



**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 Stuart Fenton	Daytime Telephone Number 231-330-9832	
Mailing Address PO BOX 101		
City Petoskey, MI	State MI	Zip 49770
Email (optional) SLFENT@Gmail.com		

Section 2. Alleged Violator		
Name James Linderman		
Mailing Address 200 DIVISION STREET		
City Petoskey MI	State MI	Zip 49770
Email (optional) JLINDERMAN@EMMETCOUNTY.ORG		

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

Section(s) of the MCFA alleged to be violated: 57 - 169.257

Explain how those sections were violated:

Mr. Linderman is the current prosecutor of Emmet County. He utilized public (Emmet County) resources - ie - computer system, email system and subordinate employee (office manager) to submit his press release announcing his bid for reelection. This is strictly prohibited by the above section as well as county policy.

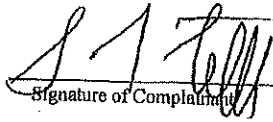
Evidence included with the submission of the complaint that supports the allegations:

E mail from Jennifer Boyer, his office manager to the press w/ attachment press release announcing his candidacy. E mail, is the county e mail. Also, an admonishment from the acting county administrator.

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X


Signature of Complainant

3-15-20

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: Stuart Fenton [REDACTED]
Sent: Friday, March 13, 2020 10:16 AM
To: Fracassi, Adam (MDOS)
Subject: Fwd: request for County Policy information
Attachments: Complaint.pdf

----- Forwarded message -----

Adam - here is the Complaint and e mail admonishment from acting County Administrator Mike Reeves regarding Linderman's conduct. Would you still like a hard copy?

On Mar 12, 2020, at 3:56 PM, Michael Reaves <mreaves@emmetcounty.org> wrote:

Mr. Fenton,

When I was made aware that the county email system, and possibly a county employee were involved in the sending of an email of a political nature (announcement of a re-election bid) I met with Mr. Linderman and advised him that such activity was prohibited by county policy; and was also possibly a violation of state election law. Mr. Linderman was reacquainted about county policy regarding the use of a county email system, and county employee use IF on county time, were prohibited.

I advised that there should be no further use of the county email system in this manner, in addition to county employees, & / or during normal business hours. All political activity should be kept outside of the county systems and policy requirements, and that any future incidents of an alike nature would be immediately dealt with in a more involved manner. I considered him so informed, warned, and the matter now closed.

Thank you,

Michael Reaves

Acting County Administrator

Director of Facilities & Assets

Emmet County, MI.

mreaves@emmetcounty.org

(231) 348-1701

From: Stuart Fenton [REDACTED]
Sent: Thursday, March 12, 2020 3:27 PM
To: Michael Reaves <mreaves@emmetcounty.org>
Subject: Re:

Dear Mike. I'm told you have dealt with Mr Lindermans utilization of county e mail and resources (office manager time) in announcing his reelection bid. May I inquire as to how that was dealt with please?

Smith, Jessica (MDOS)

From: Stuart Fenton [REDACTED]
Sent: Friday, March 13, 2020 10:06 AM
To: Fracassi, Adam (MDOS)
Subject: Fwd: News release
Attachments: image001.jpg; News Release-reelection.pdf

----- Forwarded message -----

Adam - I am forwarding you the exact e mail Emmet County Prosecutor Jim Linderman sent out thru his county computer, via his office manager Jennifer Boyer, announcing his reelection bid, which is a direct violation of section 57 - utilizing public resources (both the computer, e mail system, and personnel time) for his own personal, political gain. I will separately forward you the admonition by the acting County Administrator Mike Reeves, in response to this action, and also the Complaint form you sent me to my other e mail. Thank you for your attention to this matter. Please use this e mail for any response.

From: Jennifer Boyer <jboyer@emmetcounty.org>
Date: Fri, Mar 6, 2020 at 3:32 PM
Subject: News release
To: 7&4 News <newsroom@upnorthlive.com>, 9&10 News <news@9and10news.com>, Beth Leblanc <eleblanc@detroitnews.com>, Cathy Landry, Gaylord Herald Times <clandry@gaylordheraldtimes.com>, Charlevoix Courier (<jmcbain@petoskeynews.com> <jmcbain@petoskeynews.com>), Fox News Northern Michigan <news@mifox32.com>, Gaylord Herald Times <editor@gaylordheraldtimes.com>, Harbor Light Newspaper <news@ncpublish.com>, Interlochen News <iprnews@interlochen.org>, John Agar <jagar@mlive.com>, MI News 26 <news@minews26.com>, Michael J. Gordon <mgordon@upnorthlive.com>, Pat Sullivan <psullivan@northernexpress.com>, Petoskey News Review <petoskeynews@petoskeynews.com>, Stacy Cox <scox@emmetcounty.org>, Steve Zucker <szucker@petoskeynews.com>, Traverse City Record-Eagle <features@record-eagle.com>, WJML <talk@wjml.com>, WTCM 93.5 <wcm@wtcmradio.com>

Media,

Please review the attached press release. Please contact James Linderman, Emmet County Prosecutor, if you have any follow up questions.

Jennifer M. Boyer

Office Manager

Emmet County Prosecutor's Office

200 Division Street

Petoskey, MI 49770

231.348.1725 / fax 231.348.0686

jboyer@emmetcounty.org

--

Charles O'Neill

President/Executive Editor

North Country Publishing Corporation

Harbor Light Newspaper

PO Box 4545

Harbor Springs, MI 49740

231.526.2191

www.harborlightnews.com

NEWS RELEASE

March 6, 2020

Emmet County Prosecuting Attorney James Linderman announced he is seeking re-election to his current post for his fifth term later this year. Linderman is a Harbor Springs native and has been the elected prosecuting attorney of Emmet County since January 2005. Linderman will run on the Republican ticket.

I have been honored to serve the citizens of Emmet County as their prosecuting attorney for the last 16 years. I will continue working with the criminal justice system to ensure community safety by holding offenders responsible for their criminal actions. The goal of the prosecutor is to see that justice is done which may include making crime victims whole. It is also my belief that to achieve justice, you must honestly follow your convictions and do what you believe is right as opposed to following the loudest cry from the crowd.

Over the past 16 years as your elected Prosecutor, I have worked hard with others to build and maintain what I believe is one of the best Prosecutor's Offices in northern Michigan. The present quality of our Office is the result of using a proper management model along with the cooperative work effort of an experienced, cross trained staff of Assistant Prosecuting Attorneys and Support Staff who can meet the Office's diverse challenges and maintain our goal of best serving the public. One challenge successfully met was the 20% percent caseload increase our Office experienced during 2019 which was most likely due to increased tourism and activity in our area. Our Office was able to successfully prosecute this case load increase within a reasonable time frame by using an efficient management model, hard work, and the technical assistance of a quality computer program.

To effectively run our size Office, I as the elected Prosecutor, no longer try individual cases. Instead, I use an overall management supervision model that assigns specific attorneys and support staff assisted by other cross trained parties as dictated by case overload, sickness or vacation. Prosecutor backup for sickness and vacation among Office prosecutors occurs since the Courts set the schedule for their appearance in court and someone from the Office needs to appear during any absence. By using this model, maximum efficiency is achieved when running a complex Office operation that serves our three County Courts. For example, as the elected Prosecutor, I review all cases presented to the Office by law enforcement to obtain background knowledge and maintain a consistent charging policy. I then assign each case to an assistant attorney having the necessary specialized skill set to try the case in the proper court. To be bluntly honest, other than the Prosecutor backing up office attorneys on assigned cases, or prosecuting cases as a Special Prosecutor appointed by the Attorney General when a conflict in another county occurs, our County's present caseload volume requires that the elected Prosecutor avoid the counter productivity of being tied up prosecuting an individual defendant's case instead of managing the overall demands facing the Office. Other numerous demands upon the Prosecutor's time include interfacing with other County Offices, running the Office's Child

Support Division, Office budgeting, maintaining Office grants, providing legal resources for cases on appeal to the Court of Appeals and/or the Michigan Supreme Court, Monitoring Victims' Rights, and providing legal advice to area law enforcement. Additionally, the Prosecutor must attend numerous Office related meetings, which include Child Abuse Council, Chief's Meetings, Detective Meetings, and etcetera. To those that might be critical of my Office attendance, again I will be bluntly honest. I have shown up an hour late at times and left an hour early at times. But keep in mind, elected officials do not have vacation duration specified. If I am compared to an employee of similar tenure with the County, I have 5 weeks of vacation to use each year. In three years prior to March 2019, I did not take an actual vacation of greater than a week duration during each year. Realistically, I am either in the Office the vast majority of time, keeping track of Office events by cell phone, or having my Support Staff notify me regarding currently pending issues.

In answer to those who would criticize this model, I would compare the management of the Prosecutor's Office with the increasing caseloads that prevent me from routinely trying individual cases to the running of a championship bull riding contest. Someone has to organize and run the contest event. In the process, the organizer should choose the best bull riders available to run a successful event. On the other hand, the best individual riders may ride a bull well, like one attorney may excel in court, but such an individual will not necessarily know anything about the complexity of organizing and running the bull riding event. Likewise, a professed skilled trial attorney will not necessarily possess the knowledge, common sense or ability to work with people in a respectful manner that is necessary to efficiently maintain a complex operation like the Emmet County Prosecutor's Office. The public can rest assured that during the past 16 years of my leadership the Emmet County Prosecutor's Office has resolved yearly caseload increases, that the Office presently continues to resolve defendants' cases, and that in the future the Office will promote public safety by resolving defendants' cases and treat crime victims in a fair and compassionate manner regardless of who works for me.

Smith, Jessica (MDOS)

From: Stuart Fenton [REDACTED]
Sent: Friday, March 13, 2020 10:27 AM
To: Fracassi, Adam (MDOS)
Subject: Re: request for County Policy information

Oh, and by the way, this one seems pretty open and shut...

On Fri, Mar 13, 2020 at 10:15 AM Stuart Fenton <slfent@gmail.com> wrote:

----- Forwarded message -----

Adam - here is the Complaint and e mail admonishment from acting County Administrator Mike Reeves regarding Linderman's conduct. Would you still like a hard copy?

On Mar 12, 2020, at 3:56 PM, Michael Reaves <mreaves@emmetcounty.org> wrote:

Mr. Fenton,

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Thank you,

Michael Reaves

Acting County Administrator

Director of Facilities & Assets

Emmet County, MI.

mreaves@emmetcounty.org

(231) 348-1701

From: Stuart Fenton [REDACTED]
Sent: Thursday, March 12, 2020 3:27 PM
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Subject: Re:

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Smith, Jessica (MDOS)

From: Stuart Fenton [REDACTED]
Sent: Friday, March 13, 2020 10:23 AM
To: Fracassi, Adam (MDOS)
Subject: Evidence all on a Word Document for Complaint against Jim Linderman
Attachments: Evidence.docx

I have copied the emails sent by his Office Manager, and press release attachment and admonishment from the acting County Administrator on one word document here as my proof / evidence of a blatant campaign violation. I forwarded actual e mails in prior e mail to you, as well as the completed Complaint form you sent as an attachment. Let me know if you would still like hard copies. Thank you for your attention to this matter.

Evidence

The following have been cut and pasted from e mails I received into this word document:

Email Press Release from Jennifer Boyer, Office Manager of the Emmet County Prosecutor's Office who works directly for Prosecutor Jim Linderman:

From: **Jennifer Boyer** <jboyer@emmetcounty.org>

Date: Fri, Mar 6, 2020 at 3:32 PM

Subject: News release

To: 7&4 News <newsroom@upnorthlive.com>, 9&10 News <news@9and10news.com>, Beth Leblanc <eleblanc@detroitnews.com>, Cathy Landry, Gaylord Herald Times <clandry@gaylordheraldtimes.com>, Charlevoix Courier (jmcbain@petoskeynews.com) <jmcbain@petoskeynews.com>, Fox News Northern Michigan <news@mifox32.com>, Gaylord Herald Times <editor@gaylordheraldtimes.com>, Harbor Light Newspaper <news@ncpublish.com>, Interlochen News <iprnews@interlochen.org>, John Agar <jagar@mlive.com>, MI News 26 <news@minews26.com>, Michael J. Gordon <mgordon@upnorthlive.com>, Pat Sullivan <psullivan@northernexpress.com>, Petoskey News Review <petoskeynews@petoskeynews.com>, Stacy Cox <scox@emmetcounty.org>, Steve Zucker <szucker@petoskeynews.com>, Traverse City Record-Eagle <features@record-eagle.com>, WJML <talk@wjml.com>, WTCM 93.5 <[wtcm@wtcmradio.com](mailto:wtcml@wtcmradio.com)> www.harborlightnews.com

Media,

Please review the attached press release. Please contact James Linderman, Emmet County Prosecutor, if you have any follow up questions.

Jennifer M. Boyer

Office Manager

Emmet County Prosecutor's Office

200 Division Street

Petoskey, MI 49770

231.348.1725 / fax 231.348.0686

jboyer@emmetcounty.org

Attachment:

NEWS RELEASE

March 6, 2020

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the Court of Appeals and/or the Michigan Supreme Court, Monitoring Victims' Rights, and providing legal advice to area law enforcement. Additionally, the Prosecutor must attend numerous Office related meetings, which include Child Abuse Council, Chief's Meetings, Detective Meetings, and etcetera. To those that might be critical of my Office attendance, again I will be bluntly honest. I have shown up an hour late at times and left an hour early at times. But keep in mind, elected officials do not have vacation duration specified. If I am compared to an employee of similar tenure with the County, I have 5 weeks of vacation to use each year. In three years prior to March 2019, I did not take an actual vacation of greater than a week duration during each year. Realistically, I am either in the Office the vast majority of time, keeping track of Office events by cell phone, or having my Support Staff notify me regarding currently pending issues.

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End of News Release attachment

Emails with County Administrator Mike Reaves regarding same:

From: Stuart Fenton [REDACTED]
Sent: Thursday, March 12, 2020 3:27 PM
To: Michael Reaves <mreaves@emmetcounty.org>
Subject: Re:

Dear Mike. I'm told you have dealt with Mr Lindermans utilization of county e mail and resources (office manager time) in announcing his reelection bid. May I inquire as to how that was dealt with please?

On Mar 12, 2020, at 3:56 PM, Michael Reaves <mreaves@emmetcounty.org> wrote Mr. Fenton,

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Thank you,

Michael Reaves

Acting County Administrator
Director of Facilities & Assets
Emmet County, MI.
mreaves@emmetcounty.org
(231) 348-1701



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

March 20, 2020

James Linderman
200 Division Street
Petoskey, Michigan 49770

Re: *Fenton v. Linderman*
Campaign Finance Complaint
No. 2020-03-18-57

Dear Mr. Linderman:

The Department of State (Department) received a formal complaint filed by Stuart Fenton 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).

Mr. Fenton alleges that you used your county email to announce your reelection to county prosecutor and that your office manager did the same. Submitted with the complaint are copies of the emails sent and the press releases.

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

James Linderman
March 20, 2020
Page 2

Disclosure@Michigan.gov. 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 Mr. Fenton, 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". The signature is fluid and cursive, with the first name "Adam" and last name "Fracassi" clearly distinguishable.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Stuart Fenton

Fracassi, Adam (MDOS)

From: SOS, Disclosure
Sent: Monday, March 23, 2020 2:19 PM
To: Fracassi, Adam (MDOS)
Subject: FW: Response to Campaign Finance Complaint No. 2020-03-18-57

From: james linderman [REDACTED]
Sent: Friday, March 20, 2020 3:24 PM
To: SOS, Disclosure <Disclosure@michigan.gov>
Subject: Response to Campaign Finance Complaint No. 2020-03-18-57

Mr. Adam Fracassi
Bureau of Elections
Michigan Department of State

Dear Mr. Fracassi,

I have received your letter of March 20, 2020 regarding the above referenced formal complaint filed by Stuart Fenton. This email is my written response to that complaint. I believe the documentation as provided by Mr. Fenton in his complaint is accurate.

In my defense, I was shocked and embarrassed by my lapse of judgement when the County Administrator called me into his office and informed me about the inappropriateness of my actions of instructing my office manager to send my reelection bid notice out to the press on the County email system. I take full responsibility for instructing my Office Manager to send the release out to the Press. Over the years, I have always tried not to make inappropriate use of County resources for my private use. In this instance the concept of avoiding the misuse of digital information was not as easy for me to recognize as the concept of misusing items like paper and postage, and the misuse of digital information just eluded me at the time the release was sent out to the Press.

I admit taking the action I am accused of committing, but please understand this was not a premeditated intentional action on my part. As part of the Prosecutor's Office routine, the Office sends out numerous press releases each month to keep the public informed of progress on cases prosecuted by the Office. Unfortunately, during a lapse in my judgment, the reelection bid press release appeared to my conscious mind like another such release to keep the public informed.

Though technically I was off on medical leave, I was dealing with the pain and fatigue of two total knee replacements in three months, on the day the Release was sent out the Office since I was short one assistant prosecuting attorney due to a judicial appointment from our Office. As such, I was trying to fill that personnel void the best I could. Unfortunately, this attempt to fill the void resulted in a long, tiring, busy day, putting me into following the routine of the Office, rather than the routine I would have at home recuperating.

As I have mentioned previously, instructing my Office Manager to send out the Press Release on the County email was not a premeditated intentional act. It truly was a mistake that I take responsibility for in total. As such, I would certainly appreciate any appropriate leniency you would allow me in this matter short of ruining my criminal record with a misdemeanor conviction. I am totally willing to enter into a conciliation agreement, pay a fine, or do whatever is appropriate less than a criminal conviction, to resolve this matter. If your need any further information, please contact me. Thank you.

James R. Linderman



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

June 2, 2020

Stuart Fenton
PO Box 101
Petoskey, MI 49770

Via email

Dear Mr. Fenton:

The Department of State received a response to the complaint you filed against James Linderman, 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.

Please note that as a result of the ongoing COVID-19 public health crisis, processing and mailing times for complaints are delayed. Any correspondence regarding the complaint should be sent to me via email.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: James Linderman

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Tuesday, June 2, 2020 12:41 PM
To: Stuart Fenton
Subject: Fenton v. Linderman - Campaign Finance Complaint
Attachments: Answer letter.pdf; Answer.pdf

Please find attached correspondence regarding the complaint you filed against Mr. Linderman. 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

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Tuesday, June 2, 2020 12:42 PM
To: [REDACTED]
Subject: Fenton v. Linderman
Attachments: Answer letter.pdf; Answer.pdf

Please find attached a copy of correspondence sent regarding the above-mentioned complaint. 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

Fracassi, Adam (MDOS)

From: Stuart Fenton [REDACTED]
Sent: Tuesday, June 2, 2020 12:56 PM
To: Fracassi, Adam (MDOS)
Subject: Re: Fenton v. Linderman - Campaign Finance Complaint

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

But he's taken full responsibility. There's nothing for me to rebut. I waive any time limits and request you take whatever action you're going to so that the voters can know it before the election. Even a public admonishment would be helpful. He ought to know the rules - he's a 4 term incumbent! Let's cut thru some beaucroatic tape and conclude the matter swiftly please.

Sent from my iPhone

On Jun 2, 2020, at 12:53 PM, Fracassi, Adam (MDOS) <FracassiA@michigan.gov> wrote:

The next step is for you to file a rebuttal if you would like (due ten business days from today). From there, the Department has 45 business days to review the evidence and determine whether a violation has occurred. If a violation is determined to have occurred, we will attempt to correct the violation.

A complete overview of the process is located on the attached document if you are interested in reading it. It is also available on our website here: https://www.michigan.gov/documents/sos/Complaint_Guidebook_Procedures_660411_7.pdf

From: Stuart Fenton [REDACTED]
Sent: Tuesday, June 2, 2020 12:48 PM
To: Fracassi, Adam (MDOS) <FracassiA@michigan.gov>
Subject: Re: Fenton v. Linderman - Campaign Finance Complaint

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

Thank you for sharing this. So, he has taken full responsibility. What are the next steps please? He fails to realize it wasn't just digital- it was office computers, office time, and staff Time being directed to do his personal bidding. Please let me know where you intend to proceed from here.

Sent from my iPhone

On Jun 2, 2020, at 12:41 PM, Fracassi, Adam (MDOS) <FracassiA@michigan.gov> wrote:

Please find attached correspondence regarding the complaint you filed against Mr. Linderman. 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

<Answer letter.pdf>

<Answer.pdf>

<Complaint Guidebook & Procedures.pdf>



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

January 28, 2021

James Linderman
200 Division Street
Petoskey, MI 49770

Re: *Fenton v. Linderman*
Campaign Finance Complaint
No. 2020-03-18-57

Dear Mr. Linderman:

The Department of State (Department) has completed its initial investigation of the complaint filed against you by Stuart Fenton alleging that you violated section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257.

Mr. Fenton filed his complaint with the Department of State on March 13, 2020. He alleged that, on March 6, 2020, you used public resources to advance a campaign for political office. Specifically, Mr. Fenton referred to a March 6 press release announcing your reelection, which was written by a person employed as an office manager in Emmet County and sent to the media from an official Emmet County email address.

You responded to these allegations in a March 2020 email. In that email, you admitted to directing the office manager to draft and send the press release on your behalf. You expressed remorse for your actions, described mitigating circumstances, and described your violation as a mistake.

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). A public body is allowed produce or disseminate factual information concerning issues relevant to the function of the public body. MCL 169.257(1)(b). 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). An email sent from a government email account on behalf of a candidate for office is a contribution made for the purpose of influencing the nomination or election of a candidate. *Hunter v. Levine*, No 2018-10-84-57, Resolved Complaints (Oct. 23, 2018).¹

¹ Available at https://www.michigan.gov/documents/sos/Hunter_v._Levine_674893_7.pdf.

James Linderman

January 28, 2021

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Upon review, the Department concludes that the evidence is sufficient to conclude that a potential violation of the Act has occurred. Based upon the evidence submitted and your admissions, the Department finds that you improperly utilized public resources by directing your office manager to send a campaign-related email during work time from a county email address.

Upon the finding of a potential violation, the Act 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.* In a separate communication, the Department has sent you requests for more information so it may better assess the appropriate remedy to the potential violation.

Please be advised that if the Department is unable to resolve the matter through informal methods, the Department must refer the matter to the Attorney General for enforcement of the criminal penalty provided in MCL 169.257(4). MCL 169.215(10)(a).

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi". The signature is written in a cursive style with a large, looping initial "A".

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

In the Matter of:

**James Linderman
200 Division Street
Petoskey, MI 49770**

CONCILIATION AGREEMENT

Pursuant to MCL §169.215(10) of the Michigan Campaign Finance Act (the Act), MCL §169.201 *et seq.*, the Secretary of State and James Linderman (Respondent) hereby enter into a conciliation agreement with respect to certain acts, omissions, methods, or practices prohibited by the Act.

The Secretary of State alleges that there may be reason to believe that Respondent violated MCL §169.257 by improperly using public funds to make an expenditure.

Therefore, Respondent, without admitting any issue of law or fact, except as stated herein, hereby voluntarily enter into this conciliation agreement and assure the Secretary of State that they will comply with the Act and the Rules promulgated to implement the Act.

By executing this conciliation agreement, Respondent certifies that Emmet County has been repaid \$6.83 and a civil fine in the amount of \$6.83 to the State of Michigan has been paid.

The Secretary of State and Respondent further agree that this agreement is in effect and enforceable for four years from the date it is signed by the Secretary of State or her duly authorized representative.

The Secretary of State and Respondent further agree that this agreement, unless violated, shall constitute a complete bar to any further action by the Secretary of State with respect to the alleged violation that resulted in the execution of this agreement.

The Secretary of State and Respondent further agree that the complaint and investigation that resulted in this agreement are disposed of and will not be the basis for further proceedings, except pursuant to this agreement.

The Secretary of State and Respondent further agree that this agreement will not prevent the Secretary of State from taking action for violations of this agreement.

The Secretary of State and Respondent further agree that Respondents' performance under this agreement shall be given due consideration in any subsequent proceedings.

The Secretary of State and Respondent further agree that this agreement, when signed, shall become a part of the permanent public records of the Department of State.

The Secretary of State and Respondent finally agree that the signatories below are authorized to enter into and bind the parties to this agreement, and have done so by signing this agreement on the date below.

JOCELYN BENSON
SECRETARY OF STATE

RESPONDENTS



Jonathan Brater, Director
Bureau of Elections



James Linderman

Date: 3/18/21

Date: 3/9/21

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Monday, March 29, 2021 11:32 AM
To: Fracassi, Adam (MDOS)
Subject: Fenton v. Linderman - Campaign Finance Complaint
Attachments: Signed Conciliation Agreement.pdf

Please find attached a copy of the signed conciliation agreement in the abovementioned campaign finance complaint. The Department now considers this matter closed and resolved.

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