



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

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

2020 AUG -7 AM 8:59

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 WILLIAM MADRO		Daytime Telephone Number 586-549-9022	
Mailing Address 37580 LAKESHORE DR			
City HARRISON TOWNSHIP	State MI	Zip 48045	
Email (optional) [REDACTED]			

Section 2. Alleged Violator			
Name HARRISON TOWNSHIP PUBLIC LIBRARY			
Mailing Address 38255 LIANSE CREUSE STE A			
City HARRISON TOWNSHIP	State MI	Zip 48045	
Email (optional)			

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

Section(s) of the MCFA alleged to be violated: ACT 388 SECTION 57(3) AS AMENDED ACT 269

Explain how those sections were violated:

LIBRARY PUBLISHED AND MAILED TO ALL RESIDENTS  
TWO MAILINGS ON A AUG 1 2020 MILLAGE ELECTION.  
THIS WAS DONE AT TAXPAYER EXPENSE IN THE 60 DAY  
PERIOD PRIOR TO THE ELECTION. FIRST MAILING O/A MID  
JUNE 2020 AND SECOND MAILING O/A MID JULY 2020.

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

ENCL 1 - MID JUNE 2020 MAILING  
ENCL 2 - MID JULY 2020 MAILING

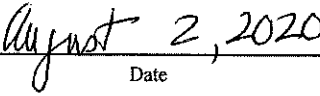
**Section 4. Certification (Required)**

*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



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:*

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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



Harrison Township **Primary Election**  
Tuesday

August 4, 2020

Polls open 7:00am to 8:00pm



**HARRISON TOWNSHIP**  
PUBLIC LIBRARY

38255 L'Anse Creuse, Suite A

Harrison Township, MI

Phone: 586-329-1261

Website: [www.htlibrary.org](http://www.htlibrary.org)

NONPROFIT ORG.  
ECRWSS  
U.S. POSTAGE  
PAID  
MOUNT CLEMENS, MI  
PERMIT NO. 75

\*\*\*\*\*ECRWSSDDM\*\*\*\*\*

Postal Customer

### WHY DO WE NEED A MILLAGE?

Our library is still operating like a small start-up library. This isn't a sustainable model and was never intended to be the final stage in our development. We're ready to move to the next level and are asking the voters if they're ready for the next level too.

Class IV average		HTPL
Number of Public Computers	25	5
Square Footage	16,660 sq. ft.	3,900 sq. ft.
Square Footage per person served	1.12 sq. ft. per person served	0.16 sq. ft. per person served
Average operating income per person served	41.04/person	19.16/person
Hours of operation per week	56 hours per week	44 hours per week
Total collection size	109,208	38,877
Operating millage	1.39	.5

### HOW MUCH WILL THE MILLAGE COST?

Market Value*	SEV Taxable Value	Yearly Cost	Monthly Cost
100,000	50,000	50	\$4.17
120,000	60,000	60	\$5.00
140,000	70,000	70	\$5.83
200,000	100,000	100	\$8.34
240,000	120,000	120	\$10.00

The average home price in Harrison Township is \$240,000.

### WHERE WILL THE MONEY GO?

- ✓ Technology upgrades
- ✓ More hours of operation
- ✓ Double the programs
- ✓ Double the electronic resources
- ✓ After-hours delivery options
- ✓ Steps toward the next phase

Visit [htlibrary.org](http://htlibrary.org) for more information.



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

August 17, 2020

Harrison Township Public Library  
38255 L'Anse Creuse Ste A  
Harrison Twp, MI 48045

Re: *Madro v. Harrison Township Public Library*  
Campaign Finance Complaint  
No. 2020-08-141-57

Dear Harrison Township Public Library:

The Department of State (Department) received a formal complaint filed by William Madro 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., Madro alleges that you published and mailed to all residents a flyer that expressly advocates for the passage of a ballot question. A copy of the flyer is included with the complaint.

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](mailto: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.

Should you choose to submit a response, please specifically address whether the sentence "We're ready to move to the next level and are asking the voters if they're ready for the next level too." constitutes express advocacy.

A copy of your answer will be provided to Mr. Madro, 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".

Adam Fracassi  
Bureau of Elections  
Michigan Department of State

c: William Madro

**Lansing**313 S. Washington Square  
Lansing MI 48933**Detroit**333 W. Fort Street – Suite 1400  
Detroit MI 48226Walter S. Foster  
1878-1961  
Richard B. Foster  
1908-1996  
Theodore W. Swift  
1928-2000  
John L. Collins  
1926-2001Webb A. Smith  
Gary J. McRay  
Stephen I. Jurmu  
Scott A. Storey  
Charles A. Janssen  
Charles E. Barbieri  
James B. Jensen, Jr.  
Scott L. Mandel  
Michael D. SandersBrent A. Titus  
Stephen J. Lowney  
Jean G. Schtokal  
Brian G. Goodenough  
Matt G. Hrebec  
Deanna Swisher  
Thomas R. Meagher  
Douglas A. Mielock  
Scott A. Chernich  
Paul J. Millenbach  
Dirk H. Beckwith  
Brian J. Renaud  
Bruce A. Vande Vusse  
Lynwood P. VandenBosch  
Lawrence Korolewicz  
James B. Doezema  
Anne M. Seurynek  
John P. Nicolucci**Southfield**28411 Northwestern Highway, Suite 500  
Southfield MI 48034**Holland**151 Central Avenue – Suite 260  
Holland MI 49423Michael D. Homier  
David M. Lick  
Scott H. Hogan  
Richard C. Kraus  
Benjamin J. Price  
Michael R. Blum  
Jonathan J. David  
Andrew C. Vredenburg  
Jack A. Siebers  
Julie I. Fershtman  
Todd W. Hoppe  
Jennifer B. Van Regenmorter  
Thomas R. TerMaat  
Frederick D. Dilley  
David R. Russell  
Zachary W. Behler  
Joel C. Farrar  
Laura J. GenovitchKarl W. Butterer, Jr.  
Mindi M. Johnson  
Ray H. Littleton, II  
Jack L. Van Coevering  
Anna K. Gibson  
Patricia J. Scott  
Nicholas M. Oertel  
Alicia W. Birach  
Adam A. Fadly  
Michael J. Liddane  
Gilbert M. Frimet  
Mark J. Colon  
Paul D. Yared  
Ryan E. Lamb  
Stephen W. Smith  
Clifford L. Hammond  
Brett R. Schlender  
Matthew S. FedorNicolas Camargo  
Andrea Badalucco  
Mark T. Koerner  
Warren H. Krueger, III  
Sarah J. Gabis  
John W. Mashni  
Allison M. Collins  
Leslie A. Dickinson  
Julie L. Hamlet  
Michael C. Zahrt  
Taylor A. Gast  
Rachel G. Olney  
Tyler J. Olney  
Mark J. DeLuca  
Stefania Gismondi  
Thomas K. Dillon  
Robert A. Easterly  
Robert A. Hamor**Grand Rapids**1700 E. Beltline NE – Suite 200  
Grand Rapids MI 49525**St. Joseph**800 Ship Street – Suite 105  
St. Joseph MI 49085Michael A. Cassar  
Hilary J. McDaniel Stafford  
Emily R. Wisniewski  
Amanda J. Dernovshek  
Lydia H. Kessler  
Brandon M. H. Schumacher  
Alexander J. Thibodeau  
Cody A. Mott  
Alaina M. Nelson  
Caroline N. Renner  
Joseph B. Gale  
Sydney T. Steele

Writer's Direct Phone: 616.726.2238

Fax: 616.726.6813

Reply To: Grand Rapids

E-Mail: LGenovitch@fosterswift.com

September 1, 2020

Adam Fracassi  
Bureau of Elections  
Richard H. Austin Building  
430 W. Allegan Street  
Lansing, MI 48919

Dear Mr. Fracassi:

We represent the Harrison Township Public Library (the "Library") and are in receipt of the campaign finance complaint filed by William Madro on August 7, 2020. This letter is in response to the complaint and to your letter dated August 17, 2020.

In his complaint, Mr. Madro alleges the library violated "Act 388 Section 57(3) as Amended [by] Act 269" by publishing and mailing to all residents two taxpayer-funded communications in the 60-day period before the August 4, 2020 election.

**The 60-Day "Gag Order"**

Mr. Madro appears to be referring to the "gag order" in Public Act 269 of 2015, which amended Section 57(3) of the Michigan Campaign Finance Act ("MFCA"). The act provided that,

a public body . . . shall not, during the period 60 days before an election in which a local ballot question appears . . . use public funds or resources for a communication by means of radio, television, mass mailing, or prerecorded telephone message if that communication references a local

**Certified Mail**  
**E-Mail**2020 SEP -3 PM 3:06  
ELECTRONIC/GRATE SEAL



Adam Fracassi  
September 1, 2020  
Page 2

ballot question and is targeted to the relevant electorate where the local ballot question appears on the ballot.

P.A. 269 of 2015 was immediately challenged in federal district court, where Judge Corbett O'Meara issued a preliminary injunction and enjoined the state from enforcing Section 57(3) of the MCFA.<sup>1</sup> On April 28, 2016, the State entered into a consent judgment with the plaintiffs which permanently enjoined the State from enforcing P.A. 269 of 2015.<sup>2</sup>

Because enforcement of the 60-day restriction in P.A. 269 of 2015 and Section 57(3) of the MCFA is permanently enjoined, the activity of sending out taxpayer-funded communications within the 60-period before an election does not constitute a violation of the MCFA. Thus, Mr. Madro's complaint – which arises solely out of that permanently enjoined statutory provision – should be summarily dismissed.<sup>3</sup>

### **Express Advocacy**

While Mr. Madro has not alleged that the Library engaged in express advocacy in violation of the MCFA, you have asked us to address the issue, specifically regarding the following sentence: "We're ready to move to the next level and are asking the voters if they're ready for the next level too." For the reasons below, this sentence is not express advocacy and does not violate the MCFA.

Section 57(3) of the MCFA makes it unlawful for a public body or person acting on its behalf to use or authorize the use of public funds, personnel, equipment, or other public resources to make a contribution or expenditure.<sup>4</sup> Providing factual information does not violate the MCFA.<sup>5</sup> Instead, violation of Section 57 occurs when the public body uses public funds to mass mail a communication that contains words of express advocacy.<sup>6</sup> Words of express advocacy include, but are not limited to, "vote for," "elect," "support," "cast your ballot for," "vote against," "defeat," or "reject."

The sentence "We're ready to move to the next level and are asking the voters if they're ready for the next level too" does not contain any of the hallmarks of express advocacy. The wording does not unambiguously suggest support for the millage. Rather, the Library is restating how the millage funds will be used (to move to the next stage in its development) and is advising that voters can decide

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<sup>1</sup> See *Taylor v. Johnson*, 2016 WL 447539 (E.D. Mich., Feb. 5, 2016) (finding the plaintiffs were likely to succeed on the merits of their claim that the law is unconstitutionally vague and thus void).

<sup>2</sup> See *Taylor v. Johnson*, no. 16-10256 (E.D. Mich., Apr. 28, 2016).

<sup>3</sup> MCFA R. 169.53.

<sup>4</sup> MCL 169.257(1).

<sup>5</sup> MCL 169.257(1)(b).

<sup>6</sup> See IS issued to David E. Murley, dated October 31, 2005 ("for purposes of the MCFA the department will apply the express advocacy test to communications financed by public bodies.").



Adam Fracassi  
September 1, 2020  
Page 3

whether to pass the millage. It does not suggest Harrison Township residents should vote in any particular manner and does not advocate for the passage of the millage. It merely notes that the Library is prepared to move forward in its development plan and to do so, it must put a millage before the voters. This represents the distribution of factual information, not express advocacy.

The remainder of the postcard shows factual comparisons between the average library in similar sized towns and the Library. It also provides estimated yearly and monthly costs based on home prices and lists six ways the millage funds would be spent. Disseminating purely factual information is expressly permitted by the MCFA.

Because the Library does not expressly advocate for support of a ballot question in its postcard, the Library has not violated the MCFA.

For these reasons, we request that the complaint be dismissed. If we can provide any other information, please do not hesitate to contact us.

Very truly yours,

FOSTER SWIFT COLLINS & SMITH PC

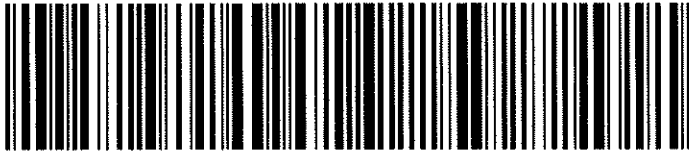
*/s/ Laura J. Genovich*

Laura J. Genovich

LJG:CM

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USPS CERTIFIED MAIL



9214 8901 0282 8600 0519 98

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Foster Swift Collins & Smith PC  
1700 E. Beltline NE  
Suite 200  
Grand Rapids MI 49525

f

ADAM FRACASSI  
BUREAU OF ELECTIONS  
RICHARD H AUSTIN BUILDING  
430 W ALLEGAN ST  
LANSING MI 48933-1592

Username: Mollie Wilcox (mwilcox@fosterswift.com)

Postage: \$6.2500



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

October 9, 2020

William Madro  
37580 Lakeshore Drive  
Harrison Township, MI 48045

Dear Mr. Madro:

The Department of State received a response to the complaint you filed against Harrison Township Public Library, 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: Laura Genovich

2020 OCT 23 PM 1:19

37580 Lakeshore Dr.  
Harrison Township, MI 48045  
October 21, 2020

Mr. Adam Fracassi  
Bureau of Elections  
Michigan Department of State  
Richard H. Austin Building, 1<sup>st</sup> Floor  
430 W. Allegan St  
Lansing, MI 48918.

Dear Mr. Fracassi:

Thank you for your letter of October 9, 2020.

I understand that the law was challenged in court and that the State entered into a consent judgment rendering my complaint as moot. However, on the issue of express advocacy, I do have some comments on the Foster Swift response.

From my understanding of the English language, there is more than one way that a communication can be considered as "express advocacy." The first is the use of explicit words recommending a vote on a particular proposal or candidate. The second relates to a "reasonable interpretation" test.

With regard to the two examples of literature prepared and mailed by the Harrison Township Public Library (HTPL) prior to the August 4, 2020 election, I believe that the "reasonable interpretation" test does indeed apply. While it is true that there are no explicit words telling the reader to specifically vote yes on the millage proposal, it is obvious that both communications present facts in close proximity to the election date that would lead a reasonable person to assume that the library is urging a yes vote on the millage proposal.

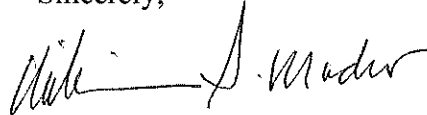
In the first communication from June 2020, the HTPL clearly states that "we know you want more and we know you need our services more than ever, so we're heading to the polls!" Here, the reasonable person would assume that is advocating the passage of a millage proposal.

Mr. Adam Fracassi  
Bureau of Elections  
Page 2

In the second communication from July 2020, the HTPL clearly outlined its position on funding stating that it is "...still operating like a small start-up library" and that "This isn't a sustainable model and was never intended to be the final stage of development." Again, the HTPL makes the statement "We're ready to move to the next level and are asking voters if they're ready for the next level too." A reasonable person would take from this communication, given its close proximity to the August 4<sup>th</sup> election, that the library is urging a yes vote. In other words, the HTPL is saying we need money and there is no other obvious purpose to the dissemination of this information other than to urge a yes vote from voters.

In summary, I believe that the HTPL broke the law with respect to campaign financing in these instances, using the reasonable interpretation test.

Sincerely,

A handwritten signature in black ink, appearing to read "William S. Madro", written in a cursive style.

William S. Madro

**Fracassi, Adam (MDOS)**

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**From:** Fracassi, Adam (MDOS)  
**Sent:** Wednesday, January 27, 2021 12:56 PM  
**To:** [REDACTED]  
**Subject:** Madro v. Harrison Township Library  
**Attachments:** 20210127122538.pdf; Rebuttal Letter.pdf

Ms. Genovich,

Please see attached. If you have questions, let me know.

**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

January 27, 2021

Harrison Township Public Library  
c/o Laura Genovich, Attorney  
1700 E. Beltline NE  
Suite 200  
Grand Rapids, MI 49525

*Via Email*

Re: *Madro v. Harrison Twp Public Library*  
Campaign Finance Complaint  
No. 2020-8-141-57

Dear Ms. Genovich:

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.

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: William Madro, via email

**Fracassi, Adam (MDOS)**

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**From:** Fracassi, Adam (MDOS)  
**Sent:** Monday, March 29, 2021 9:59 AM  
**To:** Fracassi, Adam (MDOS)  
**Subject:** Madro v. Harrison Township Public Library Campaign Finance Complaint  
**Attachments:** Determination.pdf; Taylor v Johnson re 57(3).pdf

Good morning,

Please see the attached. 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 29, 2021

William Madro  
37580 Lakeshore Drive  
Harrison Township, MI 48045

Dear Mr. Madro:

The Michigan Department of State (Department) has concluded its investigation into the allegations of the complaint you filed against the Harrison Township Public Library (HTPL) which alleged violations of the Michigan Campaign Finance Act (MCFA or Act), MCL 169.201, *et seq.* This letter concerns the resolution of your complaint.

Your complaint alleges that HTPL violated section 57(3) of the MCFA by mailing flyers within the 60 days prior to an election. You allege this is a violation of Section 57(3) of the Act, which states:

(3) Except for an election official in the performance of his or her duties under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, a public body, or a person acting for a public body, shall not, during the period 60 days before an election in which a local ballot question appears on a ballot, use public funds or resources for a communication by means of radio, television, mass mailing, or prerecorded telephone message if that communication references a local ballot question and is targeted to the relevant electorate where the local ballot question appears on the ballot.

However, this section was litigated in 2016 and declared unconstitutional by the United States District Court for the Eastern District of Michigan, a copy of which is enclosed. Under the terms of this order, the Department is permanently enjoined from enforcing MCL 169.257(3).

As the Court explained in its opinion (a copy of which is also attached):

“One could arguably find a communication that ‘references’ a ballot question to be any communication that merely ‘mentions’ a ballot question. This result appears absurd; it is difficult to imagine that regulators would attempt to sanction or prosecute a public official for merely mentioning a ballot question in a city newsletter, explaining the difference between a millage renewal and millage increase, or explaining what

William Madro  
March 29, 2021  
Page Two

‘nonhomestead’ means, for example. See Compl. at ¶¶ 68, 72. The vague language of §57(3) arguably prohibits these communications, however, leaving it up to regulators to determine what violates the act. Allowing regulators this type of unrestricted judgment call provides no check against arbitrary or discriminatory enforcement and is what the vagueness doctrine is meant to avoid.”

For this reason, and in compliance with the Consent Judgment, the Department must dismiss your complaint.

Sincerely,

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

Adam Fracassi  
Bureau of Elections

c: Laura Genovich, via email