



Michigan Department of State
Campaign Finance Complaint Form

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

RECEIVED/FILED
MICHIGAN DEPT OF STATE

2022 OCT 31 PM 1:50

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

Section 1. Complainant		
Your Name David Nettleton		Daytime Telephone Number (269) 419-4999
Mailing Address 113 East Sunset Blvd		
City Battle Creek	State MI	Zip 49017
Email (optional) danettleton@gmail.com		

Section 2. Alleged Violator		
Name Bryan M. Smith		
Mailing Address 9856 Huntington Road		
City Battle Creek	State MI	Zip 49017
Email (optional) bryan@uslumbercompany.com		

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

Section(s) of the MCFA alleged to be violated: MCL 169.247 Sec 47

Explain how those sections were violated:

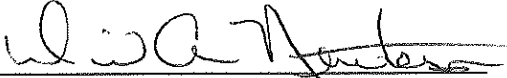
The campaign signs ignore "(1) . . . a billboard, placard, poster, pamphlet, or other printed matter having reference to an election, a candidate, or a ballot question, shall bear upon it an identification that contains the name and address of the person paying for the matter."

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

Included are pictures taken on October 27, 2022, (front and back) of Mr. Smith's campaign sign that is located at 934 CAPITAL AVE NE, BATTLE CREEK, MI, 49017.
It should be noted that Mr. Smith was contacted by the Calhoun County Clerk's office on or about October 14, 2022, concerning the aforementioned violation.

Section 4. Certification (Required)

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

X
Signature of Complainant

October 27, 2022

Date

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

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

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

X

Signature of Complainant

Date

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

Section 6. Submission

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

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

RETAIN

BRYAN M.

SMITH

For School Board

RETAIN

BRYAN M.

SWITTE

For School Board



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

November 9, 2022

Bryan Smith
9856 Huntington Rd.
Battle Creek, MI 49017

Re: *Nettleton v. Smith*
Campaign Finance Complaint No. 2022 - 10 - 183 - 47

Dear Mr. Smith:

The Department of State (Department) has received a formal complaint alleging you have violated MCL 169.247 of the Michigan Campaign Finance Act (MCFA) by failing to include an identification statement on campaign yard signs. Photos were included with the complaint; a copy of the complaint is enclosed.

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election include the phrase "Paid for by [name and address of the person who paid for the item]." MCL 169.247(1), R 169.36(2). A knowing violation constitutes a misdemeanor offense punishable by a fine of up to \$1,000.00, imprisonment for up to 93 days, or both. MCL 169.247(6).

Upon review, the evidence submitted supports the conclusion that a potential violation of the Act has occurred. From the outset, the Department must consider whether the materials fall within the ambit of the MCFA. Because the materials explicitly advocate for the election or defeat of a candidate, or for the passage or defeat of a ballot proposal, the materials contain express advocacy as defined by the Act. MCL 169.206(2)(j). As explained above, such materials must contain a "paid for by" statement listing the name and address of the committee purchasing the materials. However, the evidence shows that the materials at issue here omit part or all of that required statement. That absence supports the conclusion that a potential violation of the MCFA has occurred.

After reaching this conclusion, the Act requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods" if it finds that "there may be reason to believe that a violation ... has occurred [.]". MCL 169.215(10). The objective of an informal resolution is "to correct the violation or prevent a further violation." *Id.*

Given this, the Department concludes that a formal warning is a sufficient resolution to the complaint and is hereby advising you that MCL 169.247(1) and R 169.36(2) require you to print

Bryan Smith

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a complete and accurate identification statement on all campaign materials, consisting of the phrase "paid for by" followed by the full name and address of your committee.

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

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

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

Enclosure
c: David Nettleton