

**STATE OF MICHIGAN  
BUREAU OF ELECTIONS**

CAMPAIGN FINANCE COMPLAINT

Section 1.     COMPLAINANT

Chris Cracchiolo  
5140 Arrowhead Ct.  
Williamsburg, MI 49690  
(231) 590-6577

Section 2.     ALLEGED VIOLATORS

Unlock Michigan  
2145 Commons Parkway  
Okemos, MI 48864

Stand Up Michigan  
1324 S. Park Street  
Kalamazoo, MI 49001

Section 3.     ALLEGATIONS

Sections of Michigan Campaign Finance Act (MCFA) alleged to be violated: MCL 169.224(1), 169.225, 169.226, 169.233, 169.234, and 169.243.

STATEMENT OF FACTS

1.     "Committee" is defined in Sec. 3(4) of the MCFA, MCL 169.203(4), as a:  
  
person who received contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of a candidate, the qualification, passage or defeat of a ballot question or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures total \$500.00 or more in a calendar year....An individual, other than a candidate, does not constitute a committee. A person, other than a committee registered under this act, making an expenditure to a ballot question committee or an independent expenditure committee, shall not, for that reason, be considered a committee or be required to file a report for the purposes of this act unless the person solicits or receives contributions for the purpose of making an expenditure to that ballot question committee or independent expenditure committee.

2. "Person" is defined in Sec. 11(2) of the MCFA, MCL 169.211(2) as:  
  
a business, individual, proprietorship, limited liability company, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly.
3. "Contribution" is defined in Sec. 4(1) of the MCFA, MCL 169.204(1), as follows:  
  
a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for influencing the nomination or election of a candidate, for the qualification, passage or defeat of a ballot question, or for the qualification of a new political party.
4. "Expenditure" is defined in Sec. 6(1)(a) of the MCFA, MCL 169.206(1)(a), as follows:  
  
a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to the nomination or election of a candidate, the qualification, passage or defeat of a ballot question, or the qualification of a new political party. Expenditure includes, but is not limited to, any of the following:  
  
(a) A contribution or transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of a candidate, the qualification, passage or defeat of a ballot question, or the qualification of a new political party.
5. Section 24(1) of the MCFA, MCL 169.224(1), requires a committee to file a statement of organization within 10 days of its formation. A ballot question committee is required to file regular complete campaign finance statements. MCL 169.225, 169.226, 169.233, and 169.234.
6. Section 43 of the MCFA, MCL 169.243, requires a committee to report the expenditures of its agents and independent contractors:  
  
An expenditure shall not be made, other than for overhead or normal operating expenses, by an agent or an independent contractor, including an advertising agency, on behalf of or for the



benefit of a person unless the expenditure is reported by the committee as if the expenditure were made directly by the committee, or unless the agent or independent contractor files a report of an independent expenditure as provided in section 51. The agent or independent contractor shall make known to the committee all information required to be reported by the committee. A person who knowingly is in violation of this subsection is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00, or imprisoned for not more than 90 days, or both, and if the person is other than an individual the person shall be fined not more than \$10,000.00.

7. Launched in April, 2020 as an alleged IRC 501(c)(3) charitable organization, Stand Up Michigan has been and is an integral part of Unlock Michigan's petition drive.
8. Stand Up Michigan's website, [standupmichigan.com](http://standupmichigan.com), promotes Unlock Michigan and links to the Unlock Michigan website and a joint Facebook group with Unlock Michigan.

That joint group is described as:

Stand Up Michigan is a gathering of Michigan Citizens who are passionate about advancing freedoms and *are joining forces with Unlock Michigan* to curb our Governor's Executive Power control for now and into the future.

Emphasis added. A further link is provided to

9. The Stand Up Michigan website also includes Unlock Michigan's video on how to fill out an Unlock Michigan petition.
10. The Stand Up Michigan website also features a video from Senate Majority Leader Mike Shirkey which promotes the Unlock Michigan petition and thanks Stand Up Michigan for its petition work:

It's been an amazing and inspiring response to have all the people requesting signatures for the petition drive the citizen initiative to repeal the 1945 law. And now we need everybody to follow through. Get those signatures and get those petitions sent in. Time is of the essence. We have relatively short window to accomplish this goal by. But I'm strongly encouraged by the inspiring response to all those folks that have asked for petitions. I've seen

evidence of them being out in public, holding signature gathering events. And now we need them to complete those petitions and get them sent in, so we can start the certification process and be ready to present it to the legislature in the fall. *Thank you again for standing up. Stand up, Michigan. The Web site, the Facebook page and so forth.* Fantastic response by all the volunteers and citizens who are truly patriots in Michigan. Again, thank you so much. And I look forward to serving with and for you on this and other endeavors in the future. God Bless.

Emphasis added. Another video on the website features an interview with Shirkey by Stand Up Michigan founder Ron Armstrong promoting the Unlock Michigan petition drive.

11. Other videos on the Stand Up Michigan website promote the Unlock Michigan petition drive.
12. The co-branding of Stand Up Michigan and Unlock Michigan is ubiquitous. Attached hereto as Exhibit 1 is a picture of Stand Up Michigan leader Ron Armstrong speaking in front of a co-branded backdrop.
13. On August 4, 2020 in a video on the Stand Up Michigan Facebook page Stand Up Michigan leaders Garrett Soldano and Ron Armstrong discussed the Unlock Michigan petition drive, including Stand Up Michigan's role, repeatedly discussing the work "we" - Stand Up Michigan - has been doing:

So it was the 7<sup>th</sup> of July in the evening at seven o'clock *when we announced Unlock Michigan campaign....*

Now to understand with *just Stand up Michigan alone, we're talking about thirty thousand or so of these [petitions]* and an additional twenty thousand plus that have been reached through Unlock Michigan's Facebook advertising that I know all of you, or a lot of you have seen on both our page....

It literally was only in the last 10 days that the final two regional people were even hired. One from northern Michigan, one from



mid-Michigan. *We now have six regional people. They have assigned some county people.*

*...we're just delivering understand, we're getting signs out. We're getting flags out for a lot of the corporate and larger events that have been taking place....*

And we know that all of you are doing something again that I don't believe people though could be done. *We're hearing this from the strategists.*

Emphasis added.

14. On August 5, 2020 Stand Up Michigan sent the fundraising email attached as Exhibit 2 raising funds to support the petition drive and promoting the petition drive.
15. On August 8, 2020 Stand Up Michigan sent the email attached as Exhibit 3 responding to opposition to the Unlock Michigan petition, urging support for the petition drive, and recruiting people to circulate Unlock Michigan's petition.
16. In an August 9, 2020 YouTube video, \_\_\_\_\_, Stand Up Michigan founder Ron Armstrong said Stand Up Michigan would be providing tools to help obtain signatures:

A lot of those are just arriving today, as are so many of the tools and assets that we've had to help. *The signs, the flags, the tents to each region, even a couple original people have only been added in the last 10 days. So the organization has been put into place....But we now have the regional people in place.* And if you go to the Stand Up Michigan to Unlock Michigan page, you can click on the announcement area and you'll be able to find the list of regional people. *There are five regional people around, plus all the Stand Up Michigan people that can also put you in touch.* There are now county people underneath those that are responsible.

Emphasis added.

17. On August 11, 2020 Stand Up Michigan sent the email attached as Exhibit 4 expressly soliciting contributions to pay for the cost of the Unlock Michigan petition drive, and asking people to sign and circulate the Unlock Michigan petition.

18. On August 21, 2020 Stand Up Michigan sent the email attached as Exhibit 5. The email encourages and assists recipients to obtain Unlock Michigan petitions. The embedded video by Stand Up Michigan Executive Director Tammy Clark, a transcript of which is attached as the last page of Exhibit 5, solicits contributions for use to support the Unlock Michigan petition drive.
19. On information and belief, Stand Up Michigan has hired staff to assist with Unlock Michigan's petition drive, as well as distributing signs, tents, and flags.
20. Based on the extensive cooperation between Stand Up Michigan and Unlock Michigan, Unlock Michigan is aware of the expenditures of Stand Up Michigan in support of the petition drive.
21. Summary of Alleged Violations

Based on these facts and the applicable law:

- A. Stand Up Michigan is an agent and/or independent contractor of Unlock Michigan, and Unlock Michigan has failed to report the expenditures of its agent and/or independent contractor, Stand Up Michigan, in violation of MCL 169.243, 169.226, and 169.233.
- B. If Stand Up Michigan is not the agent and/or an independent contractor of Unlock Michigan, Unlock Michigan has failed to report in-kind contributions from Stand Up Michigan in violation of MCL 169.226 and 169.233.
- C. If Stand Up Michigan is neither the agent nor an independent contractor of Unlock Michigan, and has not made in-kind contributions to Unlock Michigan, Stand Up Michigan has failed to register as a ballot question committee in violation of MCL 169.224(1) because in calendar year 2020 it has received

contributions in excess of \$500 and made expenditures in excess of \$500 in support of Unlock Michigan.

- D. If Stand Up Michigan has been operating as a ballot question committee it has failed to file campaign finance reports in violation of MCL 169.225, 169.226, and 169.234.

Section 4. CERTIFICATION

I certify 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.

Chris Cracchiolo  
Chris Cracchiolo

August 25, 2020  
Date

# **EXHIBIT 1**

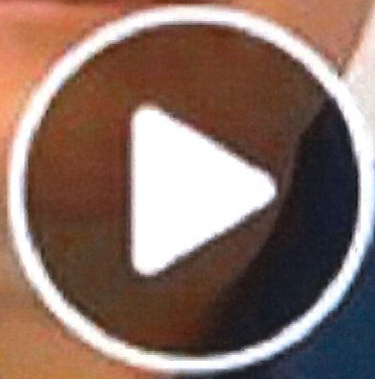


**UNLOCK**   
**MICHIGAN**



**AN**

**UNLOCK**   
**MICHIGAN**



# **EXHIBIT 2**



## We Need Your Help to Get This Done! Contribute Today.

Stand Up Michigan <info@standupmichigan.com>  
Reply-To: Stand Up Michigan <info@standupmichigan.com>  
To: [REDACTED]

Wed, Aug 5, 2020 at 1:42 PM



## WE NEED YOUR HELP

Your support of Stand Up Michigan allows us to continue the important work of fighting for all Michiganders freedoms and constitutional rights. Today, as never before, our freedoms and rights are being challenged and eroded. The radical behavior of our governor threatens to remove our inalienable (God-given) rights. This tyranny is the reason Stand Up Michigan was founded, and it remains a movement of We the People, by We the People, for We the People.

### DID YOU KNOW?

Governor Whitmer spent more that \$80,000 on Facebook ads last month alone to counter what Stand Up Michigan is doing. We cannot continue to fight for you without the support of We the People. If you can chip in any of the amounts below, that will send Governor Whitmer a strong message that her days of issuing authoritarian Executive Orders are numbered!

EACH BUTTON WILL GIVE YOU THE OPTION TO GIVE MONTHLY OR ANNUALLY.

\$100

\$200



\$500



### **GREAT NEWS MICHIGANDERS!**

#### **100,000 Unlock Michigan Signatures in the bank!**

In just 3 weeks, against all odds, we've done what was said to be impossible: we've already collected over 100,000 signatures.

It's the fastest start ever to a statewide initiative petition drive.

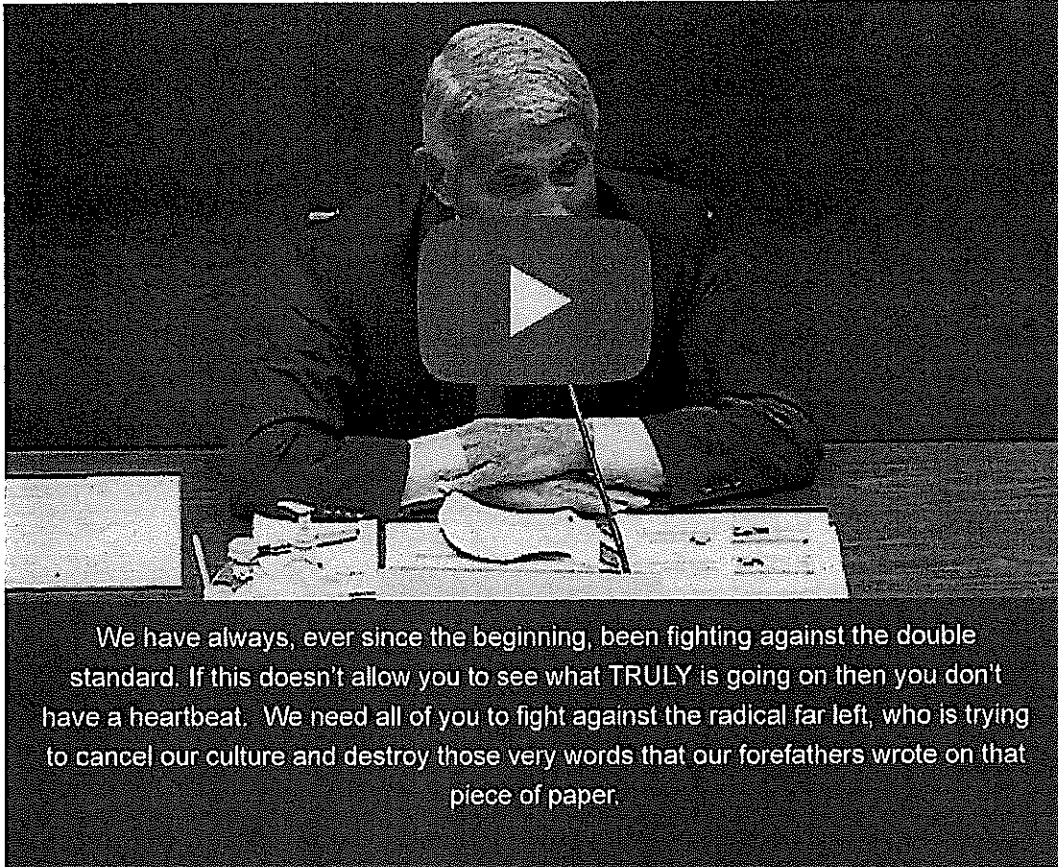
In just a couple of short weeks we are already 20% of the way to ending Governor Gretchen Whitmer's govern-by-decree strategy and putting checks and balances in place for good!

More than 54,000 grassroots activists are circulating petitions. It's amazing. It's spreading like wildfire.

Let's keep it up, Michigan!

**REQUEST UNLOCK MICHIGAN PETITIONS**

## THIS IS JUST ANOTHER REASON WHY WE NEED YOUR HELP



Join our Facebook Group  
[Stand Up Michigan To Unlock Michigan](#)



## STAND UP MICHIGAN TO UNLOCK MICHIGAN



[WWW.UNLOCKMICHIGAN.COM](http://WWW.UNLOCKMICHIGAN.COM)

JOIN GROUP



To stay up to date with all of Stand Up Michigans videos and content,  
subscribe to our YouTube channel [Stand Up Michigan](#)

FOLLOW STAND UP MICHIGAN



FOLLOW STAND UP MICHIGAN





8/5/2020

Gmail - We Need Your Help to Get This Done! Contribute Today.

*Copyright © \*2020\* \*STAND UP MICHIGAN, All rights reserved.*

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).

# **EXHIBIT 3**

## CALL TO ACTION!

Attentional all patriotic Michiganders, We need your help! The governor is threatened by how quickly we are getting this Unlock Michigan Petition done and she has sent out more of her minions (The UAW - See letter below that was sent to all UAW members) to try to disrupt your hard work. We must stop her and here is how you can help.

1. If you haven't already, please watch the video below.
2. Call or text 517-618-9687 and let them know that you are a volunteer citizen and have not had to give out any misinformation to get people to sign. Text pictures of your petition stations.
3. Click the button below to share the video on Facebook with your friends and family (Especially those involved with the UAW)
4. Go the Facebook video and comment "DONE" in all caps once you have completed.

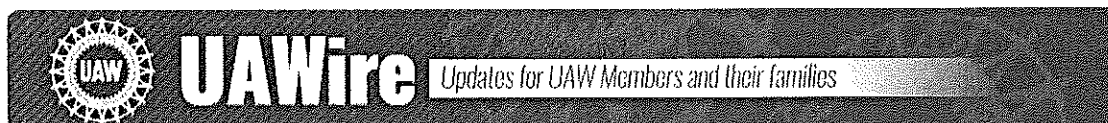
Let's fill their inbox with what is really going on with the Unlock Michigan petition.

**Ron Armstrong's Facebook Live Video**





## LETTER FROM THE UAW TO ITS MEMBERS



Dear UAW brothers and sisters,

We want to make you aware of a dangerous new petition drive has been launched that would strip Gov. Gretchen Whitmer of her emergency powers and undermine her ability to keep us safe during the pandemic.

We need all our union brothers and sisters to take action today by REFUSING TO SIGN.

The anti-union paid operatives gathering signatures will literally say anything to get you to sign. We've received reports that some operatives are claiming this would help Gov. Whitmer or help add union jobs. This is not accurate.

**PLEASE DECLINE TO SIGN.**

Cynically named "Unlock Michigan," this partisan political power grab is being bankrolled by right-wing, anti-union special interests like Betsy DeVos and huge wealthy corporations attacking Gov. Whitmer. **Unlock Michigan** is attempting to avoid both disclosure of its special interest donors and a vote of the people. If they gather enough signatures, this dangerous petition could be approved unilaterally by Republican politicians in Lansing and will not be able to be vetoed.

If you see petition gatherers, DO NOT SIGN. Instead, report or record activities of any petition gatherers under this name and call/text 517-618-9687 or make a submission [here](#). And, encourage everyone you know not to sign this dangerous petition.

Gov. Whitmer is doing everything she can to keep Michigan working families safe during the ongoing COVID-19 pandemic and get our economy moving again. Let's stand by our governor!

## **CONTRIBUTE TO STAND UP MICHIGAN**

EACH BUTTON WILL GIVE YOU THE OPTION TO SAVE 20% BY PAYING ANNUALLY

**\$10**

**\$25**

**\$50**

## **GET THIS COMMEMORATIVE CHALLENGE COIN**

If you would be willing to support this grass roots movement, we would like to honor

your commitment with a commemorative Stand Up Michigan Challenge Coin. We have decided to resurrect the historic, patriotic story of the Challenge Coin in honor of We the People. To honor your financial support of our citizen movement, we will send you the very first Stand Up Michigan commemorative Challenge Coin.

(See photos below)



WOULD YOU LIKE TO BE ONE OF OUR VOLUNTEER CITIZEN CIRCULATORS?

[REQUEST UNLOCK MICHIGAN PETITIONS](#)

[CLICK HERE TO SEE WHERE YOU ARE REGISTERED TO VOTE](#)





To stay up to date with all of Stand Up Michigans videos and content, subscribe to our YouTube channel [Stand Up Michigan](#)

FOLLOW STAND UP MICHIGAN



FOLLOW STAND UP MICHIGAN



# **EXHIBIT 4**

From: **Stand Up Michigan** <[info@standupmichigan.com](mailto:info@standupmichigan.com)>

Date: Tue, Aug 11, 2020, 6:45 PM

Subject: "KEEP MICHIGAN SAFE" GROUP SPREADING FALSE INFO ABOUT UNLOCK MICHIGAN PETITION

To: [REDACTED]

## "KEEP MICHIGAN SAFE HQ" WARNS AGAINST UNLOCK MICHIGAN PETITION

The email below was sent out this week to the masses warning people not to sign the Unlock Michigan Petition, calling it dangerous and then asked for money to combat what we are doing. As you may or may not know, the cost of this campaign is around \$8 per verified signature. We need 500,000. It's going to take we the people and its going to take resources and

**WE NEED YOUR HELP!**



We need your help,

There is a dangerous new Republican petition drive dubiously named "Unlock Michigan" that would strip Governor

Whitmer of her emergency powers and undermine her ability to keep us safe -- and we are doing everything we can to stop this reckless petition.

**To start: Do NOT sign any petitions while you're safely out and about. They are particularly focused on getting signatures outside of grocery stores and other high foot-traffic places.**

Instead, report or record activities of any petition gatherers by making a submission [here](#). And, encourage everyone you know not to sign this dangerous petition.

The Republicans running this petition drive are aiming to take away the Governor's emergency authority to act quickly in events such as COVID-19. Rather than saving lives, Republicans' actions will harm Michiganders in the long term.

Make no mistake: Our group, Keep Michigan Safe, is about preserving the governing authority of our state's executive, whether it be Governor Whitmer or any future Democrat or Republican governor after her.

This dangerous Republican-led petition not only undermines our safety, but also our Democracy -- and we must put an end to it.

Taking away lifesaving executive authority during a pandemic or any natural disaster is irresponsible and reckless. **Saving lives should not be a partisan issue.**

We'll be in touch, and stay safe out there.

-Keep Michigan Safe HQ

Remember, if you see any petition gatherers, help us out by reporting them [here](#).

**You can help by circulating petitions, signing the petition and/or giving financially. Each of the buttons below will give you the option to give monthly, annually or a one time gift. Thank you for all that you are doing to unlock our great state.**

**\$25**



\$50

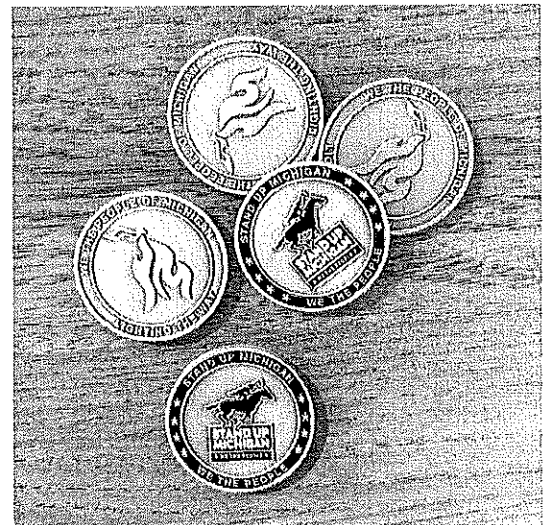
\$100

### GET THIS COMMEMORATIVE CHALLENGE COIN

If you would be willing to support this grass roots movement, we would like to honor your commitment with a commemorative Stand Up Michigan Challenge Coin. We have decided to resurrect the historic, patriotic story of the Challenge Coin in honor of We the People. To honor your financial support of \$50 or more to our citizen movement, we will send you the very first Stand Up Michigan commemorative Challenge Coin.

(See photos below)





REQUEST UNLOCK MICHIGAN PETITIONS

Join our Facebook Group

[Stand Up Michigan To Unlock Michigan](#)



**STAND UP MICHIGAN  
TO UNLOCK MICHIGAN**



[WWW.UNLOCKMICHIGAN.COM](http://WWW.UNLOCKMICHIGAN.COM)

JOIN GROUP



To stay up to date with all of Stand Up Michigans videos and content, subscribe to our YouTube channel [Stand Up Michigan](#)

FOLLOW STAND UP MICHIGAN



FOLLOW STAND UP MICHIGAN









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

October 9, 2020

Eric Doster  
Attorney for Unlock Michigan  
2145 Commons Parkway  
Okemos, MI 48864

Stand Up Michigan  
1324 S. Park Street  
Kalamazoo, MI 49001

Re: *Cracchiolo v. Unlock Michigan*  
Campaign Finance Complaint  
No. 2020-08-164-24

Dear Unlock Michigan & Stand Up Michigan:

The Department of State (Department) received a formal complaint filed by Chris Cracchiolo 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.

The MCFA requires candidates and committees file contributions and expenditures with the appropriate filing official by specific dates. MCL 169.233(1) – (3). The MCFA requires a committee that receives or expends more than \$1,000 during any election to file campaign finance reports in compliance with the Act. MCL 169.233(6). A person who knowingly omits or underreports expenditures required to be disclosed by the Act is subject to a civil fine of not more than \$1,000 or the amount of the expenditures omitted or underreported, whichever is greater. MCL 169.233(11).

Mr. Cracchiolo alleges that Stand Up Michigan has been soliciting money on behalf of Unlock Michigan and has failed to form and register a committee, and properly disclose contributions and transactions. Mr. Cracchiolo further alleges that Unlock Michigan has failed to properly file reports by not disclosing contributions or expenditures on behalf of Stand Up Michigan as an independent contractor.

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](http://www.Michigan.gov/elections).

**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.

A copy of your answer will be provided to Mr. Cracchiolo, 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 33(11) of the Act.

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

Sincerely,



Adam Fracassi  
Bureau of Elections  
Michigan Department of State

c: Chris Cracchiolo

# DOSTER LAW OFFICES, PLLC

2145 Commons Parkway  
Okemos, MI 48864

Eric E. Doster  
Email: [eric@ericdoster.com](mailto:eric@ericdoster.com)

(517) 483-2296 (main)  
(517) 977-0147 (direct)  
[www.ericdoster.com](http://www.ericdoster.com)

October 29, 2020

Adam Fracassi  
Bureau of Elections  
Michigan Department of State  
430 W. Allegan, First Floor  
Lansing, MI 48918

BY EMAIL TRANSMISSION  
Adam Fracassi [fracassia@michigan.gov](mailto:fracassia@michigan.gov)

***Re: Cracchiolo v. Unlock Michigan; Campaign Finance Complaint No. 2020-08-164-24;  
Response to Campaign Finance Complaint (the "Complaint") Filed by Chris Cracchiolo (the  
"Complainant") dated August 25, 2020***

Dear Mr. Fracassi:

This office represents Unlock Michigan (a "Respondent") in the above-referenced matter. We have received your letter dated October 9, 2020, which contained the Complaint. As your October 9, 2020 letter indicates, the Complaint makes the following allegations:

"Mr. Cracchiolo alleges that Stand Up Michigan has been soliciting money on behalf of Unlock Michigan and has failed to form and register a committee, and properly disclose contributions and transactions. Mr. Cracchiolo further alleges that Unlock Michigan has failed to properly file reports by not disclosing contributions or expenditures on behalf of Stand Up Michigan as an independent contractor."

This case is not complicated. Stand Up Michigan is a completely separate entity from Unlock Michigan. According to the Michigan Licensing and Regulatory Affairs website, Stand Up Michigan is a Michigan nonprofit corporation incorporated on April 21, 2020. Unlock Michigan is a ballot question committee registered with the Michigan Department of State on June 2, 2020. Neither entity has any directors, officers, or agents in common. Although the Complaint makes numerous references to Stand Up Michigan's activities to assist the Unlock Michigan petition drive, these activities are nothing more than volunteer activities. See, for example, Exhibit 3 of

the Complaint where Stand Up Michigan asks: "Would you like to be one of our volunteer citizen circulators?" And while the Paragraph 17 of the Complaint falsely alleges that Stand Up Michigan "expressly solicit[ed] contributions to pay for the cost of the Unlock Michigan petition drive," Stand Up Michigan made no contributions (direct or in-kind) to Unlock Michigan. Accordingly, although Unlock Michigan is grateful to Stand Up Michigan for any volunteer assistance to support Unlock Michigan's petition activities, volunteer assistance does not make Stand Up Michigan an agent or independent contractor of Unlock Michigan, nor does volunteer activity constitute an in-kind contribution to Unlock Michigan. Again, this case is not complicated..

For the following reasons, the allegations against Unlock Michigan in the Complaint lack any merit, and the Complaint must be dismissed as to Unlock Michigan.

#### **STAND UP MICHIGAN IS NOT AN AGENT AND/OR INDEPENDENT CONTRACTOR OF UNLOCK MICHIGAN**

According to Paragraph 21 of the Complaint:

"Stand Up Michigan is an agent and/or independent contractor of Unlock Michigan, and Unlock Michigan has failed to report the expenditures of its agent and/or independent contractor. Stand Up Michigan in violation of MCL 169.243, 169.226. und 169.233."

Stand Up Michigan is not an agent and/or independent contractor of Unlock Michigan. An agency is defined as " 'a fiduciary relationship created by express or implied contract or by law, in which one party (the agent) may act on behalf of another party (the principal) and bind that other party by words or actions.'" *Breighner v Mich. High Sch Athletic Assoc*, 255 Mich.App. 567, 582-583 (2003), quoting *Black's Law Dictionary* (7th ed). In Michigan, whether a principal-agent relationship exists is determined by whether the principal has the right to control the agent. *Little v Howard Johnson Co*, 183 Mich.App. 675, 680 (1990).

Significantly, the Complaint does not (and cannot) allege that there is any express or implied contract between Unlock Michigan and Stand Up Michigan because no such contract exists. Moreover, Unlock Michigan certainly has no right to control Stand Up Michigan or any aspect of its activities. Therefore, the Complaint does not (and cannot) allege any fact to support its unsubstantiated allegation that Stand Up Michigan is an agent and/or independent contractor of



Unlock Michigan. Accordingly, Unlock Michigan did not violate MCL 169.243, MCL 169.226, und MCL 169.233.

### **UNLOCK MICHIGAN NEVER RECEIVED AN IN-KIND CONTRIBUTION FROM STAND UP MICHIGAN**

Recognizing that Stand Up Michigan is neither an agent nor independent contractor of Unlock Michigan, the Complaint reverses course and argues alternatively in Paragraph 21 of the Complaint:

“If Stand Up Michigan is not the agent and/or an independent contractor of Unlock Michigan, Unlock Michigan has failed to report in-kind contributions from Stand Up Michigan in violation of MCL 169.226 and 169.233.”

An in-kind contribution is a “contribution” other than money. MCL 169.209(4). Volunteer personal services are expressly exempted from the Michigan Campaign Finance Act’s definition of “contribution”. MCL 169.204(3)(a). Therefore, since Unlock Michigan received only volunteer personal services from Stand Up Michigan and its volunteer circulators, it is legally impossible for Unlock Michigan to have received an in-kind contribution from Stand Up Michigan, not to mention to have failed to report something that does not exist. Stated differently: (1) Unlock Michigan did not receive any in-kind contributions from Stand Up Michigan; (2) Unlock Michigan was not aware that Stand Up Michigan made in-kind contributions to benefit Unlock Michigan; and (3) Unlock Michigan did not receive any notice from Stand Up Michigan that Stand Up Michigan made in-kind contributions to benefit Unlock Michigan. Consequently, because a contribution must first be “received” by Unlock Michigan before a reporting obligation exists (see MCL 169.226(1)(b)), and because Unlock Michigan never received an in-kind contribution, had no reason to expect an in-kind contribution, and never received notice of an in-kind contribution from Stand Up Michigan, no reporting obligation ever arose in the present situation. Accordingly, Unlock Michigan did not violate MCL 169.226 und MCL 169.233.

**EACH OF THE ITEMS REFERENCED IN THE COMPLAINT AS HAVING BEEN PAID FOR BY STAND UP MICHIGAN, WERE EXPENSES PAID FOR BY UNLOCK MICHIGAN AND PROPERLY REPORTED BY UNLOCK MICHIGAN AS UNLOCK MICHIGAN'S EXPENSES**

According to Paragraph 19 of the Complaint:

“On information and belief. Stand Up Michigan has hired staff to assist with Unlock Michigan’s petition drive, as well as distributing signs, tents, and flags.”

Unlock Michigan paid for, and reported, each of the aforementioned items (staff, signs, tents and flags). Unlock Michigan is not aware that Stand Up Michigan purchased any of these items, and Unlock Michigan utilized only these items (staff, signs, tents and flags) that it paid for, and properly reported. Although the Complaint concludes that any reference by Stand Up Michigan to these items (staff, signs, tents and flags) means that Stand Up Michigan paid for these items, such a conclusion represents an unsubstantiated allegation and defies reality because Unlock Michigan already had these items in place. Therefore, the only logical conclusion here is that the Complaint is either deliberately or mistakenly improperly attributing Unlock Michigan’s expenditures to Stand Up Michigan.

\* \* \*

For the foregoing reasons, the Complaint must be dismissed as to Unlock Michigan.

Thank you for your consideration of our comments in this matter. If you have any questions or require additional information, please contact the undersigned.

Sincerely,

DOSTER LAW OFFICES, PLLC



Eric Doster



DAVID A. KALLMAN  
DAVE@KALLMANLEGAL.COM

STEPHEN P. KALLMAN  
STEVE@KALLMANLEGAL.COM

November 24, 2020

*Via Regular Mail and  
email to: [FracassiA@michigan.gov](mailto:FracassiA@michigan.gov)*

Mr. Adam Fracassi  
Bureau of Elections  
Michigan Department of State  
430 W. Allegan, First Floor  
Lansing, MI 48918

RE: Cracchiolo v Stand Up Michigan, Inc.  
Campaign Finance Complaint  
No. 2020-08-164-24

Dear Mr. Fracassi:

I am writing on behalf of my client, Stand Up Michigan, Inc., in response to your letter dated October 9, 2020, and the attached complaint dated August 25, 2020. The allegations contained in this complaint are false and completely without merit. Stand Up Michigan, Inc. (hereinafter SUM) is a separate legal entity from Unlock Michigan. SUM is not a ballot question committee and complainant's baseless allegations do not make it such a committee. SUM is not an independent contractor or agent of Unlock Michigan. There is no contract of any kind between these entities and SUM has never held itself out as an independent contractor or agent of Unlock Michigan. Volunteer services and general support of a ballot question do not magically convert anyone into a ballot question committee. SUM did not raise or expend funds on behalf of Unlock Michigan. SUM provided no in-kind contributions to Unlock Michigan. SUM is not required to report activities that never occurred. Asking people to volunteer to help another organization is not unlawful or illegal and does not trigger the requirements of the Campaign Finance Act.

SUM is not an agent/independent contractor of Unlock Michigan. Black's Law Dictionary (7th ed) defines agency as "a fiduciary relationship created by express or implied contract or by

law, in which one party (the agent) may act on behalf of another party (the principal) and bind that other party by words or actions.” *Breighner v MHSAA*, 255 Mich App 567 (2003). Furthermore, “[i]t is a fundamental principle of hornbook agency law that an agency relationship arises only where the principal “has the right to control the conduct of the agent with respect to matters entrusted to him.” *St Clair Intermediate School Dist v Intermediate Ed Ass'n/Michigan Ed Ass'n*, 458 Mich 540, 558 n 18 (1998). Unlock Michigan has no control over the conduct of SUM. Unlock Michigan entrusted nothing to SUM. Moreover, there is no independent contractor agreement of any kind between SUM and Unlock Michigan.

Complainant relies upon a number of exhibits which are fundraising requests for SUM, not Unlock Michigan. The fundraising requests do not request money for Unlock Michigan. Beneath the request for funds for SUM are statements of general support for Unlock Michigan that do not solicit any funds for that organization. It merely encourages people to get their petitions and circulate them. Simply listing the Unlock Michigan web address and general statements of support are not unlawful or illegal and do not trigger the requirements of the Campaign Finance Act. Complainant’s allegation that SUM raised money through these exhibits for Unlock Michigan is demonstrably false as seen in the exhibits themselves.

The claim that statements by SUM that “we” are making progress and the petition drive is going well are not evidence of anything. An organization may say “we” support Joe Biden for President, but that hardly makes that organization part of Joe Biden’s campaign and therefore subject to campaign finance laws. SUM did not pay for signs, flags, tents, or personnel for Unlock Michigan. It is my understanding that these expenditures were made by Unlock Michigan and were fully disclosed and reported in its filings.

Complainant provides no evidence to support his false claim that SUM provided in-kind contributions to Unlock Michigan. There were no in-kind contributions from SUM to Unlock Michigan. Again, general statements of support for a ballot drive or encouraging others to sign and circulate petitions is not an in-kind contribution. If this were true, then every person in Michigan who sent out an email, posted on Facebook or other social media, or Tweeted out support for the petition drive, is also guilty of violating our campaign finance laws. This is clearly false.

SUM is not a ballot question committee and the complainant offers no proof that it raised, or made expenditures, in excess of \$500.00 in support of Unlock Michigan or any ballot question. This claim is also completely unfounded and without merit. SUM is not a ballot question committee and had no obligation to file campaign finance reports under the Act.

This frivolous complaint is being made for the sole purpose of harassing my client. It is completely without foundation or merit. Complainant has utterly failed to meet his burden of proof of his allegations. Mere conclusory allegations, without more, are insufficient. For all the reasons as stated above, this complaint should be dismissed in its entirety. Thank you for your attention to this request. If you have any other questions do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Kallman". The signature is fluid and cursive, with a long horizontal stroke at the end.

David A. Kallman  
Attorney at Law

DAK/cas

cc: Stand Up Michigan





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

April 1, 2021

Chris Cracchiolo  
5140 Arrowhead Ct.  
Williamsburg, MI 49690

Re: *Cracchiolo v. Unlock Michigan, et al*  
Campaign Finance Complaint  
No. 2020-08-164-24

Dear Mr. Cracchiolo:

The Department of State received a response to the complaint you filed against Unlock Michigan and Stand Up Michigan, 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: Eric Doster, Attorney for Unlock Michigan  
David Kallman, Attorney for Stand Up Michigan

April 14, 2021

Mr. Fracassi:

I am in receipt of your letter dated April 1, 2021 regarding MCFA Complaint No. 2020-08-164-24 which I submitted on August 25, 2020. You requested that any rebuttal be provided within 10 business days of your letter. Please note that your letter was post marked April 5, 2021 and was not received until April 7, 2021. However, in order to expedite your investigation of this Complaint, I submit the following rebuttal to the letters submitted by the lawyers for Respondents Unlock Michigan and Stand Up! Michigan:

1. Under Section 15 of the Michigan Campaign Finance Act ("MCFA"), the "secretary of state shall investigate the allegations under the rules promulgated under this act." MCL 169.215(9). The rules promulgated by the secretary of state to investigate complaints under the are governed by the Administrative Procedures Act ("APA"). MCL 169.215(1)(e).

2. The APA governs what constitutes evidence that may be considered by the Secretary of State during an investigation under the MCFA, stating that "[i]n a contested case the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable..." MCL 24.275. Under Michigan law, the statements of counsel are not evidence that may be considered in civil or criminal matters. *Tobin v. Providence Hosp.*, 244 Mich. App. 626, 641; 624 N.W.2d 548 (2001)(statements of counsel are not evidence); *People v. Bahoda*, 448 Mich. 261, 281; 531 N.W.2d 659 (1995)(jury instruction confirming statements of counsel cannot be relied on as evidence cured any prejudice).

3. In this case, Respondents Unlock Michigan and Stand Up! Michigan have not submitted any evidence in compliance with the APA sufficient for the Secretary of State to evaluate whether there is sufficient reason to believe a violation of the MCFA has occurred. There are no documents or affidavits attached to the responses of Unlock Michigan or Stand Up! Michigan on which the Secretary of State can carry out her duties as required by statute. All that Respondents have submitted are the unverified assertions and arguments of counsel, which under Michigan law, does not constitute evidence.

Based on the above, we request that the Secretary of State continue to "investigate the allegations under the rules promulgated under this act" and require that Respondents Unlock Michigan and Stand Up! Michigan submit evidence that may be considered this office. MCL 169.215(10). Absent submission of such evidence within 90 business days, the Secretary of State should "commence a hearing to determine whether a civil violation of [the MCFA] has occurred." MCL 169.215(11).

Thank you for your attention to these important matters.

Regards,

A handwritten signature in black ink that reads "Chris Cracchiolo". The signature is written in a cursive, flowing style.

Chris Cracchiolo



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

August 22, 2022

Eric E. Doster  
Doster Law Offices, PLLC  
2145 Commons Parkway  
Okemos, MI 48864

David A. Kallman  
5600 W. Mount Hope Hwy  
Lansing, MI 48917

Re: *Cracchiolo v Unlock Michigan and Stand Up Michigan*  
Campaign Finance Complaint  
No. 2020-08-164-24

Dear Mr. Doster and Mr. Kallman:

The Department of State (Department) has finished investigating the campaign finance complaint filed against your clients Unlock Michigan (Unlock) and Stand Up Michigan (Stand Up) by Chris Cracchiolo alleging violations of the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the disposition of that complaint.

I. The Complaint, Responses, and Rebuttal

In 2020, Unlock Michigan was formed as a ballot question committee to advocate for the qualification of initiative legislation repealing 1945 PA 302, MCL 10.31 to 10.33 to the ballot, (Unlock Ballot Question). The complaint alleged that Stand Up encouraged members of the public to circulate and sign Unlock Ballot Question petition sheets but that Stand Up's activities were not disclosed under the MCFA. The complaint lists the following as evidence of Stand Up's activities encouraging member of the public to sign Unlock Ballot Question petition sheets:

- Stand Up's website stated that Stand Up was "joining forces with Unlock Michigan to curb our Governor's Executive Power;"
- Stand Up's website included a video produced by Unlock explaining how to complete an Unlock Ballot Question petition sheet, a video of Senate Majority Leader Mike Shirkey thanking Stand Up for the organization's work to encourage members of the public to sign and circulate the Unlock Ballot Question petition sheets, and other videos promoting the Unlock Ballot Question petition.

- Stand Up and Unlock maintained a joint Facebook page that promoted the Unlock Ballot Question, including a video where members of the Stand Up leadership team discussed Stand Up's role in collecting 30,000 petition sheets, hiring staff members to oversee regional promotion of the petition drive, and purchasing Facebook advertisements promoting the Unlock Ballot Question petition drive;
- Stand Up and Unlock produced co-branded materials, including a co-branded backdrop;
- Stand Up sent multiple emails both encouraging recipients to donate to Stand Up and to sign and circulate Unlock Ballot Question petition sheets;
- Stand Up distributed "signs, tents, and flags" promoting the Unlock Ballot Question.

The complaint presented three alternative theories to explain how the evidence summarized above shows that a violation of the MCFA has occurred. First, the complaint alleges that Stand Up is an agent or independent contractor of Unlock and that Unlock violated the MCFA by failing to report Stand Up's contributions or expenditures as required under the MCFA. Second, in the alternative, the complaint alleges that Stand Up's expenditures promoting the Unlock Ballot Question are in-kind contributions to Unlock, and that Unlock failed to report these contributions. Third, and again in the alternative, the complaint alleges that Stand Up's expenditures promoting the Unlock Ballot Question made Stand Up a ballot question committee that failed to register and file required reports with the Department.

Unlock responded to the complaint. Unlock denied that Stand Up was an agent or independent contractor of Unlock, claiming that Unlock had no control over Stand Up's activities. Unlock also denied that Unlock had received any in-kind contributions from Stand Up because Unlock was not notified of any expenditures made by Stand Up to Unlock, and therefore had no opportunity to receive (or reject) any in-kind contributions made by Stand Up. Finally, Unlock claimed that the "staff, signs, tents, and flags" which Stand Up was accused of distributing in the complaint were actually paid for with expenditures made and reported by Unlock.

Stand Up also responded to the complaint. Stand Up stated that it was not a ballot question committee, was not an independent contractor or agent of Unlock, that Stand Up did not raise or spend any funds on behalf of Unlock, and that Stand Up made no in-kind contributions to Unlock. According to Stand Up, all fundraising requests made by Stand Up were requests that recipients donated to Stand Up, not to Unlock. Stand Up also claimed that all the activities cited in the complaint as evidence that Stand Up made expenditures within the ambit of the MCFA were actually "volunteer services" exempt from the MCFA, and that any language promoting the Unlock Ballot Question were "general statements of support" that "merely encourage[d] people to get their petitions and circulate them." Likewise, Stand Up claimed statements by members of the Stand Up leadership team discussing the Unlock Ballot Question petition drive's progress in terms of progress that "we" were making was analogous to any organization's leadership generically stating that the organization supports a candidate or ballot question. Stand Up argued that "general statements of support for a ballot drive or encouraging others to sign and circulate

petitions is not an in-kind contribution” because “then every person in Michigan who sent out an email, posted on Facebook or other social media, or Tweeted out support for the petition drive[] is also guilty of violating our campaign finance laws.” Finally, Stand Up argued that the complaint “offer[ed] no proof that [Stand Up] raised, or made expenditures, in excess of \$500.00 in support of Unlock,” and thus Stand Up was not a ballot question committee required to register and file campaign statements by the MCFA.

Mr. Cracchiolo provided a rebuttal statement, where he stated that Stand Up and Unlock’s responses were insufficient because they consisted only of statements of counsel that could not be considered by the Department in resolving this complaint.

## II. Determination

The Department has reviewed the evidence submitted in the matter. As a threshold matter, the Department finds unconvincing Mr. Cracchiolo’s claim regarding the evidence that the Department can consider in resolving a campaign finance complaint. The APA explicitly allows agencies deciding contested cases to “admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.” MCL 24.275. It is the longstanding practice of the Department to consider statements made by attorneys representing clients in campaign finance complaints when resolving those complaints, as a reasonably prudent person would rely on such statements. The Department sees no reason to reconsider that practice here.

Due to the complexity of the issues raised in the complaint and addressed here, this determination is split into three parts. The first addresses the claim that Stand Up is an agent or independent contractor of Unlock. The second addresses the claims that Stand Up qualified as a ballot question committee. The third addresses the claims that Stand Up made unreported in-kind expenditures to Unlock.

### II.A Stand Up’s Agent or Independent Contractor Status

#### *Legal Framework*

The MCFA requires that an expenditure, other than an expenditure made for “overhead or normal operating expenses,” made by an agent or independent contractor of a committee “on behalf of or for the benefit of a person” be either “reported by the committee as if the expenditure were made directly by the committee” or reported by the agent or independent contractor as an independent expenditure. MCL 169.243. An agency relationship is established when, among other things, the principal can “control the conduct of the agent.” *St Clair Intermediate Sch. Dist. v Intermediate Ed. Ass’n*, 458 Mich 540, 558 (1998). Determining whether an independent contractor relationship exists is a more challenging inquiry, involving an eight-factor test examining a potential employer’s liability upon contract termination, the type of



work being performed by the purported independent contractor, the importance of the income from that work to the contractor, the ownership of the materials and equipment used in the work, the ways in which the contractor holds themselves out to the public to perform (or not perform) the specific tasks, the employer's custom of carrying out the sort of work at issue, the control of the employer over the contractor's work, and the purpose of the statute for which the determination of the independent contractor relationship is relevant. *Coblentz v City of Novi*, 475 Mich. 558, 578-79 (2006). A violation of the MCFA reporting requirements concerning a committee's agents or independent contractors is punishable "by a fine of not more than \$1,000.00, or imprison[ment] for not more than 90 days, or both, and if the person is other than an individual the person shall be fined not more than \$10,000.00." MCL 169.243.

#### *Stand Up is Not an Agent or Independent Contractor of Unlock*

The Department has reviewed the evidence presented in this matter and concludes that there is no reason to believe that that Stand Up was an agent or independent contractor of Unlock. An agency relationship has not been established because none of the evidence shows that Unlock in any way controlled the activities undertaken by Stand Up. While the complaint shows that Stand Up took many actions in support of Unlock, there is no indication that Unlock instructed Stand Up to take any of those actions, nor instructed Stand Up to refrain from any action.

Likewise, the evidence presented does not show that an independent contractor relationship existed between Unlock and Stand Up. While the independent contractor test set out in *Coblentz* is more relevant to individuals rather than organizations, all applicable factors tend to show that no independent contractor relationship existed. As explained above, there is no showing that Unlock controlled Stand Up's activities. There is no showing that an explicit or implicit contract existed between the two organizations. Stand Up, unlike a petition gathering firm or an advertising firm, does not hold itself out as an organization that supports ballot questions generally; as explained in the complaint, Stand Up was explicitly created to support the Unlock Ballot Question. Finally, as explained below, a finding that Stand Up was an independent contractor of Unlock is unnecessary to further the MCFA's disclosure purpose.

Because Stand Up was not an agent or independent contractor of Unlock, neither Unlock nor Stand Up accrued any reporting requirements under Section 43 of the MCFA.

#### II.B Stand Up's Independent Expenditures

##### *Contributions, Independent Expenditures, and Non-Independent Expenditures*

Under the MCFA, a person is "a business, individual, proprietorship, limited liability company, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly." Persons may make contributions and expenditures regulated by the MCFA. A contribution is "a payment, gift, subscription, assessment, expenditure, contract, payment for

services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, for the qualification, passage, or defeat of a ballot question, or for the qualification of a new political party.” MCL 169.204(1). Certain things of value, however, are excluded from the definition of a contribution. One exclusion removes “[v]olunteer personal services provided without compensation, or payments of costs incurred of less than \$500.00 in a calendar year by an individual for personal travel expenses if the costs are voluntarily incurred without any understanding or agreement that the costs shall be, directly or indirectly, repaid.”<sup>1</sup> MCL 169.204(3)(a). Another exclusion removes independent expenditures, which are expenditures “not made in cooperation, consultation, or concert with, or at the request or suggestion of, a ballot question committee or a candidate, a candidate committee or its agents, or a political party committee or its agents, and if the expenditure is not a contribution to a committee,” MCL 169.204(3)(e), 209(2).

An expenditure, meanwhile, is “a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.” MCL 169.206(1). There are two kinds of expenditures: independent expenditures and non-independent expenditures. As explained above, an independent expenditure is an expenditure made independently of any committee. A non-independent expenditure is any expenditure which is not an independent expenditure. All non-independent expenditures are contributions to the committee with whom the person making the expenditure cooperated or consulted, and such expenditures must be reported as contributions by that committee.

While an independent expenditure is not a contribution, independent expenditures must still be reported under the MCFA. A committee making an independent expenditure satisfies the reporting requirement by reporting the independent expenditure on the committee’s regularly required campaign statements. A non-committee person who makes an independent expenditure “in an amount of \$100.01 or more in a calendar year” satisfies the reporting requirement by “fil[ing] a report of the independent expenditure, within 10 days after making that independent expenditure.” MCL 169.251(1). This independent expenditure report must include “the date of the expenditure, a brief description of the nature of the expenditure, the amount, the name and address of the person to whom it was paid, the name and address of the person filing the report, together with the name, address, occupation, employer, and principal place of business of each

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<sup>1</sup> An in-kind contribution or expenditure is “a contribution or expenditure other than money.” MCL 169.209(4). In-kind contributions often take the form of free or reduced prices for mailer printings, office space, or personal services, but can be anything of value for which the receiving committee does not pay a fair market price. “Direct contribution or expenditure,” while not defined in the act, is a term of art referring to a contribution or expenditure that is not an in-kind contribution. In other words, a direct contribution or expenditure is the direct transfer or receipt of money.

person that contributed \$100.01 or more to the expenditure, and identify the candidate or ballot question for or against which the independent expenditure was made.” *Id.* A failure to file an independent expenditure report “for more than 30 days after the report is required to be filed is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.” MCL 169.251(2).

A person making one or more independent expenditures may opt to register as an independent expenditure committee under the MCFA for administrative ease; registering as an independent expenditure committee replaces the independent expenditure reporting requirement for every independent expenditure made with a regular campaign statement reporting requirement that lists all the independent expenditures made by the independent expenditure committee during the covered period.<sup>2</sup> As explained in detail below, a person making independent expenditures is not required to register as an independent expenditure committee, as long as the person has not received \$500 or more in contributions for the purpose of making expenditures.

#### *Persons Required to Form Committees Under the MCFA*

A committee subject to the MCFA’s registration and reporting requirements is any person who “receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year.” MCL 169.203(4). The statute, however, provides two carveouts to the definition of committee. First, a person does not become a committee if the only contributions that person makes are to a ballot question committee or an independent expenditure committee, so long as the person did not “solicit[] or receive[] contributions for the purpose of making an expenditure to that ballot question committee or independent expenditure committee.” *Id.* Second, an individual, other than a candidate for office, does not become a committee solely by making contributions or expenditures, no matter the amount. *Id.* Instead, an individual becomes a committee only if the individual “solicits or receives contributions *for the purpose* of making an expenditure.” *Interpretive Statement to Evelyn Quiroga*, issued September 3, 2020, at 5 (emphasis added).

Importantly, both exceptions to the activities which create committees are only applicable if the person or individual is spending their money which the person did not solicit or receive “for the purpose” of making contributions. The “for the purpose” provision is necessary to serve the MCFA’s disclosure purpose. If a person could accept funds from another person for the purpose of contributing those funds to an MCFA-regulated committee without accruing a registration

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<sup>2</sup> The MCFA allows certain persons to register as an “independent committee.” Despite the similarity in name, independent committees and independent expenditures committees are entirely separate committee categories. An independent committee is a committee that “receives contributions from at least 25 persons” and is thus allowed a higher contribution threshold than a person acting alone. MCL 169.208(3); MCL 169.252(2).

requirement, the identity of the person with whom the contribution originated would remain hidden because the individual would not be required to register a committee and reveal the source of the contribution. Such straw-man contribution schemes are exactly what the MCFA's reporting requirements are intended to prevent.

Once a person has become a committee, the person has 10 days to file a statement of organization with the relevant filing official. MCL 169.224. A ballot question committee is required to file campaign statements documenting contributions received and expenditures made by the committee. MCL 169.234, 235. A failure to file a statement of organization within 30 days after that statement becomes required is "a misdemeanor punishable by a fine of not more than \$1,000.00," MCL 169.224(1). If the treasurer of a ballot question committee, or other individual responsible for recordkeeping for that committee, fails to file certain required campaign statement within 7 days of the required filing date, the "treasurer or other designated individual is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 90 days, or both." MCL 169.234(6). If the treasurer or other individual responsible for recordkeeping twice fails to file the required annual campaign statement within 30 days of the required filing date, "treasurer[] or other designated individual is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 90 days, or both." MCL 169.235(6).

*Committee Registration Requirements for a Persons Making Independent Expenditures*

As explained above, any person who accepts contributions "for the purpose" of making expenditures must register as a committee. This requirement applies both when the contributions are intended for independent and non-independent expenditures. If a non-committee person receives contributions for the purpose of making non-independent expenditures, or for the purpose of making some independent and some non-independent expenditures, the person must register as a political committee or, if the person meets specific criteria, as an independent committee. If a non-committee person receives contributions solely for the purpose of making independent expenditures, the person must register as an independent committee. In all instances, the newly formed committee must report all contributions made to that committee in the same manner as any other committee.

In summary: the overriding purpose of the MCFA is to provide transparency into money spent to influence elections in Michigan. This purpose is served by the disclosure of the identity all persons who contribute or expend substantial sums. To that end, any person who accepts or receives \$500 or more in contributions in a calendar year must register as a committee and submit required campaign statements. Likewise, any person who makes \$500 or more in non-independent expenditures in a calendar year must also register as a committee, as all non-independent expenditures are also contributions. A person who makes an independent expenditure of \$100.01 or more, and who has received less than \$500 in contributions for the purpose of making expenditures, must either submit an independent expenditure report or

register as an independent expenditure committee and submit regular campaign statements. A person who makes independent expenditures of \$100.01 or more and who has received \$500 or more in contributions for the purpose of making expenditures must register as an independent expenditure committee and submit regular campaign statements which include information about those contributions.

## II.C Determination on Stand Up's Status as a Ballot Question Committee

### *Stand Up Is a Ballot Question Committee Regulated by the MCFA Because Stand Up Solicited and Received more than \$500 in Contributions for the Purpose of Making Expenditures Forwarding the Qualification of the Unlock Ballot Question to the Ballot*

After reviewing the evidence in this case, the Department concludes there is reason to believe that Stand Up is a ballot question committee with registration and reporting responsibilities under the MCFA. In particular, the evidence suggests that Stand Up received contributions of more than \$500, that those contributions were intended for activities supporting the qualification of the Unlock Ballot Question to the ballot, and that Stand Up made expenditures in excess of \$500 to further the qualification of the Unlock Ballot Question to the ballot.

First, the Department addresses the monetary sums received by Stand Up. The complaint includes a series of emails sent by Stand Up to persons on Stand Up's mailing list. One email offered recipients the option to commit to contribute \$100, \$200, or \$500 to Stand Up "monthly or annually." Two more emails offered recipients the option to commit to contribute \$10, \$25, or \$50 to Stand Up. Both emails offering smaller contribution options included an offer that recipients would receive "commemorative challenge coins." The second of those emails specified that contributors who gave "financial support of \$50 or more" would receive the coin. Stand Up, for its part, neither claims in its response nor supplies any evidence that it received less than \$500 as a result of these emails. In combination, these emails and the offer of the challenge coin are sufficient to establish that there may be reason to believe that Stand Up received \$500 or more in donations.<sup>3</sup>

Second, the Department finds that there may be reason to believe that any contributions provided to Stand Up in response to Stand Up's emails were "solicited or received" for the purpose of funding Stand Up's efforts to support the qualification of the Unlock Petition for the Ballot. One email had the subject line "We Need Your Help to Get This Done! Contribute Today." The text

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<sup>3</sup> As Stand Up pointed out in its response, the complaint did not explicitly claim that Stand Up spent more than \$500 on such activities. The Department's longstanding practice is to interpret a claimed MCFA violation generously, rather than requiring a complainant to plead every element of a violation. So long as a claimed violation can plausibly be inferred from the complaint submitted, and the persons against whom the complaint is filed can understand the claims against them based on the complaint, the Department will treat the complaint as sufficiently detailed for the purpose of undertaking an investigation.



of the email began with “WE NEED YOUR HELP” and explanation that the reader’s “support of Stand Up Michigan allows us to continue the important work of fighting for all Michiganders freedoms and constitutional rights.” Shortly after this text, the email presents buttons for \$100, \$200, and \$500 donations. Directly after those buttons, the email continues: “GREAT NEWS FOR MICHIGANDERS! 100,000 Unlock Michigan Signatures in the bank! In just 3 weeks, against all odds, we’ve done what was said to be impossible: we’ve already collected over 100,000 signatures . . . More than 54,000 grassroots activists are circulating petitions. It’s amazing. It’s spreading like wildfire. Let’s keep it up, Michigan!” The second email consists of a “CALL TO ACTION!” because “[t]he governor is threatened by how quickly we are getting this Unlock Michigan Petition done,” followed by a letter ostensibly circulated to union members asking those members not to sign Unlock Ballot Question petition sheets and buttons allowing the reader to donate \$10, \$25, or \$50 to Stand Up. The third email, with the subject line “‘KEEP MICHIGAN SAFE’ GROUP SPREADING FALSE INFO AOBUT UNLOCK MICHIGAN PETITION,” includes a denouncement of an email allegedly distributed by in opposition to the Unlock Ballot Question and the text “You can help by circulating petitions, signing the petition and/or giving financially . . . Thank you for all that you are doing to unlock our great state,” again followed by buttons allowing the reader to donate \$10, \$25, or \$50 to Stand Up.

The text of each of these emails explicitly requests that readers to contribute to Stand Up for the purpose of advancing the qualification or passage of the Unlock Ballot Question. See MCL 169.203(4). Moreover, any reader donating to Stand Up after reading one of these emails likely intended for those funds to be used for the purpose of advancing the qualification [or] passage of the Unlock Ballot Question. Thus, Department finds that there may be reason to believe that these emails generated \$500 or more in funds solicited for the purpose of advancing the qualification or passage of the Unlock Ballot Question.

As explained above, any person who “solicits or receives” more than \$500 in contributions with the purpose of using those contributions for the purpose of influencing “the qualification, passage, or defeat” of a ballot question is a ballot question committee subject to the requirements of the MCFA. MCL 169.204. Thus, because Stand Up both solicited and received funds for the purpose of making expenditures to advance “the qualification [or] passage” of the Unlock Ballot Question, the Department finds that there may be reason to believe that Stand Up is a ballot question committee required to register as a committee and file campaign statements under the MCFA.

#### *The MCFA Requires That Stand Up’s Expenditures Be Reported*

In addition to soliciting contributions for the purpose of making expenditures to advance the qualification of the Unlock Ballot Question to the ballot, the Department finds that there may be reason to believe that Stand Up also made \$100.01 or more in expenditures designed to advance the qualification of the Unlock Ballot Question to the ballot, and that Stand Up violated the MCFA by not reporting these expenditures.

The Department finds that there may be reason to believe that the generation of the website, emails, and challenge coins summarized above, as well as Stand Up's efforts to mobilize volunteers to request, sign, and circulate Unlock Ballot Question petition sheets, represent \$100.01 or more in value contributed to "advance[e] the qualification[ or] passage" of the Unlock Ballot Question to the ballot. Unlock itself reported spending almost \$90,000 on "digital advertising," \$7,500 for "donor list rental," and \$5,000 for an "on line director" in its July 2020 quarterly campaign statement alone. Stand Up's activities are similar to these activities, and Stand Up has presented no evidence that Stand Up did not spend at least \$100.01 on those activities. Thus, the Department finds that there may be reason to believe that Stand Up spent more than \$100.01 in funds to "advance[e] the qualification[ or] passage" of the Unlock Ballot Question to the ballot.

Stand Up claimed that any expenditures Stand Up made to "advance[e] the qualification[ or] passage" of the Unlock Ballot Question to the ballot were volunteer services exempt from the definition of contribution under the MCFA. This argument fails to exempt Stand Up from reporting its independent expenditures because organizations cannot provide personal services. The volunteer services exemption applies only to "volunteer personal services." While undefined by the act, Ballentines's Law Dictionary defines personal services as "[t]he work and labor of a certain person. For some purposes, inclusive of the services of an instrumentality, such as a team of horses. . . . Work performed in reference to the person, such as by the valet of a man or the personal maid of a woman." In other words, personal services should be understood as work performed by an individual, not as the work of an organization like Stand Up. Thus, Stand Up's expenditures are volunteer services not exempted from the MCFA's reporting requirements.

Stand Up, in its response, also claims it cannot have accrued any reporting requirements under the MCFA because Stand Up only made "general statements of support" for the Unlock Ballot Question and such statements of support "for a ballot drive or encouraging others to sign or circulate petitions is not an in-kind contribution." Stand Up is correct that these statements are not in-kind contributions. What Stand Up fails to address is the method by which these statements were delivered, and the cost of that method. Any other organization may make statements and may encourage individuals to support a ballot question. When that organization spends funds to deliver or amplify that message, however, the organization making an expenditure regulated by the MCFA and the organization becomes subject to the reporting requirements of the MCFA.

In their response statements, Unlock and Stand Up both agreed that Stand Up did not make any direct or in-kind contributions to Unlock. The Department takes both respondents at their word. Because Stand Up's expenditures advocating for the qualification of the Unlock Ballot Question to the ballot were not contributions, Stand Up's expenditures must be independent expenditures. Thus, because the Department finds that there may be reason to believe that Stand Up made

more than \$100 in independent expenditures and that Stand Up was bound by the MCFA to report those independent expenditures. Stand Up did not report those expenditures.

### II.C Stand Up's In-Kind Expenditures to Unlock

The MCFA's provisions governing in-kind contributions are explained above. In-kind contributions are contributions subject to the same reporting requirements as monetary contributions. Unlock did not report receiving any contributions, monetary or in-kind, from Stand Up.

For reasons explained above, after reviewing the evidence presented the Department concludes that there is no reason to believe that Stand Up made unreported in-kind expenditures to Unlock. Unlock denies that it accepted any contributions from Stand Up, and the evidence is insufficient to defeat that assertion. While some evidence has been presented showing that members of Unlock and Stand Up appeared together in videos, and that Unlock provided Stand Up with tents, signs, and other materials purchased by Unlock, this evidence does not show that Unlock coordinated with Stand Up to create Stand Up's website, emails, or other materials submitted as evidence of Stand Up's support for Unlock.

### III. Resolution

#### *Unlock*

Because, as explained above, none of the violations of the MCFA alleged in the complaint against Unlock have been substantiated by sufficient evidence, the Department dismisses the complaint with regard to Unlock and will take no further enforcement action against Unlock regarding this matter.

#### Stand Up

As explained above, the Department concludes that there may be reason to believe that Stand Up solicited \$500 or more in contributions for the purpose of making expenditures to advance the qualification of the Unlock Ballot Question to the ballot. The Department further concludes that there may be reason to believe that Stand Up made \$100.01 or more in independent expenditures to advance the qualification of the Unlock Ballot Question to the ballot. Based on these conclusions, the Department further concludes that there may be reason to believe that the MCFA required Stand Up to register as an independent expenditure committee and file required campaign statements, and that Stand Up violated the MCFA by failing to register as an independent expenditure committee and by failing to file those required campaign statements.

After reaching this conclusion, the MCFA requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods" if the Department finds that

“there may be a reason to believe a violation . . . has occurred[.]” MCL 169.215(10). The objective of an informal resolution is to “correct the violation or to prevent a further violation[.]” *Id.*

Given the novel questions of law involved in this determination, the Department concludes that Stand Up may remedy its violation of the MCFA by registering as an independent expenditure committee, submitting required campaign statements, and paying any accompanying late fees and fines. If Stand Up takes those actions, the Department will demand no further penalty.

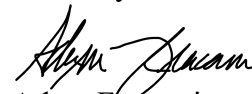
This letter serves to notify you and your clients that the Department has determined there may be reason to believe that your clients have violated the Act, and serves to notify you and your clients that the Department is beginning the informal resolution process. Here, the conciliation process will be completed upon Stand Up’s registration as an independent expenditure committee, submission of the required campaign statements, and payment any accompanying late fees and fines. A failure to take those steps at the expiration of the 90 business day period “If, after 90 business days, the secretary of state is unable to correct or prevent further violation by these informal methods, the secretary of state shall do either of the following:

- (a) Refer the matter to the attorney general for the enforcement of any criminal penalty provided by this act.
- (b) Commence a hearing as provided in subsection (11) for enforcement of any civil violation.”

MCL 169.215(11).

Please contact the undersigned at [BOERegulatory@Michigan.gov](mailto:BOERegulatory@Michigan.gov) by 5:00 p.m. on Friday, November 5 to discuss a resolution to matter, including additional information your clients may be able to provide that may affect the Department’s determination of the scope of any violation that may have occurred.

Sincerely,



Adam Fracassi  
Regulatory Manager  
Michigan Bureau of Elections

---

**From:** Fracassi, Adam (MDOS)  
**Sent:** Friday, November 4, 2022 5:08 PM  
**To:** David Kallman; MDOS-BOERegulatory  
**Subject:** RE: Stand Up Michigan No. 2020-08-164-24

Mr. Kallman,

As I indicated in the determination, the Department is willing to resolve the violation of the MCFA by having Stand Up register as an independent expenditure committee, submit required campaign statements, and paying any accompanying late fees. In order to finalize, we would need reports submitted.

Thank you,

**Adam Fracassi**, *Regulatory Manager*  
Michigan Bureau of Elections  
P.O. Box 20126  
Lansing, Michigan 48901

---

**From:** David Kallman <dave@kallmanlegal.com>  
**Sent:** Friday, November 4, 2022 3:34 PM  
**To:** Fracassi, Adam (MDOS) <FracassiA@michigan.gov>; MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>  
**Subject:** Stand Up Michigan No. 2020-08-164-24

**CAUTION: This is an External email. Please send suspicious emails to [abuse@michigan.gov](mailto:abuse@michigan.gov)**

Good Afternoon Mr. Fracassi:

Please see the attached letter on behalf of Stand Up Michigan. Thanks,

Dave K.

**David A. Kallman**  
**Kallman Legal Group, PLLC**  
***Attorney at Law***  
5600 W. Mount Hope Hwy.  
Lansing, MI 48917  
Phone: (517) 322-3207  
Fax: (517) 322-3208

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DAVID A. KALLMAN  
DAVE@KALLMANLEGAL.COM

STEPHEN P. KALLMAN  
STEVE@KALLMANLEGAL.COM

November 4, 2022

*Via Regular Mail and  
email to: [FracassiA@michigan.gov](mailto:FracassiA@michigan.gov)*

**Mr. Adam Fracassi  
Regulatory Manager  
Bureau of Elections  
Michigan Department of State  
430 W. Allegan, First Floor  
Lansing, MI 48918**

**RE: Cracchiolo v Stand Up Michigan, Inc.  
Campaign Finance Complaint  
No. 2020-08-164-24**

Dear Mr. Fracassi:

I am writing on behalf of my client, Stand Up Michigan, Inc., in response to your letter dated August 22, 2022, and the complaint dated August 25, 2020. The allegations contained in this complaint are false and completely without merit. Stand Up Michigan, Inc. (hereinafter SUM) is not a ballot question committee and complainant's baseless allegations do not make it such a committee. Volunteer services and general support of a ballot question do not magically convert anyone into a ballot question committee. SUM provided no in-kind contributions to any other organization. SUM is not required to report activities that never occurred. Asking people to volunteer to help another organization is not unlawful or illegal and does not trigger the requirements of the Campaign Finance Act.

Complainant relies upon a number of exhibits which are fundraising requests for SUM. Fundraising requests do not prove any money was received. I would ask for all proof or documentation you have that proves the allegations regarding money actually received.

Your letter states SUM "has presented no evidence that Stand Up did not spend at least \$100.01 on those activities." This is a shocking statement. My client has no duty to prove a negative, or to prove its innocence. As you are threatening criminal prosecution, SUM has no obligation to provide you with anything. The burden of proof is on the Department to prove its case. Since the Department accepts that Unlock Michigan did not receive or accept any contributions from SUM, it stands to reason that SUM did not make such expenditures.



**November 4, 2022**

Complainant provides no evidence to support his false claim that SUM provided in-kind contributions to Unlock Michigan. There were no in-kind contributions from SUM to Unlock Michigan. Again, general statements of support for a ballot drive or encouraging others to sign and circulate petitions is not an in-kind contribution. If this were true, then every person in Michigan who sent out an email, posted on Facebook or other social media, or Tweeted out support for the petition drive, is also guilty of violating our campaign finance laws. This is clearly false.

These novel claims are completely unfounded and without merit. SUM is not a ballot question committee and had no obligation to file campaign finance reports under the Act. This frivolous complaint is being made for the sole purpose of harassing my client. It is completely without foundation or merit. Complainant has utterly failed to meet his burden of proof of his allegations. Mere conclusory allegations and speculation, without more, are insufficient. No proof has been provided to the Department showing any funds were received or expended by SUM. Everything done by SUM was by unpaid volunteers. For all the reasons as stated above, this complaint should be dismissed in its entirety.

If the Department is unwilling to dismiss this matter, a resolution might be possible pursuant to MCL 169.251 involving reporting of expenditures of over \$100.01 by a person other than a committee. While SUM denies making such an expenditure, this could be an alternative way to settle this matter through a no contest agreement. Otherwise, my client is prepared to fully litigate these unfounded and unproven allegations.

Thank you for your attention to this letter. If you have any other questions do not hesitate to contact me.

Sincerely,



David A. Kallman  
Attorney at Law

DAK/cas

cc: Stand Up Michigan

## MDOS-BOERegulatory

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**From:** MDOS-BOERegulatory  
**Sent:** Friday, December 9, 2022 10:55 AM  
**To:** David Kallman  
**Subject:** Campaign finance complaint

Dear Mr. Kallman,

The Department acknowledges receipt of your November 4, 2022 letter regarding the Cracchiolo v. Stand Up Michigan, Inc., campaign finance complaint. In it, you state that a resolution involving the reporting of expenditures of over \$100 by a person other than a committee might be possible, but that Stand Up Michigan denies making any such expenditures.

The Department reiterates its proposed resolution, as indicated in its August 22, 2022 determination: Stand Up may remedy its violation of the MCFA by registering as an independent expenditure committee, submitting required campaign statements, and paying any accompanying late fees and fines. If Stand Up takes those actions, the Department will demand no further penalty.

This matter must be resolved by January 9, 2023 or else the Department will have no choice but to refer the matter to the Attorney General.

Regulatory Section  
[Bureau of Elections](#)  
Michigan Department of State  
**Main:** 517-335-3234  
[BOERegulatory@michigan.gov](mailto:BOERegulatory@michigan.gov)



ATTORNEYS AT LAW

DAVID A. KALLMAN  
DAVE@KALLMANLEGAL.COM

STEPHEN P. KALLMAN  
STEVE@KALLMANLEGAL.COM

January 9, 2023

*Via Regular Mail and  
email to: FracassiA@michigan.gov*

Mr. Adam Fracassi  
Regulatory Manager, Bureau of Elections  
Michigan Department of State  
430 W. Allegan, First Floor  
Lansing, MI 48918

**RE: Cracchiolo v Stand Up Michigan, Inc.  
Campaign Finance Complaint dated August 25, 2020  
No. 2020-08-164-24**

Dear Mr. Fracassi:

I am again writing on behalf of my client, Stand Up Michigan, Inc., regarding the above-referenced complaint. The allegations contained in this complaint are false and completely without merit. Please see the attached affidavit in support of Stand Up Michigan, Inc.'s (hereinafter SUM) prior responses. I incorporate herein all prior statements contained in my prior responses to your office.

I previously asked for all proof or documentation you have that proves the allegations against SUM. I have received nothing in response to my request, so I assume there is no documentation for you to provide. If there is evidence or other documentation upon which you are relying, please immediately provide copies to my office. Moreover, I understand that the Bureau has violated the time frames in the applicable statute (Section 15) in its handling of this complaint.

Again, this complaint is completely without foundation or merit. Complainant has utterly failed to meet his burden of proof of his allegations. Mere conclusory allegations and speculation, without more, are insufficient. No proof has been provided to the Department showing any funds were received or expended by SUM. Everything done by SUM was by unpaid volunteers. For all the reasons as previously stated, this complaint should be dismissed in its entirety.

I again offer an alternative resolution pursuant to MCL 169.251 involving reporting of expenditures of over \$100.01 by a person other than a committee. While SUM denies making such an expenditure, this could be an alternative way to settle this matter through a no contest agreement. Otherwise, my client is prepared to fully litigate these unfounded and unproven allegations.

Thank you for your attention to this letter. If you have any other questions do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. A. Kallman', with a long horizontal line extending to the right.

David A. Kallman  
Attorney at Law

DAK/cas

Enclosure(s)

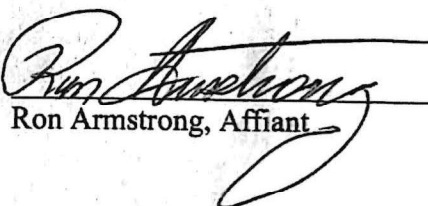
cc: Stand Up Michigan



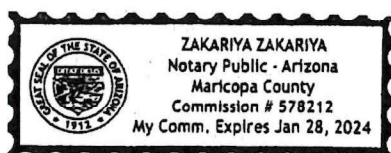
AFFIDAVIT


The Affiant, Ron Armstrong, being first duly sworn, hereby deposes and states as follows:

1. I am the President of Stand Up Michigan, Inc (SUM).
2. While SUM did solicit funds for its legal charitable purposes, no funds were provided or transmitted by SUM to Unlock Michigan. There was no campaign contribution by SUM to Unlock Michigan. The donate button referenced was for SUM alone, not Unlock Michigan.
3. No merchandise was made, created by, or sold by SUM for or on behalf of Unlock Michigan.
4. The Challenge Coins produced by SUM at issue were made prior to June of 2020. These coins said nothing about Unlock Michigan and were a fundraiser for SUM only.
5. The Facebook page at issue was done for free.
6. There was no distribution of any signs on behalf of Unlock Michigan through SUM.
- 7.
8. The allegations in the complaint against SUM are false and without merit. All statements made in our prior letters to the Bureau of Elections through legal counsel are true and accurate.
9. Further affiant says not.

  
Ron Armstrong, Affiant

On this 9<sup>th</sup> day of January, 2023, before me appeared Ron Armstrong who did execute the foregoing affidavit, and who, being duly sworn, deposes and states that he has read the foregoing affidavit and knows the contents thereof, and that the same is true of his own knowledge and belief, except as to those matters he states to be on information and belief, and as to those matters he believes them to be true.



  
Notary Public, Maricopa County, AZ  
My Commission Expires: 1-28-2024

## MDOS-BOERegulatory

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**From:** Fracassi, Adam (MDOS)  
**Sent:** Monday, January 9, 2023 5:12 PM  
**To:** David Kallman  
**Cc:** MDOS-BOERegulatory  
**Subject:** RE: Cracchiolo v. Stand Up Michigan  
**Attachments:** Campaign finance complaint

Mr. Kallman:

We separately issued you a determination in August 2022 where we lay out our legal basis as to why there may be reason to believe a potential violation has occurred. We sent the attached email to you on December 9<sup>th</sup> where we again reiterated our position and offered you the requested resolution to the complaint. I additionally responded to a similar email on November 4<sup>th</sup>. In each instance, you have reiterated the same statements, and we have reviewed them and responded accordingly.

As indicated each time, the Department has 90 business days to attempt to informally resolve the complaint, and where no resolution is reached, it must take formal action. We have reiterated our position to you and attempted to resolve the complaint on at least 3 different occasions. Each time, you have failed to respond substantively to our offers, but rather have reiterated the same position that you don't believe a violation has occurred. Regardless, given that the 90<sup>th</sup> business day deadline to resolve the complaint is today, and there is no resolution, we will have no alternative but to refer this matter to the Department of Attorney General.

We will be closing this file, posting it on our website, and referring the matter to the Department of Attorney General all as required by law.

**Adam Fracassi**, *Regulatory Manager*  
Michigan Department of State  
Secretary of State Jocelyn Benson  
Bureau of Elections  
P.O. Box 20126  
Lansing, Michigan 48901

---

**From:** David Kallman <dave@kallmanlegal.com>  
**Sent:** Monday, January 9, 2023 4:11 PM  
**To:** Fracassi, Adam (MDOS) <FracassiA@michigan.gov>  
**Subject:** Cracchiolo v. Stand Up Michigan

**CAUTION: This is an External email. Please send suspicious emails to [abuse@michigan.gov](mailto:abuse@michigan.gov)**

Mr. Fracassi:

Please see the attached.

Thank you.

**David A. Kallman**  
**Kallman Legal Group, PLLC**  
***Attorney at Law***

5600 W. Mount Hope Hwy.  
Lansing, MI 48917  
Phone: (517) 322-3207  
Fax: (517) 322-3208

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

January 10, 2023

The Honorable Dana Nessel  
Department of Attorney General  
G. Mennen Williams Building  
525 West Ottawa Street  
Lansing, MI 48933

Re: Cracchiolo v. Stand Up Michigan  
Michigan Campaign Finance Complaint

Dear Attorney General Nessel:

Please allow this letter to serve as a referral to the Attorney General of the above referenced campaign finance matter for the enforcement of any criminal penalties under the Michigan Campaign Finance Act. MCL 169.215(10)(a).

If you or your staff would like any additional information regarding this case, please contact this office.

Sincerely

s/ Michael J. Brady

Michael J. Brady, Chief Legal Director  
Michigan Secretary of State

cc: Heather Meingast, Division Chief, CLEE Division