

**STATE OF MICHIGAN
BUREAU OF ELECTIONS**

CAMPAIGN FINANCE COMPLAINT

Section 1. COMPLAINANT

Lavora Barnes, Chair
Michigan Democratic Party
606 Townsend
Lansing, MI 48933

Section 2. ALLEGED VIOLATOR

Tudor Dixon for Governor Inc.
123 W. Allegan St, Suite 900
Lansing, MI 48933

Section 3. ALLEGATIONS

Sections of the Michigan Campaign Finance Act (MCFA) alleged to be violated: MCL 169.244(2).

STATEMENT OF FACTS

1. Pursuant to MCL 169.206(1), an “expenditure” is defined as 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.

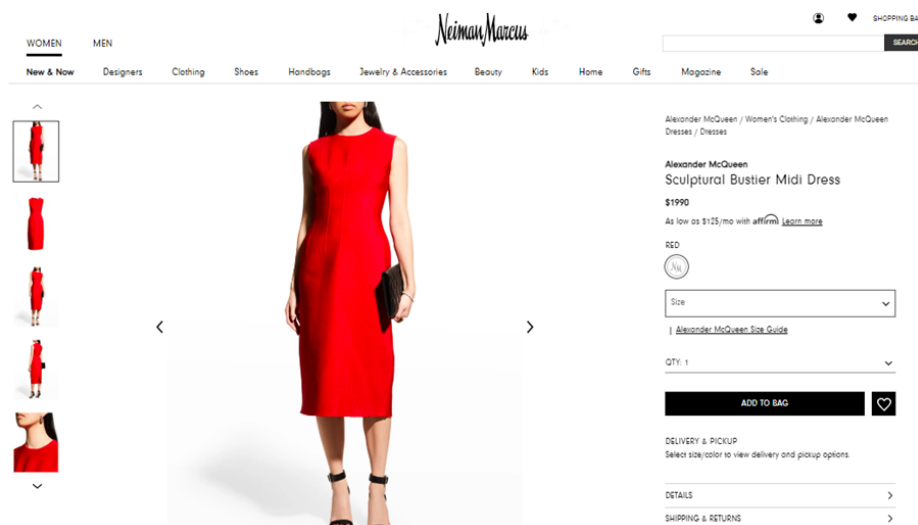
2. Section 44 of the MCFA, MCL 169.244(2) prohibits candidates from making expenditures for the personal benefit of a candidate stating that “[e]xcept as otherwise provided in this section and sections 21a, 45, and 71, a candidate committee shall not make an expenditure or other disbursement except to further the nomination or election of the candidate for which it is formed.”

3. Further, MCL 169.244(5) provides that a candidate who “knowingly violates this section 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.”

4. Tudor Dixon is the Republican nominee for Michigan governor on the November 2022 ballot. Dixon filed a candidate committee in April of 2021 with the Bureau of Elections (“BOE”) to support her candidacy with the committee name, Tudor Dixon for Governor, Inc. (“Dixon”).

5. On October 28, 2022, Dixon filed an Amended Pre-General Campaign Finance Statement that disclosed that on August 30, 2022 the Dixon campaign paid over \$2,100 to Trent Morse to reimburse a purchase at Neiman Marcus, a “luxury retailer” for high-end clothing and bags and other goods.

6. Dixon wore a red dress on the campaign trail that matches a dress sold by Neiman Marcus for \$1,990:



7. Images show Dixon wearing the dress for an in-studio interview with Fox News¹ in New York and at a fundraiser with the Greenwich Republicans,² both in October 2022:

¹ Images from: [YouTube, Tudor Dixon for Governor, 10/19/22.](#)

²Image from: Facebook, Greenwich Republicans, 10/20/22.



Tudor Dixon Joins America's Newsroom to Address the State of the Campaign



Tudor Dixon for Governor
2.56K subscribers

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Tudor Dixon Joins America's Newsroom to Address the State of the Campaign



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Greenwich Republicans
October 20 at 9:08 AM · 🌐

Some of our local representatives welcoming Tudor Dixon to Greenwich for a great event. First Selectman Fred Camillo State Senator Ryan Fazio State Representative Kimberly Fiorello

#greenwichct #greenwichconnecticut #greenwichmoms #greenwichparents #greenwichlocal #greenwichrepublicans #republicans #gop

2 Comments

Like Comment Share

Most relevant

Carla Mosley
Great job with the event guys.
👏👏👏
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Tudor Dixon featured at...

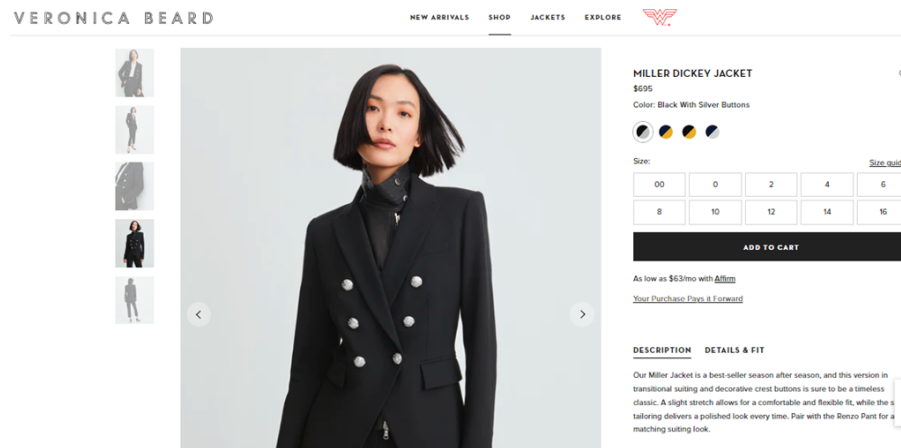
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8. On October 28, 2022, Dixon filed an Amended Pre-General Campaign Finance Statement that also disclosed that on August 30, 2022 the Dixon campaign paid over \$2,800 as a reimbursement to Trent Morse for a purchase at Leigh's, a "luxury women's specialty store" in Grand Rapids that carried clothing from several designer brands.³

9. Veronica Beard was among the designers featured at the store. Dixon wore a Veronica Beard jacket priced at nearly \$700 at the WOOD debate in mid-October. Leigh's website currently lists a very similar style jacket for \$695:



Tudor Dixon talks to media after first debate with Michigan Gov. Gretchen Whitmer



³ leighsfashions.com, accessed 10/31/22.



STATEMENT OF VIOLATIONS

10. Under the MCFA, MCL 169.244(2), candidates are not permitted to use campaign funds on personal uses – including buying things like clothes for the candidate.

11. While the MCFA does not define “personal use,” under 11 C.F.R. 113.1, the analogous provisions under the federal election code, personal use is defined as expenditures to purchase “Clothing, other than items of de minimis value that are used in the campaign, such as campaign “T-shirts” or caps with campaign slogans.”

12. Even office holders are prohibited from making purchases of clothes from campaign funds as an incidental expense, unless those expenses qualify as a deductible expense under I.R.S. Code § 162. Section 162 generally allows a deduction for “ordinary and necessary expenses paid or incurred...in carrying on any trade or business.” However, the cost of the wardrobe has generally been considered a nondeductible personal expense pursuant to section 162. *Kennedy v. Commissioner*, T.C. Memo.1970–58, *affd.* 451 F.2d 1023 (3d Cir.1971). The general rule is that where business clothes are suitable for general wear, a deduction for them is not allowable. *Donnelly v. Commissioner*, 262 F.2d 411 (2d Cir.1959), *affg.* 28 T.C. 1278, 1957 WL 634 (1957);

Roth v. Commissioner, 17 T.C. 1450, 1952 WL 238 (1952). Such costs are not deductible even when it has been shown that the particular clothes would not have been purchased but for the employment. *Stiner v. United States*, 524 F.2d 640 (10th Cir.1975); *Donnelly v. Commissioner*, *supra*.

13. Michigan campaign finance experts agree that using campaign dollars for personal expenses like clothes are not permissible under state law. Michigan former elections director Chris Thomas, when asked about similar purchases made by the former Mayor of the City of Taylor, said “There are several categories that are permissible [...] and nowhere is personal clothing included.”⁴

14. Based on the facts above and applicable law, Dixon knowingly used campaign funds to purchase personal clothing that do not qualify as a business expense under the MCFA or the IRS Code 162(a).

15. After reviewing this complaint, any answer, and rebuttal filed, the BOE should complete their investigation and make a finding that there may be reason to believe that Tudor Dixon for Governor, Inc. has violated the MCFA. The BOE should assess all penalties or fees necessary to bring Tudor Dixon for Governor, Inc. into compliance with the MCFA.

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.



Lavora Barnes, Chair

11/01/22

Date

⁴ <https://www.wxyz.com/news/local-news/investigations/taylor-mayor-spent-thousands-in-campaign-funds-on-wardrobe-loaded-suv>, last accessed November 1, 2022.



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

November 14, 2022

Tudor Dixon for Governor, Inc.
123 W. Allegan St, Suite 900
Lansing, MI 48933

Re: *Barnes v. Tudor Dixon for Governor, Inc.*
Campaign Finance Complaint No. 2022 – 11 – 195 – 244

Dear Tudor Dixon for Governor, Inc.:

The Department of State (Department) has received a formal complaint filed against you by Lavora Barnes alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Specifically, the complaint alleges that you impermissibly used campaign funds to buy clothes for the candidate's personal use. A copy of the complaint is included with this notice.

The MCFA provides that, except as otherwise provided in sections 21a, 44, 45, and 71, "a candidate committee shall not make an expenditure or other disbursement except to further the nomination or election of the candidate for which it is formed." MCL 169.244(2). A knowing violation of this section is a misdemeanor punishable by a fine of not more than \$1,000, imprisonment for not more than 90 days, or both. MCL 169.244(5).

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 process is included in the enclosed guidebook.

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. Materials may be emailed to BOERegulatory@michigan.gov or mailed to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. 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 Ms. Barnes, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing 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.

If you have any questions concerning this matter, you may contact the Regulatory Section of the Bureau of Elections at BOERegulatory@michigan.gov.

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

c: Lavora Barnes

McInerney, Jenny (MDOS)

From: MDOS-BOERegulatory
Sent: Wednesday, November 16, 2022 3:06 PM
To: Katherine N. Reynolds
Subject: RE: EXTERNAL: RE: Tudor Dixon for Governor

Sure, the due dates will be December 27 and January 4, 2023, respectively.

From: Katherine N. Reynolds <KReynolds@dickinson-wright.com>
Sent: Wednesday, November 16, 2022 10:15 AM
To: MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>; Charles R. Spies <CSpies@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: Tudor Dixon for Governor

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

Jenny—

It would be great to get a 15-day extension on both, given the quick turnaround. Can you provide me with new due dates?

Thanks,
Katie

Katherine N. Reynolds Associate Attorney

International Square
1825 Eye St. N.W.
Suite 900
Washington, D.C. 20006

Phone 202-659-6944
Fax 844-670-6009
Email KReynolds@dickinsonwright.com



From: MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>
Sent: Wednesday, November 16, 2022 9:47 AM
To: Katherine N. Reynolds <KReynolds@dickinson-wright.com>; MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>; Charles R. Spies <CSpies@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: Tudor Dixon for Governor

Currently, the due date for the notice mailed on November 8 is December 2, 2022, and the due date for the notice emailed yesterday is December 8. Either due date may be extended an additional 15 business days for good cause under MCL 169.215(5). We understand that mail has been slow, so please let us know if you would like to request an extension.

Jenny

From: Katherine N. Reynolds <KReynolds@dickinson-wright.com>
Sent: Wednesday, November 16, 2022 9:13 AM
To: MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>; Charles R. Spies <CSpies@dickinson-wright.com>
Subject: RE: EXTERNAL: RE: Tudor Dixon for Governor

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Good morning—

Can you provide due dates for these responses, since we just received them yesterday?

Thanks,
Katie

Katherine N. Reynolds Associate Attorney

International Square Phone 202-659-6944
1825 Eye St. N.W. Fax 844-670-6009
Suite 900
Washington, D.C. 20006 Email KReynolds@dickinsonwright.com



DICKINSON WRIGHT PLLC

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

From: MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>
Sent: Tuesday, November 15, 2022 11:12 AM
To: Charles R. Spies <CSpies@dickinson-wright.com>
Cc: Katherine N. Reynolds <KReynolds@dickinson-wright.com>
Subject: EXTERNAL: RE: Tudor Dixon for Governor

Dear Mr. Spies,

The Department currently has two open complaints against Ms. Dixon's campaign. The notice for Scott v. Tudor Dixon for Governor, Inc, et al. was mailed to all parties on November 8. The notice for Barnes v. Tudor for Governor will be sent out today. Electronic copies of notices and complaints for both are attached to this email.

The Department dismissed two additional complaints against Ms. Dixon and/or her campaign. Please let me know if you would like copies of those complaints or dismissal letters.

Jenny McInerney
Regulatory Attorney
Regulatory Section
[Michigan Bureau of Elections](https://www.michigan.gov/elections)
Main: 517-335-3234
McInerneyJ1@michigan.gov

From: Charles R. Spies <CSpies@dickinson-wright.com>
Sent: Monday, November 14, 2022 4:26 PM
To: MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>
Cc: Katherine N. Reynolds <KReynolds@dickinson-wright.com>
Subject: Tudor Dixon for Governor
Importance: High

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

Good Afternoon –

We represent Tudor Dixon and the Tudor Dixon for Governor campaign. We are beginning to wind down the campaign's activities so that we can formally dissolve the organization. However, over the past two months, we have read in the press about at least three complaints allegedly filed by the Michigan Democrat Party regarding Tudor Dixon campaign activities. We were never formally served with any of these complaints, and hope they were just press stunts and can be disregarded.

That said, before filing our request to dissolve the committee, we wanted to make sure that (1) the Bureau never received the complaints; and (2) if the Bureau did, please send them to us so we can file responses.

Thank you,
Charlie

Charles R. Spies Member

International Square
1825 Eye St. N.W.
Suite 900
Washington, D.C. 20006

Phone 202-466-5964
Fax 844-670-6009
Email CSpies@dickinsonwright.com

[Profile](#)

[V-Card](#)

DICKINSON WRIGHT PLLC

ARIZONA CALIFORNIA FLORIDA ILLINOIS KENTUCKY MICHIGAN NEVADA
OHIO TENNESSEE TEXAS WASHINGTON D.C. TORONTO

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Neither this transmission nor any attachment shall be deemed for any purpose to be a "signature" or "signed" under any electronic transmission acts, unless otherwise specifically stated herein. Thank you.

January 4, 2023

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

VIA E-MAIL: boeregulatory@michigan.gov

Re: Scott vs. Tudor Dixon for Governor, Inc. (Complaint No. 2022-11-195-244).

We represent Tudor Dixon for Governor, Inc. (“the Campaign”) in the above-referenced complaint, which alleges that the Campaign violated the Michigan Campaign Finance Act (“MCFA”) by buying clothing items for Tudor Dixon for campaign-related appearances. While the Complainant asserts that the purchase of these items violates the MCFA’s restriction on using campaign funds for personal use, their claim is not supported by the facts or law. To be clear, the Campaign purchased clothing for Ms. Dixon to use for specific campaign events. That clothing was never used for non-campaign purposes, and has now been sold by the campaign.

The MCFA only allows campaign committees to make expenditures or disbursements that further the nomination or election of a candidate for which it was formed.¹ As such, expenditures and disbursements that constitute “personal use” are prohibited. The MCFA does not define what specific expenditures or disbursements would be considered personal use. Therefore, any expenditure or disbursement in question is reviewed on a case-by-case basis. However, when considering whether a certain purchase is permissible under the MCFA, a campaign committee must be able to demonstrate an “identifiable, tangible benefit that advances the candidate’s nomination or election.”²

Elections are won and lost on a variety of factors. The way candidates present themselves to their potential constituents is one of them, especially for female candidates, who are constantly scrutinized on their appearance.³ Hillary Clinton’s choice to wear pantsuits during her 2016 campaign was criticized as being “hideous,” “unflattering,” and “unfeminine.”⁴ Sarah

¹ MCL 169.244(2).

² Interpretive Statement 12/17/2007 (Murley) at 3.

³ Elizabeth Segren, *The Outrageous, Deeply Sexist History of the Pantsuit*, FASTCOMPANY (Oct. 15, 2019).

⁴ Deirdre Clementine, *A President in a Pantsuit?*, THE CONVERSATION (Nov. 7, 2016). Ms. Clinton’s appearance was discussed by a variety of news sources at that time. See, e.g., Vanessa Friedman, *How Hillary Clinton Ended the Clothing*

Palin's appearance was called "the toned-down version of the porn actress look."⁵ Even Michigan's current Governor, Gretchen Whitmer, was scrutinized over her choice to wear a dress to her 2019 State of the State speech.

Unfortunately, a female candidate's ability to win her election oftentimes depend on her appearance. Research shows that voters care more about a female candidate's appearance than their male counterparts, with voters even stating that a female candidate's wardrobe, makeup, and appearance should be impeccable if she wants to be elected.⁶ The pressure that is put on female candidates to "look the part" is so significant that certain clothing retailers, such as M.M. LaFleur, have offered to lend clothing to female candidates who choose to run for public office so that they can focus on campaigning rather than their wardrobe.⁷

All this information is material because Tudor Dixon's appearance to voters was crucial in furthering her election as a candidate for Governor. Whether fair or not, voters scrutinize candidates in part based on their appearance, especially female candidates. For female candidates to have the opportunity to win their elections, they have to present themselves as a candidate, and wardrobe is a material part of that presentation. The Campaign, in purchasing the clothing for specific public appearances,⁸ made those payments solely to further her election as Governor. There was no other purpose for making such payments.

Importantly, none of the clothing purchased by the Campaign are, and were never, in Ms. Dixon's possession. All clothing items that were purchased by the Campaign are, and have remained, the Campaign's property, not Tudor Dixon's. The clothing, like many other items purchased by the Campaign for campaign-related activities, were assets of the Campaign, meaning that once the election ended, the Campaign dictated where the clothing would go. After the November 8, 2022 general election, the Campaign sold some of the clothing to private buyers, and donated the rest to local charities. Receipts of such transactions are attached to this Response.

While we recognize that federal campaign finance law does not allow federal campaigns to use campaign funds for clothing, Michigan has different statutory language and federal law is not dispositive.⁹ Ultimately, whether or not the Campaign can make a specific purchase depends on whether the purchase was solely made in furtherance of Ms. Dixon's election. The conclusory assertions of the Complaint here presume that Ms. Dixon kept and used the clothing for non-campaign purposes. That assertion is factually wrong, as the facts here demonstrate that

Conversation, THE NEW YORK TIMES (Jan. 20, 2016); Megan Garber, *Why the Pantsuit?*, THE ATLANTIC (Aug. 2, 2016); Elizabeth Enochs, *5 Times Hillary Was Criticized Just for Her Style*, BUSTLE (June 3, 2015).

⁵ *CBC Apologizes for Column Maligning Sarah Palin*, THE TORONTO STAR (Sept. 28, 2008).

⁶ Taylor Telford, *Dressing for the campaign trail can be tough for female candidates. M.M. LaFleur is lending free clothes to ease the burden*, THE WASHINGTON POST (Feb. 19, 2020) (citing Barbara Lee Family Foundation, *Politics is Personal: Keys to Likeability and Electability for Women* (April 2016)).

⁷ The-M-Dash, #ReadytoRun for Office (last accessed Dec. 22, 2022), <https://mdash.mmlafleur.com/ready-to-run-for-office/>.

⁸ As the Complainant helpfully demonstrates, every piece of clothing purchased by the Campaign was worn to campaign-related events, such as television appearances, fundraisers, and campaign rallies. None of the items purchased were worn for any personal activities.

⁹ This Bureau has held differing views from the Federal Election Commission ("FEC") on a variety of campaign finance questions. For example, while the Bureau has concluded that campaign committees cannot accept contributions that are derived from cryptocurrency, the FEC has allowed such contributions.

the clothing at issue here was always property of the campaign, used only for campaign purposes, and then disgorged by the campaign.

We hope that the response provides the clarity needed to dismiss this Complaint. Should you have any questions or concerns regarding this Response, please contact me at cspies@dickinson-wright.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charlie Spies". The signature is fluid and cursive, with the first name "Charlie" written in a larger, more prominent script than the last name "Spies".

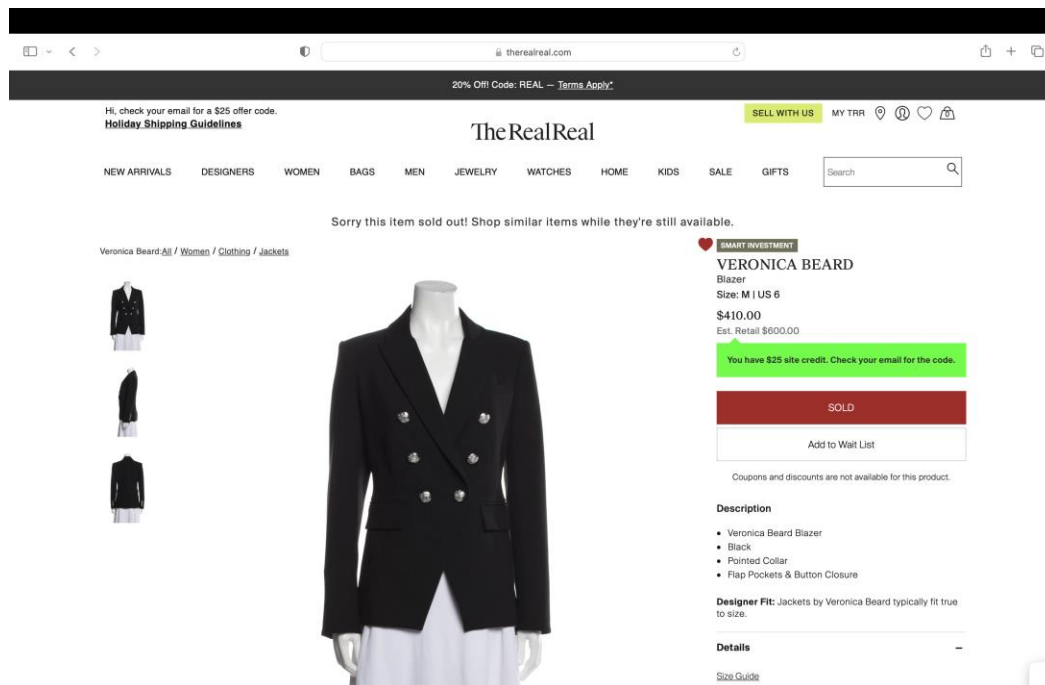
Charlie Spies
Katie Reynolds
Counsel to Tudor Dixon for Governor, Inc.

Clothing items were sold at fair market value. Fair market value was determined using TheRealReal (“TRR”) pricing of items minus commission¹ and setup fees.² Because the TRR commission scale varies based on the seller, the total value of the items (\$1,226.25) was used to determine a commission rate of 65%.

\$ 671.25 – Alexander McQueen Blazer
 \$ 145.00 – Alexander McQueen Pants
 + \$ 410.00 – Veronica Beard Blazer
 \$1,226.25

\$1,226.25
 \$ 15.00 Setup Fee
 \$ 15.00 Setup Fee
 - \$ 15.00 Setup Fee
 \$1,166.25

\$1,166.25 x 0.65 = **\$758.06**



¹ TRR Commission is based on seller volume. The commission schedule is available at <https://www.therealreal.com/seller/commissions>.

² TRR charges a setup fee of \$15 per item and \$100 per fine art item per section 2(c)(i)(1) of their seller agreement which is available at: https://www.therealreal.com/consignor_terms

20% Off! Code: REAL — Terms Apply*



Hi, check your email for a \$25 offer code.
Holiday Shipping Guidelines

SELL WITH USMY TRR

THE REAL REAL

NEW ARRIVALSDESIGNERSWOMENBAGSMENJEWELRYWATCHESHOMEKIDSSALEGIFTS

Alexander McQueen: All / Women / Clothing / Jackets



ALEXANDER MCQUEEN

2019 Blazer

Size: XS | US2, IT38

~~\$895.00~~

Now 25% off - \$671.25

Est. Retail \$2,000.00

You have \$25 site credit. Check your email for the code.

ADD TO BAG

Description

- Alexander McQueen Blazer
- From the 2019 Collection
- Black
- Pointed Collar
- Flap Pockets & Button Closure

Fit: Jackets by Alexander McQueen typically fit true to size.

Details

Size Guide

Bust: 33.25"

Waist: 30.25"

Shoulder: 14.25"

Length: 26.5"

20% Off! Code: REAL — Terms Apply*



Hi, check your email for a \$25 offer code.
Holiday Shipping Guidelines

SELL WITH USMY TRR

THE REAL REAL

NEW ARRIVALSDESIGNERSWOMENBAGSMENJEWELRYWATCHESHOMEKIDSSALEGIFTS

Alexander McQueen: All / Women / Clothing / Pants



ALEXANDER MCQUEEN

Straight Leg Pants

Size: M | US8, IT44

\$145.00

20% Off Use Code REAL

You have \$25 site credit. Check your email for the code.

ADD TO BAG

Description

- Alexander McQueen Straight Leg Pants
- Black
- Mid-Rise
- Zip & Button Closure

Fit: Pants by Alexander McQueen typically fit true to size.

Details

Size Guide

Waist: 31"

Hip: 35.75"

Rise: 8.5"

Inseam: 38"

Leg Opening: 16.75"

Fabric: 50% Acetate, 50% Viscose

Muskegon Rescue Mission

Administrative Office: 1715 Peck St. • 727-6090
Women's Shelter: 1691 Peck St. • 727-6010
Men's Shelter: 400 W. Laketon Ave. • 727-6085
Thrift Stores: 2570 Henry St. • 733-1493
2019 E. Apple Ave. • 777-1808
1819 Holton Rd. • 719-0043

Date: 1-4-23

Tax ID: #38-3525239

Donor Information

Name: Tudor Dixon For Governor, Inc.

Address: PO Box 21085

City: Lansing State: MI Zip: 48909

Phone: 231-343-6470

We gratefully acknowledge receipt of the following as a donation.

Alexander McQueen Dress (Red)
Value \$1990.00

Monetary Donation: \$

☐ Check ☐ Cash

Employee Signature: Angela Veer

This receipt is proof of your donation to us. Your gifts are tax deductible.
Thank you so much for helping us care for the needy
and homeless of the West Michigan Area.

*(Unless specifically noted, no goods or services
were provided in exchange for this contribution.)*

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www.muskegonmission.org



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

January 13, 2023

Lavora Barnes
Michigan Democratic Party
606 Townsend
Lansing, MI 48933

Via email

Re: *Barnes v. Tudor Dixon for Governor, Inc.*
Campaign Finance Complaint No. 2022-11-195-244

Dear Ms. Barnes:

The Department of State received a response from Tudor Dixon for Governor, Inc. to the complaint you filed against them alleging a violation of the Michigan Campaign Finance Act, 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

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

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

MICHIGAN DEMOCRATIC STATE CENTRAL COMMITTEE • HART-KENNEDY HOUSE

606 TOWNSEND ST. LANSING, MI 48933 • 517.371.5410
www.michigandems.com • midemparty@michigandems.com
facebook.com/michigandems • twitter.com/michigandems



January 25, 2023

VIA EMAIL ONLY
BOERegulatory@michigan.gov

Chair

Lavora Barnes

Executive Director

Christine Jensen

1st Vice Chair

Mark LaChey

2nd Vice Chair

Fay Beydoun

Governor

Gretchen Whitmer

Adam Fracassi
Regulatory Section
Michigan Department of State
Bureau of Elections
Richard H. Austin Building, 1st Floor
430 West Allegan Street
Lansing, MI 48919

**Re: *Barnes v. Tudor Dixon for Governor, Inc.*
Campaign Finance Complaint No. 2022-11-195-244**

Dear Mr. Fracassi:

I write today on behalf of the Michigan Democratic Party (“MDP”) as a rebuttal to Tudor Dixon for Governor, Inc.’s (“Dixon”) illogical response to a campaign finance complaint filed against it by the MDP with the Michigan Department of State’s Bureau of Elections (“BOE”) that fails to justify Dixon’s campaign finance violations.

Without providing any support in law, Dixon claims that clothing items are permissible expenditures under the Michigan Campaign Finance Act (“MCFA”) as long as the items are purchased to further the election of the candidate. As stated in the Complaint, while certain personal expenses are lawful MCFA expenditures, personal clothing is not included as a permissible expense. In short, Dixon asks the BOE to create law by reading into the MCFA a new permissible expenditure allowing candidates to purchase personal clothing with candidate committee funds, provided that the candidate subjectively perceives the clothing will further the election of the candidate. Such a standard is unenforceable and not provided for under the MCFA. The BOE should reject this argument.

Moreover, Dixon outrageously attempts to insert a new provision in the MCFA that distinguishes female candidates from other candidates. This rebuttal does not dispute Dixon’s assertion that female candidates face unfair scrutiny based on appearance. However, the issue of gender bias in elections is not relevant to this Complaint because the MCFA does not draw a distinction of permissibility of expenditures based on whether a candidate is female or not. All candidates, including female candidates, are in violation of the MCFA when they use their candidate committee funds to purchase personal clothing items.

Dixon also asks the BOE to absolve the campaign for any violation because they allegedly donated or otherwise disposed of the clothing. That is an absurd conclusion for several reasons. First, Dixon fails to attach an affidavit to the response verifying the facts of the clothing disposal—disposal that occurred months after the election, if at all. Second, Dixon does not indicate if all clothing items have sold and does not explain what happened to the money for the clothing items that did sell. Rather, she asks the BOE to dismiss this Complaint based solely on the unsworn argument of her attorney that attaches screenshots indicating that similar clothing was placed for sale on a website. Third, Dixon’s attorney argues that, the same day the response was filed, Dixon donated an approximately \$2,000 dress to a non-profit thrift store. There is no affidavit or verification that the donation was actually made or why Dixon chose to allegedly dispose of the \$2,000 dress rather than sell it in a similar manner Dixon used for the other personal clothing items. However, even with this information, disposal does not erase the violation.

Under the MCFA, an expenditure is examined based on when the expenditure was made. Nothing in the plain language of the MCFA suggests or permits that facts or circumstances that arise after an expenditure is made changes the nature of the expenditure. The BOE must examine Dixon’s expenditures for thousands of dollars of personal clothing items as of the time the expenditures were made. In this case, at the time Dixon made the expenditures through at least January 4, 2023 – months after the Dixon campaign ended – Dixon was apparently in possession of and free to use these personal clothing items.

Regardless of Dixon’s actions and assertions regarding the clothing, a violation of the MCFA occurred and the BOE should enforce the MCFA against Dixon and impose penalties accordingly.

Sincerely,

A handwritten signature in black ink, reading "Lavora R. Barnes". The signature is fluid and cursive, with the first name "Lavora" being more prominent and the last name "Barnes" following in a similar style.

Lavora Barnes
Chair
Michigan Democratic Party



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

March 14, 2023

Charlie Spies
Katie Reynolds
Counsel to Tudor Dixon for Governor, Inc.
International Square
1825 Eye Street, NW, Suite 900
Washington DC 20006

Via email

Re: *Barnes v. Tudor Dixon for Governor, Inc.*
Campaign Finance Complaint No. 2022-11-195-244

Dear Mr. Spies and Ms. Reynolds:

The Department of State (Department) has finished investigating the campaign finance complaint filed against your client by Lavora Barnes alleging that Tudor Dixon for Governor, Inc. violated the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the disposition of that complaint.

The complaint alleged that your client impermissibly used campaign funds to buy clothes for the candidate's personal use.

You responded to the complaint in a letter dated January 4, 2023. In your response, you claimed that the clothing was purchased for use at specific campaign events by Ms. Dixon, that it was never used for non-campaign purposes, and that it was subsequently sold by the campaign. You included screenshots of postings of three of the articles of clothing on the resale website "The Real Real" and a receipt for a dress that was donated to Muskegon Rescue Mission.

In your response, you argued that female candidates are unfairly judged on their appearance and apparel when campaigning. Therefore, you argued, "Tudor Dixon's appearance to voters was crucial in furthering her election as a candidate for Governor . . . The Campaign, in purchasing the clothing for specific public appearances, made those payments solely to further her election as Governor."

You further argued that none of the clothing purchased was ever in Ms. Dixon's possession, and that once the election concluded the committee and not the candidate would dictate where the clothing would go.

Ms. Barnes was provided an opportunity to provide a rebuttal statement, which she did in a letter dated January 25, 2023. In that statement, Ms. Barnes argues that personal clothing is not a permissible personal expense under the MCFA.

Further, Ms. Barnes acknowledges that female candidates face unfair scrutiny based on appearance but argues that the MCFA does not draw a distinction of permissibility of expenditures based on whether the candidate is female. The rebuttal argues that your receipt from the Muskegon Rescue Mission and postings on The Real Real are not supported by sufficient evidence or affidavits to show that they pertain to the clothing in question. Ms. Barnes also questions the timing and method by which the campaign disposed of these items.

The MCFA provides that, except as otherwise provided in sections 21a, 44, 45, and 71, “a candidate committee shall not make an expenditure or other disbursement except to further the nomination or election of the candidate for which it is formed.” MCL 169.244(2). A knowing violation of this section is a misdemeanor punishable by a fine of not more than \$1,000, imprisonment for not more than 90 days, or both. MCL 169.244(5).

Section 45 of the MCFA provides the methods by which a candidate committee may disgorge itself of assets when dissolving or terminating. MCL 169.245. As of March 16, 2023, Tudor Dixon for Governor, Inc., is an active candidate committee. Because assets must only be disgorged before dissolution, and the committee has not dissolved, the Department finds that the question of whether the disposal of clothing is a MCFA violation occurred is unripe and will not be ripe until the committee has dissolved.

However, regarding the disposal of assets, the Department offers as instructive the 2021 *Hertel* interpretive statement and Administrative Rule 169.65¹, which provide that an asset purchased with committee funds which is no longer used in a manner incidental to office, must be sold at fair market value.

The complaint also alleges that the purchase of clothing itself is a violation. The Department’s longtime position has been that a candidate committee may purchase clothing and other items as long as those items are in furtherance of the candidate’s nomination or election, the clothing remains at all times the property of the committee, and provided that the committee disgorges itself of those assets or the funds derived from those assets before the committee dissolves.

The Department has reviewed the evidence submitted in this matter and finds that insufficient evidence has been presented to support a finding of a potential violation of the MCFA.

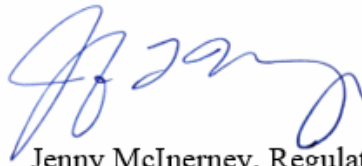
¹ Rule 65 specifically governs the dissolution of assets purchased using Officeholder Expense Funds (OEF). In 1994, the MCFA was amended to eliminate OEFs and replace them with incidental office expenses under one candidate committee. 1994 PA 411.

Charlie Spies
Katie Reynolds
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Based on the evidence provided, including that Ms. Dixon used the clothing at campaign events that furthered her candidacy and that the committee is in the process of selling or donating that clothing, there is not sufficient reason to believe that a violation of the MCFA has occurred. As stated above, the Department makes no determination on the final disbursement of the clothing, as that act is not required until the committee has dissolved.

Because the violation of the MCFA alleged in the complaint has not been substantiated by sufficient evidence, the Department dismisses the complaint and will take no further enforcement action. If you have any questions concerning this matter, you may contact me at BOERegulatory@Michigan.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jenny McInerney', is positioned above the typed name.

Jenny McInerney, Regulatory Attorney
Bureau of Elections
Michigan Department of State

c: Lavora Barnes