

**Campaign Finance Complaint Form  
Michigan Department of State**

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This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (the MCFA, 1976 PA 388, as amended; MCL 169.201 *et seq.*). All information on the form must be provided along with an original signature and evidence. **Please print or type all information**

**PLEASE PRINT OR TYPE ALL INFORMATION.**

I allege that the MCFA was violated as follows:

**SECTION 1. COMPLAINANT**

Your Name: **Steve Linder**

Telephone Number: **517-499-2243**

Mailing Address: **2550 Dustin Road**

City: **Okemos**

State: **MI**    Zip: **48864**

**SECTION 2. ALLEGED VIOLATORS**

Name: **St. Thecla Catholic School**

Telephone Number: **586-791-2170**

Mailing Address: **20762 S. Nunneley Road**

City: **Clinton Township**

State: **MI**    Zip: **48035**

Name: **Brian Cokonougher**

Telephone Number: **586-791-2170**

Mailing Address: **20762 S. Nunneley Road**

City: **Clinton Township**

State: **MI**    Zip: **48035**

Name: **Dona Marie Johnson-Beach**

Telephone Number: **586-791-2170**

Mailing Address: **20762 S. Nunneley Road**

City: **Clinton Township**

State: **MI**    Zip: **48035**

### SECTION 3. ALLEGED VIOLATIONS

#### **Section(s) of the MCFA violated:**

Section 47 (MCL 169.247).

#### **Explain how those sections were violated:**

The MCFA requires that if two or more people make an expenditure for “a billboard, placard, poster, pamphlet, or other printed matter having reference to . . . a ballot question,” then it “shall bear upon it an identification that contains the name and address of the person paying for the matter.” MCL 169.247(1). The MCFA separately requires that “each identification required by this section shall also indicate that the printed material...is paid for “with regulated funds”. MCL 169.247(4). Subsections (1) and (4) of section 47 apply to expenditures for communications that contain express words of advocacy in reference to an election, such as “vote for”, “elect”, “support”, “cast your ballot for”, “Smith for governor”, “vote against”, “defeat”, or “reject”. *See* MCL 169.206. Each violation of section 47’s requirements is a misdemeanor punishable by a fine of up to \$1,000.00 and imprisonment for up to 93 days. MCL 169.247(6).

A ballot question on whether to authorize marihuana establishments (the “Ballot Question”) is set to appear on the March 10, 2020 ballot in Clinton Township, Michigan. In a letter dated February 6, 2020 (the “Letter”), Fr. Cokonougher and Dr. Johnson-Beach, pastor and principal, respectively, on behalf of the St. Thecla Catholic School in Clinton Township (the “School”), clearly express the School’s opposition to the Ballot Question and advocate for St. Thecla families to vote no on the Ballot Question. Exhibit A. Specifically, the Letter explains that, on March 10, 2020, Clinton Township voters “will be asked to approve or not approve the presence of” marihuana establishments. *Id.* It goes on to declare that in order “[t]o keep our students safe, it is up to those opposed to **vote NO** on March 10.” *Id.* (emphasis added). Finally, after stating that “St. Thecla opposes” marihuana establishments in Clinton Township, the Letter urges St. Thecla families to “[p]lease make your voice heard on March 10.” *Id.* The Letter does not, however, contain a disclaimer or identify who paid for it.

Because it is signed by two individuals on behalf of an organization and uses express words of advocacy, the Letter must abide by the requirements of section 47 and include the appropriate disclaimer and identification information. (It should also be noted that, although it is unclear how much money the School spent on the Letter, it must file a statement of organization as an independent expenditure committee and/or report its contributions and expenditures if its costs exceed \$500 during the calendar year. *See* MCL 168.224b, 168.233, 168.235, & 168.254). That the Letter does not include the information under section 47 means that the School, Fr. Cokonougher, and Dr. Johnson-Beach have violated the MCFA and are subject to penalties under MCL 169.247(6).

**Evidence that supports those allegations** (attach copies of pertinent documents and other information): Exhibit A, Advocacy Letter from St. Thecla Catholic School.



2/6/2020

Dear St. Thecla Families,

At St. Thecla Catholic School, we are committed to providing a safe environment for our students. On March 10, 2020 residents of Clinton Township will be asked to approve or not approve the presence of marijuana retail, grow, process, transport, and test establishments in Clinton Township. Many of these proposed sites are near schools, including St. Thecla. To keep our students safe, it is up to those opposed to vote NO on March 10. If approved, these ordinances could allow large scale commercialized recreational marijuana facilities along Groesbeck and Kelly, both north and south of 15 Mile.

Along with many other local school officials, County executive Mark Hackel, and Sheriff Anthony Wickersham, St. Thecla opposes these large-scale commercialized marijuana facilities in our community. To read more about the adverse effects of marijuana on our youth please visit [www.cvcoalition.org](http://www.cvcoalition.org) or [www.mcosa.net](http://www.mcosa.net). Please make your voice heard on March 10.

Sincerely,

Father Brian Cokonougher, Pastor

Dr. Dona Marie Johnson-Beach, Principal



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

February 25, 2020

St. Thecla Catholic School  
Brian Cokonougher  
Dona Marie Johnson-Beach  
20762 S. Nunneley Road  
Clinton Township, MI 48035

Re: *Linder v. St. Thecla Catholic School, et al*  
Campaign Finance Complaint  
No. 2020-02-08-47

Dear St. Thecla Catholic School, Mr. Cokonougher & Ms. Johnson-Beach:

The Department of State (Department) has received a formal complaint alleging you have violated MCL 169.247 of the Michigan Campaign Finance Act (MCFA) by failing to include a complete and correct identification statement on certain campaign-related materials. A copy of the complaint is enclosed.

Mr. Linder alleges that you have sent flyers which use words of express advocacy to urge voters to vote no on a ballot question. Mr. Linder alleges that the flyers fail to contain a proper paid for by statement.

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election 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). Materials produced by anyone other than a candidate or the candidate committee are required to include the phrase "with regulated funds" after the paid for by statement. MCL 169.247(4). 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(6).

Upon review, the evidence submitted supports the conclusion that a potential violation of the Act has occurred. From the outset, the Department must consider whether it is an expenditure covered by the MCFA. The mailer specifically urges voters to "vote NO on March 10." Because it urges voters to vote against the passage of a ballot question using words of express advocacy, the flyer is covered by the gambit of the Act and must include the paid for by statement outlined under section 47. MCL 169.206(2)(j). Since this phrase is absent, the evidence supports the conclusion that a potential violation has occurred.

St. Thecla Catholic School  
Brian Cokonougher  
Dona Marie Johnson-Beach  
February 25, 2020  
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After reaching this conclusion, 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.*

Given this, the Department concludes that a formal warning is a sufficient resolution to the complaint and is hereby advising you that MCL 169.247(1) and R 169.36(2) require you to print a complete and accurate identification statement on all campaign materials, consisting of the phrase “paid for by” followed by the full name and address of your committee and the phrase “with regulated funds.”

Note that all printed materials containing words of express advocacy produced in the future must include this identification statement. For all materials currently in circulation, the paid for by statement must be corrected. If this information has been included in your materials or you wish to rebut the Department’s conclusion, you must respond in writing to the Department within 15 business days of the date of this letter otherwise the Department will treat the complaint as resolved.

Please be advised that this notice has served to remind you of your obligation under the Act to identify your printed matter and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act. A knowing violation is a misdemeanor offense and may merit referral to the Attorney General for enforcement action. MCL 169.247(6), 215(10).

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi", written in a cursive style.

Adam Fracassi  
Bureau of Elections  
Michigan Department of State

Enclosure  
c: Steve Linder

*Via E-Mail*

March 9, 2020

Mr. Adam Fracassi  
Bureau of Elections  
Michigan Department of State  
Richard H. Austin Building  
430 W. Allegan  
Lansing, MI 48918

***Re: Response to Linder v. St. Thecla Catholic School, et al  
Campaign Finance Complaint  
No. 2020-02-08-47***

Dear Mr. Fracassi:

On behalf of St. Thecla Catholic School, Fr. Brian Cokonougher, and Ms. Dona Marie Johnson-Beach, this letter shall serve as the response to the complaint submitted by Mr. Steve Linder. MCL 169.215(10).

**I. Background**

On February 6, 2020, St. Thecla Catholic School, Fr. Brian Cokonougher, and Ms. Johnson-Beach distributed a letter (“the letter”) to families of St. Thecla Catholic School. The communication referenced a local ballot question on the ballot for the March 10 primary election.

On February 18, 2020, the Michigan Bureau of Elections (“the Bureau”) received a complaint (“the complaint”) filed by Mr. Steve Linder alleging St. Thecla Catholic School, Fr. Brian Cokonougher, and Ms. Dona Marie Johnson-Beach of violating Section 47 of the Michigan Campaign Finance Act (“MCFA”).

On February 25, 2020, the Bureau sent a notice to St. Thecla, *et al* indicating a potential violation of the MCFA and providing the statutory-required opportunity to respond.

**II. Allegation**

The complaint alleges the letter was required to “include appropriate disclaimer and identification information” under Section 47 of the MCFA.

Mr. Adam Fracassi  
March 9, 2020  
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**III. Response**

**A. Letter is not an expenditure**

As noted by the notice, "From the outset, the Department must consider whether it is an expenditure covered by the MCFA."

The letter is not an expenditure subject to MCFA.

The term "expenditure" is defined under MCL 169.206. The letter is exempt as an expenditure under MCL 169.206(2)(a) which states:

"(2) Expenditure does not include any of the following:

(a) An expenditure for communication by a person with the person's paid members or shareholders and those individuals who can be solicited for contributions to a separate segregated fund under section 55."

As you may note in the letter, the communication was addressed to "St. Thecla Families." The letter was sent to those individuals who are "paid members" of St. Thecla. This was not a communication to the general electorate. Therefore, this communication is exempt as an expenditure under the MCFA.

**B. Letter did not include express words of advocacy**

The letter and words must be read in their entirety. The letter includes the sentence, "To keep our students safe, **it is up to those opposed** to vote NO on March 10." (emphasis added). Read in its entirety, the statement does not clearly and unequivocally use express words of advocacy. If the Bureau determines this is an expenditure under the MCFA and the disclaimer and identification requirements were to apply to the letter, then Section 47(5) is controlling.

Under the timing and manner of distribution of the letter, the letter is exempt from the disclaimer and identification requirements of Section 47(1). In order for the disclaimer and identification requirements to apply to the letter, the letter must have been delivered by United States mail within 30 days of the primary election. The letter was neither delivered by United States mail, nor was the letter delivered within 30 days of the primary election.

First, the letter was distributed more than 30 days before the primary election. To be exact, it was distributed on February 6 -- 33 days before the March 10 primary election.

Second, the letter was not distributed "...by means of radio, television, mass mailing, or prerecorded message." MCL 169.247(5)(a). The complaint does not allege the letter was delivered by radio, television or prerecorded message. The MCFA defines mass mailing as

Mr. Adam Fracassi  
March 9, 2020  
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“mailing by United States mail or facsimile of more than 500 pieces of mail matter of identical or substantially similar nature within any 30-day period.” MCL 169.210(2). The letter was never delivered by United States mail or facsimile.

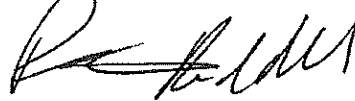
**IV. Conclusion**

On behalf of St. Thecla, *et al*, we request you dismiss the complaint. The letter was not an expenditure subject to the MCFA. If the Bureau determines the letter is subject to the MCFA, the entirety of the letter does not use express words of advocacy and is therefore exempt from the disclaimer and identification requirements of Section 47(1).

Should you have any questions or wish to discuss this matter, please do not hesitate to contact me.

Very truly yours,

HONIGMAN LLP

A handwritten signature in black ink, appearing to read 'Peter B. Ruddell', is written over the printed name.

Peter B. Ruddell



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

March 9, 2020

Steve Linder  
2550 Dustin Road  
Okemos, MI 48864

Re: *Linder v. St. Thecla, et al.*  
Campaign Finance Complaint  
No. 2020-02-08-47

Dear Mr. Linder:

The Department of State received a response to the complaint you filed against St. Thecla Catholic School, Brian Cokonougher, and Dona Marie Johnson-Beach, 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, 1<sup>st</sup> 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: Peter B. Ruddell, Attorney for Respondents



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

June 13, 2022

Steve Linder  
2550 Dustin Road  
Okemos, MI 48864

Re: *Linder v. St. Thecla Catholic School et al.*  
Campaign Finance Complaint No. 2020-02-08-47

Dear Mr. Linder:

The Department of State received a response from St. Thecla Catholic School (St. Thecla) to the complaint you filed against them alleging a violation of the Michigan Campaign Finance Act, 1976 P.A. 388, MCL 169.201 *et seq.*

Please note that while the Department issued a preliminary determination and a warning to St. Thecla regarding this complaint, St. Thecla retained the option of contesting the preliminary determination. St. Thecla opted to exercise that option by responding to the preliminary determination. A copy of the response is provided as an enclosure with this letter.

You may file a rebuttal statement after reviewing the enclosed response. If you elect to file a rebuttal statement, you are required to do so within 10 business days of the date of this letter. The rebuttal statement may be emailed to [BOERegulatory@michigan.gov](mailto:BOERegulatory@michigan.gov) or mailed to the Department of State, Bureau of Elections, Richard H. Austin Building, 1<sup>st</sup> Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

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

Jenny McInerney, Election Law Specialist  
Bureau of Elections  
Michigan Department of State

c: St. Thecla Catholic School c/o Peter B. Ruddell



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

September 13, 2022

Peter Ruddell  
222 North Washington Square  
Suite 400  
Lansing, MI 48933

Dear Mr. Ruddell:

The Department of State (Department) has finished investigating the complaint filed against your clients which alleges violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, 169.201 *et seq.*, This letter concerns the disposition of the complaint.

The complaint alleges that your clients sent flyers which uses words of express advocacy to urge voters to vote no on a ballot question. The flyer was included in the complaint. The Department issued a warning on February 25, 2020 finding that the flyer contains words of express advocacy and urged voters to vote against the ballot question. In that letter, the Department indicated that you could object to this conclusion within 15 business days.

On behalf of your clients, you timely objected indicating that the flyer does not constitute an expenditure because it was sent to "paid members." You argue that section 6 exempts from the definition of "expenditure" any communication by a person with the person's paid members or shareholders and those individuals who can be solicited for contributions to a separate segregated fund under section 55.

You next argue that the letter does not contain words of express advocacy because it says "it's up to those opposed to vote NO on March 10." You argue that this phrase does not clearly and unequivocally use express words of advocacy, but if it did, then the exemption under section 47(5) controls.

The Department notified Mr. Linder of his opportunity to submit a rebuttal, but to date, no response has been received.

The Department has reviewed the materials submitted and determines that there is sufficient evidence to conclude that a potential violation of the Act has occurred and will not reverse its initial conclusion. The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election 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). Materials produced by anyone other than a candidate or the candidate committee are required to include the phrase "with regulated funds" after the paid for by statement. MCL 169.247(4). 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(6).

First, the Department determines that this letter constitutes words of express advocacy. Express advocacy is defined under MCL 169.206(2)(j) as a communication “containing express words of advocacy of election or defeat, such as “vote for”, “elect”, “support”, “cast your ballot for”, “Smith for governor”, “vote against”, “defeat”, or “reject”. While it is true that the letter says, “it’s up to those opposed to vote NO on March 10,” the additional words of “it’s up to those opposed” does not change the fact that the letter expressly advocates against the ballot question. When reading the letter as a whole, the call to action is to urge voters to vote no on the ballot question on March 10. For example, the entire sentence reads, “To keep our students safe, it is up to those opposed to vote NO on March 10.” The average person reading this sentence can reasonably conclude that they are being asked to vote against the ballot question. The Department has previously concluded this constitutes express advocacy, and it will not reverse its initial finding now.

Additionally, the Department disagrees with your argument that the exemption contained under subsection 5 applies. MCL 169.247(5) provides that communications “*otherwise entirely exempted from this act under section 6(2)(j)*” must contain a paid for by statement under certain circumstances. MCL 169.247(5) (*emphasis added*). However, this section does not apply as the Department has determined that the letter constitutes express advocacy. This section only controls if the letter was determined to be entirely exempted from the Act.

Finally, you argue that section 6 exempts from the definition of “expenditure” any “communication by a person with the person’s paid members or shareholders and those individuals who can be solicited for contributions to a separate segregated fund under section 55.” MCL 169.206. The Department has previously asked you for clarification on this point. Specifically, it is unclear how this section applies to a school as schools do not have paid members or shareholders. To date, the Department has not received a response and must conclude that this section does not apply in this instance. The Department interprets this section as applying to labor organizations and corporations which solicit funds for their separate segregated funds. This section has never been interpreted to include schools sending correspondence to parents which expressly advocates against a ballot question – notably, a ballot question that does not apply to the school (e.g. millage). This letter expressly advocates against a third-party ballot question.

Accordingly, the Department concludes there is sufficient evidence to determine that a potential violation of the Act has occurred. After reaching this conclusion, 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.*

Given the fact that the Department had previously issued a warning, the Department concludes that a warning is a sufficient resolution to this matter. Note that all printed materials that expressly advocate for or against a ballot question must include the paid for by statement. Additionally, be advised that expenditures may also be required to be reported.<sup>1</sup> Please be

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<sup>1</sup> For example, individuals expending more than \$100 must file independent expenditure reports. The Department makes no determinations as to whether your clients were obligated to file reports as that issue was not raised in

advised that this letter constitutes a formal warning and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act.

The Department now considers this matter closed and resolved and will take no further action.

Sincerely,

Adam Fracassi, Regulatory Manager  
Bureau of Elections  
Michigan Department of State

C: Steve Linder

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the complaint. Even assuming it was, it does not appear that there was a cost of at least \$100 to disburse this letter.