated in her response, "I deliberately avoided the use of resources available to me at the township so as to not violate the law."

With regard to the above, Ms. Payne stated she obtained the e-mails through a FOIA request. She provides no evidence of the FIOA request. She also does not explain whom she presented the FOIA request to in order to obtain the e-mails. As seen in Exhibit A, she "Keeps Voter Registration File and Conducts Election" The question remains whom was the FIOA request presented to for the e-mail list.

Her allegation that she received the absentee voter list e-mails does not follow the advice of the Lori Bourbonais with the Michigan Bureau of Elections. Exhibit B is an e-mail from Ms. Bourbonais dated July 1, 2020. In that she stated:

"It is the Department of State's position that email addresses and phone numbers may be redacted. Phone numbers are specifically exempt from voter registration records under MCL 168.509gg. The Department relies on the privacy exemption to redact email addresses.

However, you should consult with your township attorney prior to responding to the request."

Finally with regard to the above questions, Ms. Payne does not provide documentation of payment for the absentee e-mails address list. If this were a FIOA request, the records would have been printed at the township office. If payment was not provided for these records, Ms. Payne used resources available to her at the township. Which she admits is a violation of the law. (In addition, to use of township resources, the date and time of Ms. Payne response to the complaint is Tuesday, July 21, 2020 at 3:46 PM. This is during work hours at the township)

Ms. Payne has provided no evidence she took any of the steps noted above prior to obtaining and using the e-mails obtained from absentee voter registration applications to seek votes for her re-election.

Ms. Payne made no attempt to answer the following violations in the complaint:

- She used her personal e-mail to conduct official Lake Township business by advising voters she received their application for an absentee ballot and the process she would be sending them out and how they should return the ballot. There is no reason why official Lake Township business in the capacity of the township clerk should be performed through the clerk's personal e-mail. Ms. Payne did not address this violation.
- Ms. Payne, in her capacity as Lake Township Clerk, while advising voters, she, the clerk of the township, received their request for an absentee ballot and would be mailing them a ballot. Also advised in the same letter, while acting as the township clerk:
 - "As you know, I am Gloria Payne, your Clerk for Lake Charter Township. This is your opportunity to re-elect me for this position on August 4, 2020 the state Primary election."
 - "This is the election that determines whether or not I will appear on the November 3, 2020 ballot, and be allowed to continue my efforts as Clerk."

It is clear from the e-mails Ms. Payne sent out she was co-mingling her duties as Lake Township Clerk with her efforts to campaign and gain re-election. For a woman who has been clerk of the township since 1997, it should be abundantly clear to her this is inappropriate and a violation/abuse of her position. The complete avoidance of responding to this portion of the complaint is reprehensible.

For the above reasons stated and evidence provided, I request the committee find in my favor and render an opinion against Ms. Payne and find she is in violation of the Michigan Campaign Finance Act, including but not limited to violations of MCFC Section 57.

I look forward to the determination of this complaint by the Campaign Finance Committee.

Sincerely,



JoAnn DeMeulenaere



**MAINTAIN YOUR INVESTMENT IN
YOUR EXPERIENCED CLERK**

SAVE THE DATE AUGUST 4, 2020

Re-Elect

GLORIA A. PAYNE

INCUMBENT

For Lake Township Clerk

- ✓ Experienced In "Your" Local Government
- ✓ Accredited
- ✓ Township Governance Academy Graduate
- ✓ The Preparer of Financial Statements - Accounting
- ✓ Payroll
- ✓ Maintains Custody of "ALL" Township Records
- ✓ Records and Maintains Township Meeting Minutes
- ✓ Keeps the Township Book of Oaths
- ✓ Keeps Voter Registration File and Conducts Election

**Paid for by the Committee to Re-elect Gloria A. Payne
for Lake Charter Township Clerk**

Exhibit "A"

From: Bourbonais, Lori (MDOS) <lori.bourbonais@michigan.gov>
Sent: Wednesday, July 1, 2020 1:13 PM
Subject: RE: BOE policy question

It is the Department of State's position that email addresses and phone numbers may be redacted. Phone numbers are specifically exempt from voter registration records under MCL 168.509gg. The Department relies on the privacy exemption to redact email addresses.

However, you should consult with your township attorney prior to responding to the request.

Lori

From: [REDACTED]
Sent: Wednesday, July 1, 2020 11:45 AM
To: Bourbonais, Lori (MDOS) <lori.bourbonais@michigan.gov>
Subject: BOE policy question

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Good afternoon Lori,



I sent you a FB message, but then found you email so thought I would send an email as well

Hope all is well during this crazy busy election time, I have a question. I have a candidate that is requesting the AV list of voters (for a mailing, as usual), but they are asking that the email and phone numbers the voters put on their AV app be included in the list. I thought I remember being told by the BOE that the emails and phone numbers was to be used by election admin only and only for questions related directly to their application or ballot. (like a missing signature or confirm an address)

Can you please tell me what the BOE policy on this is? I would appreciate it very much.

Thanks and have a great day,

Exhibit "B"



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

August 18, 2020

Gloria Payne
2997 Hinchman Road
Bridgman, MI 49106

Via Email

Re: *DeMeulenaere v. Payne*
Campaign Finance Complaint
No. 2020-06-44-57

Dear Ms. Payne:

This letter concerns the complaint that was recently filed against you, 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 45 business days from the receipt of the rebuttal statement whether there is a reason to believe that a violation of the Act has occurred. The complaint remains under investigation at this time.

If the Department needs more information, you may be contacted. The complaint will remain under investigation until a final determination has been made. At the conclusion of the review, all parties will receive written notice of the outcome of the complaint.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: JoAnn DeMeulenaere, via email

Fracassi, Adam (MDOS)

From: JoAnn DeMeulenaere <purduejmd@gmail.com>
Sent: Wednesday, July 29, 2020 10:20 AM
To: Fracassi, Adam (MDOS)
Subject: DeMeulenaere v Payne No.: 2020-06-44-57
Attachments: 2020-07-29 rebuttal.docx; 2020-07-29 rebuttal page 1.pdf; 2020-07-29 rebuttal page 2.pdf; 2020-07-29 rebuttal Ex B.pdf

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Mr. Fracassi,

Attached please find the following:

2020-07-29 Rebuttal (word format)
2020-07-29 rebuttal page 1 (pdf format)
2020-07-29 rebuttal page 2 (pdf format)
2020-07-29 rebuttal Ex A(included as a link as well)
2020-07-29 rebuttal Ex B

Please let me know if you have any trouble accessing these documents. Also, if you need any further information, please advise.

Thank you for your time and consideration of this matter and I look forward to the decision by the committee.

I also shared this through google, but wanted to send this anyway just in case you had trouble opening the Google drive.

Please advise via e-mail you received this. Thank you.

Sincerely,

JoAnn DeMeulenaere

https://drive.google.com/file/d/1LntilV_yn97qXLFAKY028CwOVDjXDDoj/view?usp=sharing



2020-07-29 rebuttal Ex A.pdf

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Tuesday, March 30, 2021 11:43 AM
To: Fracassi, Adam (MDOS)
Subject: DeMeulenaere v. Payne - Campaign Finance Complaint
Attachments: DeMeulenaere v Payne Determination.pdf

Good morning –

Please find attached documents regarding the abovementioned campaign finance complaint. If you have any questions, please do not hesitate to contact me.

Thank you,

Adam Fracassi, Election Law Attorney
Michigan Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

March 30, 2021

JoAnn DeMeulenaere
3391 Cedar Lane
Bridgman, Michigan 49106

Dear Ms. DeMeulenaere:

The Department of State (Department) has completed its investigation of the complaint filed by you against Gloria Payne, alleging Ms. Payne violated section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of your complaint.

You filed your complaint on June 17, 2020. Ms. Payne filed an answer on July 21, 2020 and you timely filed a rebuttal statement.

The MCFA 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(4).

Your complaint alleged that Ms. Payne "used her personal email to conduct official Lake [Township] business [,]" campaigned for re-election while conducting township business, and "used information provided to her by registered voters that [you] do not have" access to.

In support of your complaint, you provided a copy of an email from Ms. Payne, using her personal email address, to a township resident. The email includes information regarding the receipt of the voter's absentee voter (av) ballot application, the timeframe when av ballots will be mailed, how to return an av ballot, election day voting, and also asks the voter to vote for Ms. Payne in the primary election.

In her answer to the complaint, Ms. Payne stated that no public resources were used to send the email. She used her personal email address and personal computer, and she asserted that the av list and email addresses she used to send the email are public records that are available to any

person on request. She further stated that she "deliberately avoided the use of resources available to [her] at the [t]ownship so as to not violate the law."

In your rebuttal statement, you stated that you personally witnessed Ms. Payne's car at the township office at the time the emails were sent, which was after normal business hours. You also stated that Ms. Payne did not provide any evidence that she submitted a FOIA request or to whom she submitted the request. You also assert that providing the email addresses in response to a FOIA request is contrary to advice given by the Bureau of Elections (BOE).

The Department first notes that it is not a violation of the Act to conduct township business using a personal email address. While Ms. Payne's decision to notify voters about the mailing of av ballots and voting options in what is clearly campaign material, that, by itself, does not give rise to the improper expenditure of public funds.

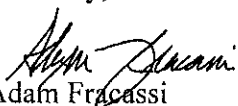
Ms. Payne asserted that she did not use the township computer or any other township resource to send the email. While you "personally observed Ms. Payne's car parked at the office [,]" no evidence has been provided to contradict Ms. Payne's statements. In the absence of evidence to the contrary, the Department takes Ms. Payne at her word.

While you have provided an email from the BOE to some unknown receiver as evidence that no one else could have obtained the email addresses used by Ms. Payne to send her campaign email, the email clearly states that "email address and phone numbers *may* be redacted." (Emphasis added). The use of the word "may" is permissive. The email further instructs the reader to consult with the township attorney prior to responding to a request.

No evidence has been provided which shows it is Lake Township's policy to redact residents' email addresses when responding to FOIA requests. The fact that it is BOE's policy is not dispositive. Additionally, no evidence has been provided to suggest Ms. Payne knows of BOE's policy. Ms. Payne has asserted that the email addresses would be available to the public under FOIA. In the absence of evidence to the contrary, the Department takes Ms. Payne at her word.

Because no evidence has been provided to support a conclusion that Ms. Payne expended public funds in the sending of her campaign email, your complaint is dismissed.

Sincerely,


Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Gloria Payne