



## Michigan Department of State Campaign Finance Complaint Form

This complaint form may be used to file a complaint alleging that someone violated the [Michigan Campaign Finance Act](#) (MCFA). Electronic submission of the form to [BOERegulatory@Michigan.gov](mailto:BOERegulatory@Michigan.gov) is strongly recommended. 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		Daytime telephone number
Mark Brewer		248-483-5000
Mailing address		
17000 W. 10 Mile Road		
City	State	Zip
Southfield	MI	48075
Email (recommended)		
mbrewer@goodmanacker.com		

### Section 2. Alleged Violator (Respondent)

Name		
See Attached List		
Mailing address		
City	State	Zip
Email (recommended)		
Committee ID (optional)		

*Please include email addresses to expedite processing time and mitigate mail delays.*

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

Section(s) of the MCFA alleged to be violated:

MCL 169.203(4); MCL 169.205(2); MCL 169.211(2); MCL 169.224(1); MCL 169.233; MCL 169.247(1)

Explain how these sections were violated:

This complaint alleges both that there was a failure to form a committee for the raising and spending of funds in support of the recall against State Representative Kelly Breen, and that there was a failure to place an identification on the recall petition. For details, see the attached.

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

See Attached

#### 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.

*Mark Brewer*

Signature of complainant

*August 29, 2023*

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:*

---

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 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, submit the complaint form with your evidence to [BOERegulatory@Michigan.gov](mailto:BOERegulatory@Michigan.gov). Alternatively, you may 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

## Section 2. Alleged Violators (Respondents)

This complaint alleges both that there was a failure to form a committee for the raising and spending of funds in support of the recall against State Representative Kelly Breen, and that there was a failure to place an identification on the recall petition. These individuals are jointly and severally liable for those violations.

1. **Dan Lawless:** Lawless sent an email supporting the recall of State Representative Kelly Breen from the following email address: [recallbreen@gmail.com](mailto:recallbreen@gmail.com). In addition to explaining why Representative Breen should be recalled, the email circulated the details for a meeting to discuss the recall effort.

890 Marshall Street  
Portland, MI 48875

2. **Kayla Toma:** Toma signed the circulator certificate on the petition to recall State Representative Kelly Breen.

2154 Austin Drive  
Novi, MI 48377



### Section 3. Violations

Under the Michigan Campaign Finance Act ("MCFA"), an "[e]lection includes a recall vote." MCL 169.205(2). Thus, any "funds spent or received by groups supporting or opposing the recall of an elected official are regulated under the MCFA." Department of State, Interpretive Statement (November 1, 2011), p 3 available at [https://www.michigan.gov/sos/-/media/Project/Websites/sos/03holland/Interpretive\\_Statement\\_nov\\_1\\_2011.pdf?rev=9fb49f117fd54dbd84343fb2217c4d98&hash=41F616AC736269E2FF5C4D0434998636](https://www.michigan.gov/sos/-/media/Project/Websites/sos/03holland/Interpretive_Statement_nov_1_2011.pdf?rev=9fb49f117fd54dbd84343fb2217c4d98&hash=41F616AC736269E2FF5C4D0434998636). Such recall expenses include, but are not limited to, "costs incurred in the drafting of the language that appears in the heading of the recall petition, preparation of the petition form, attending or participating in the clarity hearing, engaging counsel for these purposes, and so on." *Id.*

Under the MCFA, a "committee" includes "a person that 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 . . . 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 MCFA defines "person" as an "individual . . . or any other organization or group of persons acting jointly." MCL 169.211(2).

Such a committee must "file a statement of organization within 10 days after" spending and/or receiving \$500.00. MCL 169.224(1). Committees are then required to file various campaign statements throughout the year. MCL 169.233.

In 1992, the Department of State issued an interpretive statement on the MCFA's definition of "person," finding joint activity when "there is communication within the group with a view toward making contributions on behalf of the group." Department of State, Interpretive Statement (September 24, 1992), p 2, available at [https://www.michigan.gov/sos/-/media/Project/Websites/sos/20delrio/gromek\\_1992.pdf?rev=1f27d185c0c247e6af7cf24be73000ec&hash=76E8D5AB3F11A03D53A73A119D1B2570](https://www.michigan.gov/sos/-/media/Project/Websites/sos/20delrio/gromek_1992.pdf?rev=1f27d185c0c247e6af7cf24be73000ec&hash=76E8D5AB3F11A03D53A73A119D1B2570). A later interpretive statement emphasized that "[o]ne of the key facts was the continuous communications." Department of State, Interpretive Statement (April 14, 1993), p 3, available at [https://www.michigan.gov/sos/-/media/Project/Websites/sos/04delrio/Ayers\\_1993.pdf?rev=ed6871ecdad749798fba8a16bcc7aeeb&hash=BEECF814EE213C937A3811FBCCC58B29](https://www.michigan.gov/sos/-/media/Project/Websites/sos/04delrio/Ayers_1993.pdf?rev=ed6871ecdad749798fba8a16bcc7aeeb&hash=BEECF814EE213C937A3811FBCCC58B29).

Coordination existed between Kayla Toma and Dan Lawless. Toma signed the circulator certificate on the petition and filed the petition to recall State Representative Breen. Lawless sent an email supporting the recall of State Representative Breen and giving details for a meeting to discuss the recall efforts.

These individuals are coordinating to initiate and support the recall of State Representative Breen. In other words, they are "acting jointly." Based on information and belief, "there is communication" between the two individuals. A coordinated effort to initiate and support a recall effort requires constant and effective communication, *i.e.*, "continuous communications." The recall effort "relies on coordinated activity by the members of the group," Interpretive Statement (September 24, 1992), p 2.

Because these individuals are “acting jointly,” they fall under the definitions of “person” and “committee,” and therefore the purview of the MCFA. Based on information and belief, the \$500.00 expenditure threshold required to form a committee has been met. Among other expenditures, Lawless rented a room at the Novi Library and there were expenses associated with the drafting and filing of the petition. Toma, Lawless, and others have failed to form and register a committee, thus violating the MCFA.

The MCFA also requires that a recall petition have an identification of the person paying for it, commonly called a disclaimer. *See* MCL 169.247(1); *see also* MERTS, Appendix J: Identification Requirements, available at <https://mertsplus.com/mertsuserguide/index.php?n=MANUALS.AppendixJ> (“Do ballot proposal petitions require an identifier? Yes. A ballot question petition and a recall petition must bear the identification statement.”).

Specifically, the MCFA reads, “a . . . 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.” MCL 169.247(1).

These individuals fall under the definitions of “person” and “committee,” and therefore the purview of the MCFA. They are required to comply with MCL 169.247(1) by placing an identification statement by their committee on the recall petition. They failed to include an identification on the recall petition filed against State Representative Breen, thus violating the MCFA.



## INSTRUCTIONS ON REVERSE SIDE

## RECALL PETITION

We, the undersigned, registered and qualified voters of the 7600 in the County of Oakland and State of Michigan, petition for the calling of an election to recall Kelly Green from the office of State Representative (District, if Any) 21 for the following reason(s):

On June 20, 2023, State Representative Kelly Green voted yes on Michigan House Bill 4474 which would amend provisions of Michigan Penal Code that now define & prohibit the crime of ethnic intimidation.

WARNING-A PERSON WHO KNOWINGLY SIGNS A RECALL PETITION MORE THAN ONCE OR SIGNS A NAME OTHER THAN HIS OR HER OWN IS VIOLATING THE PROVISIONS OF THE MICHIGAN ELECTION LAW.

	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	ZIP CODE	DATE OF SIGNING MONTH DAY YEAR
✓					
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					

RECEIVED/FILED  
MICHIGAN DEPT OF STATE  
2023 AUG -7 AM 10:26  
ELECTIONS/GREAT SEAL

## CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is 18 years of age or older and a United States citizen; that each signature on the petition was signed in his or her presence and was not obtained through fraud, deceit or misrepresentation; that he or she has neither caused nor permitted a person to sign the petition more than once and has no knowledge of a person signing the petition more than once; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a registered elector of the City or Township listed in the heading of the petition, and the elector was qualified to sign the petition.

☐ If the circulator is not a resident of Michigan, the circulator shall make a cross [X] or check mark [✓] in the box provided, otherwise each signature on this petition sheet is invalid and the signatures will not be counted by a filing official. By making a cross or check mark in the box provided, the undersigned circulator asserts that he or she is not a resident of Michigan and agrees to accept the jurisdiction of this state for the purpose of any legal proceeding or hearing that concerns a petition sheet executed by the circulator and agrees that legal process served on the Secretary of State or a designated agent of the Secretary of State has the same effect as if personally served on the circulator.

WARNING-A CIRCULATOR KNOWINGLY MAKING A FALSE STATEMENT IN THE ABOVE CERTIFICATE, A PERSON NOT A CIRCULATOR WHO SIGNS AS A CIRCULATOR, OR A PERSON WHO SIGNS A NAME OTHER THAN HIS OR HER OWN AS CIRCULATOR IS GUILTY OF A MISDEMEANOR.

CIRCULATOR - DO NOT SIGN OR DATE  
CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

[Signature] 8, 7, 23  
(Signature of Circulator) (Date)

(Printed Name of Circulator)

2154 Austin Drive

(Complete Residence Address (Street and Number or Rural Route)) - [Do not enter a post office box]

Novi MI 48377

(City or Township, State, Zip Code)

(County of Registration, if Registered to Vote, of a Circulator who is not a Resident of Michigan)

**TO BE COMPLETED BY CITY OR TOWNSHIP CLERK**

Check the registration of each person whose name appears on the reverse side of this petition sheet **whose name is not coded** in the left-hand column.

If the person was registered to vote in your City or Township on the date he or she signed the sheet, place a check mark before the person's name.

If the person was not registered to vote in your City or Township on the date he or she signed the sheet, enter "NR" (not registered) before the person's name.

If the address listed by the person does not fall within your City or Township, enter "NC" (not in community) before the person's name.

Complete the following certificate after making the registration checks:

I hereby certify that the total number of persons whose names appear on the reverse side of this petition sheet who I identified as being registered in my City or Township on the date of signing the petition sheet is: \_\_\_\_\_

(Enter Number)

\_\_\_\_\_  
(Signature of City or Township Clerk)

- ☐ City or  
☐ Township of \_\_\_\_\_

(Name of City or Township)

**READ BEFORE CIRCULATING PETITION**

The validity of signatures placed on this petition may be affected if the following is not observed.

Complete the heading of the petition before circulating it.

- Enter the city, township or village and county where the petition will be circulated. Indicate whether the jurisdiction listed is a "city", "township", or a "village". Do not list more than one city, township or village.
- Enter the officer's complete name and the office he or she holds. Include the district number of the office if there is one.
- Enter the reason(s) why the recall election is being sought. The language entered must be exactly as approved by the County Election Commission or Board of State Canvassers.

Make sure that all signers properly complete the petition.

- Each signer must be registered to vote in the city, township or village listed in the heading.
- Each signer must sign and print his or her first and last name.<sup>1</sup>
- Each signer must enter his or her full address. A rural route number is acceptable. A post office box is not acceptable.
- Each signer must enter his or her Zip Code.<sup>2</sup>
- Each signer must date his or her signature with the month, day, and year.

Complete the circulator's certificate after circulating the petition.

- Sign and print your full name and enter the month, day, and year.<sup>1</sup> Signatures on the petition which are dated after the date on the circulator's certificate are invalid.
- Enter your complete residence address (street and number or rural route - do not enter a P.O. Box), city or township, state and zip code.<sup>2</sup>
- If you do not reside in Michigan, enter your county of registration if you are registered to vote in your home state, and make a cross or check mark in the box that precedes the final paragraph of the circulator certificate statement on the left side of the form.

Circulate the petition properly.

- Do not fail to question signers on their city or township of registration.
- Do not complete the heading of the petition after signatures have been affixed on the petition.
- Do not fill in a signer's address or a signer's signature date. Both entries must be in the signer's own handwriting. Ditto marks are not acceptable in these two entries.
- Do not leave the petition unattended.

<sup>1</sup> The failure of the circulator or an elector who signs the petition to print his or her name or to print his or her name in the proper location does not affect the validity of the circulator's or signer's signature. However, a printed name located in the space designated for printed names does not constitute the signature of the circulator or elector.

<sup>2</sup> The failure of the circulator or an elector who signs the petition to enter a Zip Code or to enter his or her correct Zip Code does not affect the validity of the circulator's or signer's signature.



# Legislative Analysis



## HATE CRIMES AND INSTITUTIONAL DESECRATION

House Bills 4474 (proposed substitute H-3) and 4476 (H-2)  
Sponsor: Rep. Noah Arbit

House Bill 4475 (proposed substitute H-2)  
Sponsor: Rep. Kristian Grant

House Bill 4477 (proposed substitute H-2)  
Sponsor: Rep. Ranjeev Puri

Committee: Criminal Justice  
Complete to 6-20-23

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bills 4474 and 4476 would amend the Michigan Penal Code to revise provisions that prohibit hate crimes and to define and prohibit institutional desecration, respectively. The bills would provide for enhanced penalties based on factors such as prior convictions, allow a court to impose alternative sentences under certain conditions, and respectively modify or allow for a civil cause of action. House Bills 4475 and 4477 would make complementary changes to the sentencing guidelines in the Code of Criminal Procedure.

House Bill 4474 would amend provisions of the code that now define and prohibit the crime of ethnic intimidation.

Bruck	Hoadley	Posthumus	VanderWall
Carra	Johnsen	Prestin	VanWoerkom
Cavitt	Kuhn	Rigas	Wendzel
DeBoer	Kunse	Roth	Wozniak
DeBoyer	Lightner	Schmaltz	Zorn
DeSana			

In The Chair: Pohutsky

Pursuant to Joint Rule 20, the full title of the act shall be inserted to read as follows:

"An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates."

The House agreed to the full title.

Rep. Aiyash moved that the bill be given immediate effect.

The motion prevailed, 2/3 of the members serving voting therefor.

House Bill No. 4474, entitled

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 147b (MCL 750.147b), as added by 1988 PA 371.

The bill was read a third time.

The question being on the passage of the bill,

Rep. Arbit moved to substitute (H-3) the bill.

The motion was seconded and the substitute (H-3) was adopted, a majority of the members serving voting therefor.

The question being on the passage of the bill,

The bill was then passed, a majority of the members serving voting therefor, by yeas and nays, as follows:

Roll Call No. 173

Yeas—59

Aiyash	Farhat	McFall	Shannon
Andrews	Filler	McKinney	Skaggs
Arbit	Fitzgerald	Mentzer	Snyder
Brabec	Glanville	Müller	Steckloff
Breen	Grant	Morgan	Stone
Brixie	Haadsma	Morse	Tate
Bymes	Hill	Neeley	Tisdell
Carter, B.	Hood	O'Neal	Tsemoglou
Carter, T.	Hope	Paiz	Wegela
Churches	Hoskins	Pohutsky	Weiss
Coffia	Koleszar	Price	Whitsett
Coleman	Kuhn	Puri	Wilson
Conlin	Liberati	Rheingans	Witwer
Dievendorf	MacDonell	Rogers	Young
Edwards	Martus	Scott	

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From: daniel lawless  
<[recallbreen@gmail.com](mailto:recallbreen@gmail.com)  
(<mailto:recallbreen@gmail.com>)>  
Date: Wed, Aug 16, 2023 at 7:01  
PM  
Subject: Novi Recall Efforts



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Friends,

I am excited to announce that this Monday, August 21st, we expect the Michigan Board of Elections to accept a recall petition to begin the process of recalling our 21st District State Representative, Kelly Breen.

Undertaking this effort is critical to ending the Democrats control of Lansing as soon as possible. We have seen just how devastating their majority can be, and I can't stomach a minute longer.

This effort was initiated after a mathematical analysis of the district and voting patterns

showed that we have a



~~on Monday to run the court again in~~  
2024 general election.

This effort will require the assistance of every precinct delegate and volunteer we can muster. We will have an information and training meeting on MONDAY, August 21st

at 7pm

in the East meeting room of the LIBRARY. It is critical you attend this meeting as the entire signature collection process is limited to 60 days. We cannot afford any delay in our efforts.

I am currently working to ensure our signature collection efforts w



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

September 8, 2023

Dan Lawless  
890 Marshall St  
Portland, MI 48875

Kayla Toma  
2154 Austin Dr.  
Novi, MI 48377

Re: *Brewer v. Lawless et al.*  
Campaign Finance Complaint No. 23-066

Dear Mr. Lawless & Ms. Toma:

The Department of State (Department) has received a formal complaint filed against you by Mark Brewer alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Specifically, the complaint alleges that the two of you are engaging in a coordinated effort to recall State Representative Breen and that this coordinated effort has incurred expenditures of \$500 or more requiring the formation of a committee. Additionally, these actions would require the "Paid for by" disclosure in Section 47 on the recall petitions. A copy of the complaint is included with this notice.

By statutory definition, a committee is formed when "a person receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against [candidate, ballot question, etc.] 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). For purposes of determining whether a committee exists, the word "person" includes "a group of persons acting jointly." 169.211(2).

Section 24 of the MCFA requires committees to file a statement of organization with the proper filing official within 10 days after the committee is formed. MCL 169.224(1). Section 24 details specific requirements for all statements of organization that must be filed. See MCL 169.224(2)-(3). A person who fails to file a timely statement is subject to a civil fine of up to \$1,000. MCL 169.221(13). A person who fails to file a statement of organization shall pay a late filing fee of \$10.00 per business day the report is not filed, not to exceed \$300. MCL 169.224(1). A person failing to file a statement of organization after 30 days is guilty of a misdemeanor punishable by a fine of up to \$1,000. *Id.*

The MCFA requires committees to file contributions and expenditures with the appropriate filing official by specific dates. MCL 169.233(1) – (3). The Act 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 16.233(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). Further, section 34 of the MCFA lists filing requirements specific to ballot question committees.

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].” This includes recall petitions when the expenditure is covered by MCFA. 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).

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 Department’s campaign finance complaint [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](mailto:BOERegulatory@michigan.gov) or mailed to the Department of State, Bureau of Elections, Richard H. Austin Building, 1<sup>st</sup> Floor, 430 West Allegan Street, Lansing, Michigan 48918. 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. Brewer, 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](mailto:BOERegulatory@Michigan.gov).

Lawless et al.  
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Sincerely,

Regulatory Section  
Bureau of Elections  
Michigan Department of State

Enclosure  
c: Mark Brewer



**From:** [Daniel Lawless](#)  
**To:** [MDOS-BOERegulatory](#); [mbrewer@goodmanacker.com](mailto:mbrewer@goodmanacker.com)  
**Subject:** Campaign Finance Complaint No. 23-066  
**Date:** Tuesday, September 19, 2023 1:45:35 PM

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

This email is in reply to a letter I received Friday 9/15/23 regarding Campaign Finance Complaint No. 23-066. The letter requires me to reply within 15 business days of the date of this letter which is dated 9/8/23.

I am confused as to the issue being addressed. The letter was addressed to Kayla Toma and myself. I do not know Kayla Toma and have never had any communication with her. I have never been involved with a recall for Kelly Breen. I have no idea who he/she is or what office that person holds. I live approximately 90 miles from Novi and have no connections to that community. The copy of the email enclosed with this letter was sent from "daniel lawless<[recallbreen@gmail.com](mailto:recallbreen@gmail.com)> and I have connection to that email address.

I believe you have the wrong Daniel Lawless. My own research found a Daniel Lawless in Detroit Michigan who appears to be involved in politics and is likely the person you should be contacting.

This complaint filed by Mark Brewer could have avoided the mistake of involving the wrong person, me, with some basic research. I live in a very small community and am an active member of several non-profit organizations. I am an upstanding individual with a good reputation in my small community and this false accusation from Mark Brewer is slandering my name. I expect a formal apology from Mark Brewer and would expect some compensation for the time it has taken me to make heads and tails of this false accusation.

Dan Lawless  
Portland, Michigan

To: State of Michigan  
Jocelyn Benson, Secretary of State  
Department of State

CC: Mark Brewer

September 21, 2023

**A. RESPONSE TO CAMPAIGN FINANCE COMPLIANT NO. 23-066; BREWER V  
LAWLESS ET AL.**

**1. A COMMITTEE DOES NOT EXIST UNDER MICHIGAN COMPLIED LAWS (MCL)  
169.203(4)**

The question is whether a committee existed under MCL 169.203(4).

A committee is formed when a person receives funds or makes expenditures to attempt to influence voters against a candidate “if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500 or more in a calendar year”. MCL 169.203(4).

I did not do any fundraising or soliciting for funds for any recall. Neither did I make any expenditures of \$500 or more for this or any other recall. Therefore, my actions do not fit the threshold definition put forth by MCL 169.203(4). Hence, a committee did not exist and I did not act as a committee on August 7, 2023 when I signed a circulator to petition the recall of State Representative Kelly Breen.

Since, my actions cannot satisfy its threshold requirement by its definition, a violation under the Michigan Campaign Financing Act (MCFA) did not occur. And, since a violation did not occur, therefore, a Dismissal of this investigation is warranted.

The Dismissal of this part would also include other corresponding rules that center around the existence of a committee, e.g., rules that would require filing when a committee exists—whether that is a formation filing or a filing of a finance report.

2. THERE WAS NO JOINT ACTIVITY AS A COMMITTEE BETWEEN DAN LAWLESS AND I AS DEFINED UNDER MCL 169.211(2)

The question is whether Dan Lawless and I jointly acted to recall State Representative Breen *by satisfying the required continuous and effective communication* in initiating and supporting through soliciting funds, making contributions and fundraising in the said recall effort.

As already stated above, no committee was established under MCFA. I did not participate in soliciting funds, fundraising or spending funds of \$500 or more in respects to the recall. In addition, I also did not do so with Dan Lawless.

Therefore, no soliciting, no fundraising and no spending of funds of \$500 or more occurred with Dan Lawless.

The word "person" includes "a group of persons acting jointly" MLC 169.211(2).

Joint activity exists when there is "*communication within the group* with a view towards making contributions *on behalf of the group*..." Department of State, Interpretive Statement (September 24, 1992).

Continuous communication of persons is required to establish that joint activity existed between those persons under the MCFA.

Continuous communication regarding the recall, between Dan Lawless and I, has not existed prior to the signing of the circulator or even thereafter. Hence, no joint activity can be established between us under the following facts.

Before the signing of the circulator on August 7, 2023, I did not talk to or see Dan Lawless about any recall efforts. We attended no meetings together. Thus, there was NO coordinated effort between us to recall anyone whatsoever, including State Representative Kelly Breen.

After I signed the circulator, a hearing was later schedule by the Board of Canvassers to which I did not attend because, by that hearing date, I had already given up on the recall. The petition was later denied by the Board of Canvassers. After being denied, I did not re-petition the Board because—again—at the point in time, I had already given up on the recall.

The last date I spoke to or saw Dan Lawless was August 14, 2023. There has been no contact since. I have not spoken to or seen him in over a month.

Dan Lawless allegedly emailed a group of people using the [recallbreen@gmail.com](mailto:recallbreen@gmail.com) email address. I have no affiliation with that email address. I was not a recipient of that email either. In that email, there was an event that was allegedly occurred on August 21, 2023. I did not show up to support that event in any way. I have not exerted any effort towards group activity with Dan Lawless regarding this recall. And, because there is no

continuous communication regarding the recall, therefore, there was no joint activity with Dan Lawless even after August 7, 2023.

I submit to the Department that it is unreasonable, based on the information I provided, to make the connection that there was *continuous* communication either before or after I filed the circulator on August 7, 2023. Therefore, I also submit to the Department, I am not jointly and severally liable with Dan Lawless in any recall efforts against Kelly Breen. In addition, the question of joint and several liability too should be Dismissed by the Department because, accordingly with these facts, no violations were made under MCFA. It is just individuals living their individual lives without conspiring with one another.



3. UNDER THE FACTS, I WAS NOT REQUIRED TO FILE A FORMATION OF A COMMITTEE UNDER MCL 169.203(4).

The question is whether it was necessary to file a statement of organization of a committee.

A committee is formed when a person receives funds or makes expenditures to attempt to influence voters against a candidate “if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500 or more in a calendar year”. MCL 169.203(4).

A *committee* shall file a statement of organization after 10 days of formation, MCL 169.224(1).

Here, I have already argued no committee could not be established under MCL 169.203(4) because the threshold requirement was not met. Because no committee should have been established under MCFA, it was not necessary to file a statement of organization of a committee that did not form. Hence, no violation of MCL 169.224(1) took place when I did not file a statement of organization.

Therefore, no violation of the MCFA occurred: warranting a Dismissal by the Department due to lack of violation under the Act.

4. I WAS NOT REQUIRED TO NOT FILE A FINANCE REPORT UNDER MCFA.  
The question is whether I should have been required to file a finance report under MCL 16.233(6).

A committee is formed when a person receives funds or makes expenditures to attempt to influence voters against a candidate "if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500 or more in a calendar year". MCL 169.203(4).

MCFA requires *committees* to file contributions and/or expenditures of \$1,000 or more by requiring the filing of campaign finance reports. MCL 16.233(6).

Here, as already argued, a committee was never established under MCL 169.203(4) due to my actions not being able to satisfy the threshold requirement under the rule. Me not filing a finance report does not violate MCL 16.233(6) because I have not solicited funds, raised funds or spent funds of \$1,000 or more in this recall. Hence, I did not violate the MCFA by not filing a finance report since no finance report is required under these facts.

Therefore, no violations of MCL 16.233(6) or MCL 169.203(4) were made by. Thus, I also ask that the Department Dismiss this part of the investigation because no violation has occurred under the MCFA.

5. I WAS NOT REQUIRED TO WRITE A DISCLAIMER UNDER THE FACTS ACCORDING TO MCFA AND CORRESPONDING ADMINISTRATIVE RULES.  
The first question is whether I was required to use a disclaimer on the circulator when I signed it on August 7, 2023.

The answer is no, I was not required by the Act because I was an individual acting independently when I signed the circulator on August 7, 2023.

The second question is whether I should be penalized with a misdemeanor crime for knowingly violating MCFA.

The answer is also no. I am not familiar with campaign finance law. I cannot knowingly violate something I have never researched or studied. Therefore, if the Department decides I did violate MCFA, I petition the department to not find me guilty of a misdemeanor offense as illustrated by MCL 169.247(1).

MCFA and corresponding administrative rules require a "paid for" disclaimer on recall petitions as required by MCFA; if a person knowingly violates the disclaimer rule, this will result in a misdemeanor offense that is punishable by a fine up to \$1,000; imprisonment up to 93 days; or both. MCL 169.247(1).

"An individual, other than a candidate, is not subject to this subsection if the individual is acting independently and not acting as an agent for a candidate or any committee" MCL 169.247(1).

A candidate is a person who is/was officially backed by his/her political party, who has received donations for his/her campaign, etc. under MCFA.

I am not a candidate. I have not been back by any political party—officially or otherwise—I have not raised any money for a campaign, etc. Hence, because I would not meet the definition of a candidate, I would also not be required to use a disclaimer under the MCFA. Therefore, I did not violate MCL 169.247(1) when I did not use a disclaimer as a non-candidate.

Under the law, an agent of a candidate is someone who either implicitly or explicitly represents to another that she or he represents a candidate.

I am not an agent of a candidate. I have neither implicitly or explicitly ever acted to a third party for a candidate's benefit. When I signed the circulator, I was not, and have not been, contractually employed or otherwise to represent a candidate. There has been no agreement or meeting of the minds with anyone in such a way. Hence, because there was no agency with a candidate, and no representations to a third party that I am acting, explicitly or impliedly, for a candidate, then I was not required to use a disclaimer. Therefore, I did not violate MCL 169.247(1) when I did not use a disclaimer as a non-agent of a candidate.



A committee is formed when a person receives funds or makes expenditures to attempt to influence voters against a candidate "if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500 or more in a calendar year". MCL 169.203(4). As argued above, because I did not meet the threshold requirement to be considered a committee under MCFA, I cannot be considered a committee under the facts.

Hence, because there was no committee, I was not required use a disclaimer. Therefore, I did not violate MCL 169.247(1) when I did not use a disclaimer under this argument.

However, under the facts and under MCL 169.247(1), I am an individual. And, in accordance with MCFA, I am not subjected to the rule requiring a disclaimer to be placed on the circulator. Because I am not a candidate put forth by some political party; and I am not an agent of a candidate; and because no committee existed under the MCFA, therefore, the Department should find that I acted independently, as an individual, under MCL 169.247(1).

As argued before, there was no joint effort in the recall with Dan Lawless because there was no continuous communication as required by MCFA and because there was no joint action in soliciting funds, raising funds, and spending funds for this recall. I believe that the only reasonable nexus is NOT that individuals are conspiring to work in a joint effort to recall an elected official or that there exists a committee because an email was used or a petition was signed: rather, individuals want elected officials to know and to represent the voices that go unheard.

I acted for myself—not for a committee, not in a joint enterprise, not as a representative, and not as a candidate—I acted as a private citizen. I acted independently in expressing my concern for lack of religious representation while utilizing my right to express political speech. Hence, as an individual, I was not required to use a disclaimer under the MCFA.

Therefore, I did not violate MCFA when I did not use a disclaimer on the circulator as an individual.

Because, no violation of MCFA or MCL 169.247(1) occurred under these facts due to the non-use of a disclaimer, I ask the Department to also Dismiss this part of this investigation for lack of violation under MCFA.

**B. SUMMARIZED RESPONSE:**

I was not familiar with MCFA until I received a letter in the mail regarding a formal complaint submitted by Mr. Brewer. It was not my intention to knowingly break rules or to omit information that would be considered a violation of the MCFA. With that being said, I still do not believe I violated any law under the MCFA.

Hearing that independent individuals, like myself, are expressing their want to recall elected officials is something I do not find surprising because there are views, like mine, that are being underrepresented by elected officials from both sides of the isle.

The State Department should not pursue this alleged campaign violation(s) for the following the following reason: the explanations for each alleged violation should prompt the Department to either Dismiss in whole, or in part, the investigation. Below, I make that request in brief detail, summarizing why no violation occurred and triggering the Departments response under R.169.53.

**C. SUMMARY DISMISSAL REQUEST**

The question is whether, under the facts, the Department should issue a Dismissal of the investigation.

If the Department determines that the complaint, in whole or in part, does not further warrant an investigation, then the complaint will be Dismissed under R. 169.53.

Summary Dismissal is required if the complaint is frivolous (R.169.53); and/or the alleged activity in the complaint does not constitute a violation of the MCFA (R.169.53).

Under MCFA, I am requesting that this investigation be Dismissed in its entirety—if not, in parts—due to the following reasons:

1. A committee did not exist because the threshold requirement was not met. See above section(s) for a detailed explanation. Therefore, no violation occurred under MCFA, warranting its Dismissal under MCFA (R.169.53).
2. No committee was formed so no filing of formation was required. See above section(s) for a detailed explanation. Therefore, no violation occurred under MCFA, warranting its Dismissal under MCFA (R.169.53).
3. No joint activity existed because there was no continuous communication with Dan Lawless as required under MCFA. See above section(s) for a detailed explanation. Therefore, no violation occurred under MCFA, warranting its Dismissal under MCFA (R.169.53).



4. No committee existed; therefore, no committee finance reports were required to be filed. See above section(s) for a detailed explanation. Therefore, no violation occurred under MCFA, warranting its Dismissal under MCFA (R.169.53).
5. A disclaimer was not required because I was acting independently as an individual, not tied to any candidates or a committee. See above section(s) for a detailed explanation. Therefore, no violation occurred under MCFA, warranting its Dismissal under MCFA (R.169.53).

Because of the reasons stated above, in considering the totality of the facts, that therefore, the Department should Dismiss in whole, or in part, its investigation.

Respectfully Submitted,



Kayla Toma  
2154 Austin Drive  
Novi, MI 48377  
(248) 303-1175

Dated: 9/22/23

*sworn and subscribed  
before me This 22nd day  
of September 2023 by  
Kayla Toma.*





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

September 26, 2023

Mark Brewer  
17000 W. 10 Mile Rd  
Southfield, MI 48075

Re: *Brewer v. Lawless et al.*  
Campaign Finance Complaint No. 23-066

Dear Mr. Brewer:

The Department of State has received a rebuttal to your response regarding your alleged violation of the Michigan Campaign Finance Act, 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the rebuttal is provided as an attachment with this letter.

At this point, the Department will commence the determination phase of the campaign finance complaint process, during which time all submitted materials will be reviewed. Within 45 business days of its receipt of the enclosed rebuttal, the Department will make a determination as to whether there may be reason to believe that a violation of the MCFA occurred. If you have any questions about this process, you may contact [BOERegulatory@Michigan.gov](mailto:BOERegulatory@Michigan.gov).

Sincerely,

Regulatory Section  
Bureau of Elections  
Michigan Department of State

Attachment  
c: Dan Lawless



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

September 26, 2023

Mark Brewer  
17000 W. 10 Mile Rd  
Southfield, MI 48075

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Sincerely,

Regulatory Section  
Bureau of Elections  
Michigan Department of State

Attachment  
c: Kayla Toma





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

November 13, 2023

Dan Lawless  
890 Marshall St  
Portland, MI 48875

Kayla Toma  
2154 Austin Dr.  
Novi, MI 48377

Re: *Brewer v. Lawless et al.*  
Campaign Finance Complaint No. 23-066

Dear Mr. Lawless & Ms. Toma:

The Department of State (Department) has finished investigating the campaign finance complaint filed against you by Mr. Brewer alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the disposition of that complaint.

The complaint alleged that you should have formed a committee for your coordinated effort to recall State Representative Breen.

Mr. Lawless responded to the complaint notice indicating that Mr. Brewer filed the complaint against the incorrect Dan Lawless. As a resident of Portland, MI Mr. Lawless has no connection or involvement in the efforts to recall State Representative Breen.

Ms. Toma responded to the complaint notice denying any coordinated effort to Recall Representative Breen and denying raising or spending \$500 which would require the formation of a committee.

Mr. Brewer didn't submit a response to your rebuttal.

Section 24 of the MCFA requires committees to file a statement of organization with the proper filing official within 10 days after the committee is formed. MCL 169.224(1). Section 24 details specific requirements for all statements of organization that must be filed. See MCL 169.224(2)-(3). A person who fails to file a timely statement is subject to a civil fine of up to \$1,000. MCL 169.221(13). A person who fails to file a statement of organization shall pay a late filing fee of \$10.00 per business day the report is not filed, not to exceed \$300. MCL 169.224(1). A person

failing to file a statement of organization after 30 days is guilty of a misdemeanor punishable by a fine of up to \$1,000. *Id.*

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.

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](mailto:BOERegulatory@Michigan.gov).

Sincerely,

A handwritten signature in dark ink, appearing to read "Jimmy Biehl". The signature is written in a cursive, slightly slanted style.

Jimmy Biehl, Regulatory  
Attorney Regulatory Section  
Bureau of Elections  
Michigan Department of State