



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 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 169.209(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 Jaime Churches, and that there was a failure to place an identification on the recall petition and novelty items. For details, see the attached.

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

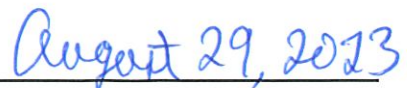
See Attached

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.



Signature of complainant



Date

Section 5. Certification without Evidence *(supplemental to Section 4)*

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

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

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. 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 Jaime Churches, and that there was a failure to place an identification on the recall petition and novelty items. These organizations and individuals are jointly and severally liable for those violations.

1. **Sebastian Palamara:** Palamara signed the circulator certificate on the petition to recall State Representative Jaime Churches.

519 Cedar Street
Wyandotte, MI 48192

2. **Frank Tarnowski:** Tarnowski was listed as the contact person on the letter from the Board of State Canvassers to State Representative Churches notifying her of the recall petition pending against her.

1106 15th Street
Wyandotte, MI 48192

3. **Fenix Ammunition:** Fenix Ammunition created a bag of bullets advocating for the recall of State Representative Churches.

42920 W. 10 Mile Road, Unit 13-18
Novi, MI 48375

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. 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.*

Committee Registration & Formation

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), available at 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), available at https://www.michigan.gov/sos/-/media/Project/Websites/sos/04delrio/Ayers_1993.pdf?rev=ed6871ecdad749798fba8a16bcc7aeeb&hash=BEECF814EE213C937A3811FBCCC58B29.

Coordination existed between Sebastian Palamara and Frank Tarnowski. Palamara signed the circulator certificate on the petition to recall State Representative Churches, and Tarnowski was listed as the contact person on the letter from the Board of State Canvassers to State Representative Churches notifying her of the recall petition pending against her.

These individuals are coordinating to initiate and support the recall of State Representative Churches. In other words, they are “acting jointly.” Based on information and belief, “there is communication” between the 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. Funds were spent to prepare and file the recall petition. On July 31, 2023, a plane circled over a Churches event with a banner that read, “Recall Jaime Churches.” A picture of the banner above and flight data for the plane are attached. Paying for that aerial banner was clearly more than \$500.00. In addition, at least one bag of bullets advocating State Representative Churches’ recall has been created and posted on social media. A picture is attached. These individuals 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) and put their committee disclaimer on the petition. They failed to include an identification on the recall petition, thus violating the MCFA.

The bag of bullets advocating for State Representative Churches’ recall also should have had a committee identification. The bag of bullets constituted a “printed matter” in the form of a novelty item. Unless exempted by the Bureau of Elections, novelty items must include identifications. MERTS, Appendix J: Identification Requirements. Bags of bullets have not received an exemption by the Bureau of Elections, *see id*, so an identification is required. These individuals failed to include a committee identification on the bag of bullets, thus violating the MCFA.

Independent Expenditure

In the alternative, Fenix Ammunition produced the bag of bullets of its own accord. If that is the case, the bag of bullets advocating for the recall of State Representative Churches constituted an independent expenditure by Fenix Ammunition.

Under the MCFA, an “independent expenditure” is an expenditure “by a person . . . not made in cooperation, consultation, or concert with, or at the request or suggestion of, a ballot question committee or a candidate, a candidate committee or its agents, or a political party committee or its

agents, and if the expenditure is not a contribution to a committee.” MCL 169.209(2). The MCFA defines “person” to include a “business.” MCL 169.211(2).

“Printed matter[s]” that constitute independent expenditures are subject to the identification requirements. *See* MCL 169.247(1); *see also* MERTS, Appendix J: Identification Requirements.

Because Fenix Ammunition is a “business,” the bag of bullets constituted an independent expenditure, and the bag of bullets was a “printed matter,” Fenix Ammunition is required to comply with MCL 169.247(1). Fenix Ammunition failed to include an identification on the bag of bullets advocating for State Representative Churches’ recall, thus violating the MCFA.

INSTRUCTIONS ON REVERSE SIDE

RECALL PETITION

FOR CLERKS USE ONLY

We, the undersigned, registered and qualified voters of the ☐ City ☐ Township ☐ Village of Wayne in the County of Wayne and State of Michigan, petition for the calling of an election to recall Jaime Churches from the office of State Representative 27 for the following reason(s):
On June 20, 2023, State Representative Jaime Churches voted yes on Michigan House Bill 4474.

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 JUL 12 AM 10: 15
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.

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

Sebastian Palamara
(Signature of Circulator)
SEBASTIAN PALAMARA
(Printed Name of Circulator)
519 CEDAR
(Complete Residence Address (Street and Number or Rural Route)) - [Do not enter a post office box]
Wayne MI 48192
(City or Township, State, Zip Code)
Wayne
(County of Registration, if Registered to Vote, of a Circulator who is not a Resident of Michigan)

71 121 23
(Date)

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.

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.¹
- 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.²
- 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.¹ 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.²
- 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.

¹ 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.

² 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.



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	Miller	Steckloff
Breen	Grant	Morgan	Stone
Brixie	Haadsma	Morse	Tate
Byrnes	Hill	Neeley	Tisdell
Carter, B.	Hood	O'Neal	Tsernoglou
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	



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

July 13, 2023

Jaime Churches
2122 1st Street
Wyandotte, MI 48192

Mark Brewer
Attorney for Jaime Churches

Via email: mbrewer@goodmanacker.com

Dear Ms. Churches:

Please be advised that on July 12, 2023, a petition seeking your recall from elective office was submitted to the Board of State Canvassers by Sebastian Palamarn. The reason for recall appears on the petition form, a copy of which is enclosed with this notice.

The reason for recall as stated in the heading of the petition reads as follows:

On June 20, 2023, State Representative Jaime Churches voted yes on Michigan House Bill 4474.

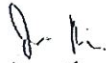
The Board of State Canvassers is required by law to determine whether each reason for recall printed in the heading of the petition is factual and of sufficient clarity to enable the officer whose recall is sought and voter to identify the course of conduct that is the basis for the recall. MCL 168.951a. Each reason for recall printed on the petition must be based on conduct during the officer's current term of office. *Id.* If any reason is determined by the Board of State Canvassers to be not factual or sufficiently clear, the entire recall petition must be rejected. *Id.* The Board of State Canvassers must meet to consider the legal sufficiency of the reasons for recall between the 10th and 20th day after the recall petition is submitted to the Secretary of State. *Id.* **The Board of State Canvassers will meet for this purpose on Tuesday, August 1, 2023 at 10:00 a.m. at the Binsfeld Office Building, 201 Townsend Street, Lansing, MI 48933. You and Mr. Palamarn may appear at the meeting and present arguments regarding whether each reason for recall printed on the petition is factual and of sufficient clarity.**

Additionally, you may file written arguments or other materials that refute the reasons for recall stated on Mr. Palamarn's petition form; please refer to the enclosed "Clarity/Factual Hearing Instructions" document for further information. You may email your response at least 1 business day prior to the meeting to MDOS-Canvassers@Michigan.gov. **All materials must be received in this office by Friday, July 28, 2023.**

Jaime Churches
State Representative
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If you have any questions regarding this notice, please email MDOS-Canvassers@Michigan.gov.

Sincerely,



Jonathan Brater, Director
Secretary, Board of State Canvassers

c: Sebastian Palamarn, c/o Frank Tarnowski

RECALL JANE CHURCHES

N9627P PA18

Private owner

flightradar24



Aircraft photo not available

If you have a photo and want it to appear on Flightradar24, upload it to jetphotos.com

N/A



N/A

NOT AVAILABLE

NOT AVAILABLE



AIRCRAFT TYPE (PA18)

Piper PA-18-150 Super Cub

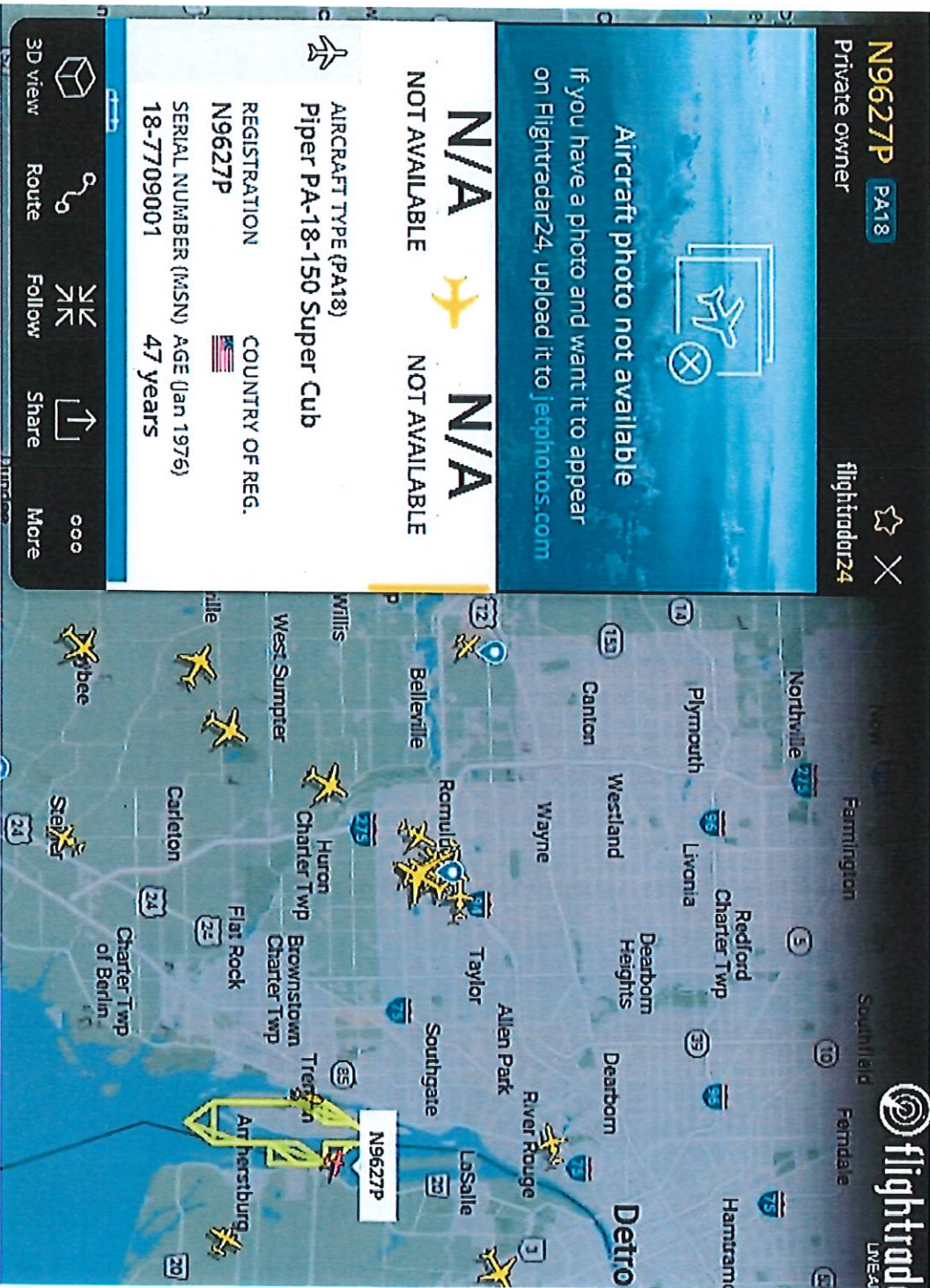
REGISTRATION

N9627P

COUNTRY OF REG.

SERIAL NUMBER (MSN) AGE (Jan 1976)

18-7709001 47 years





Fenix Ammunition ✓
@FenixAmmunition

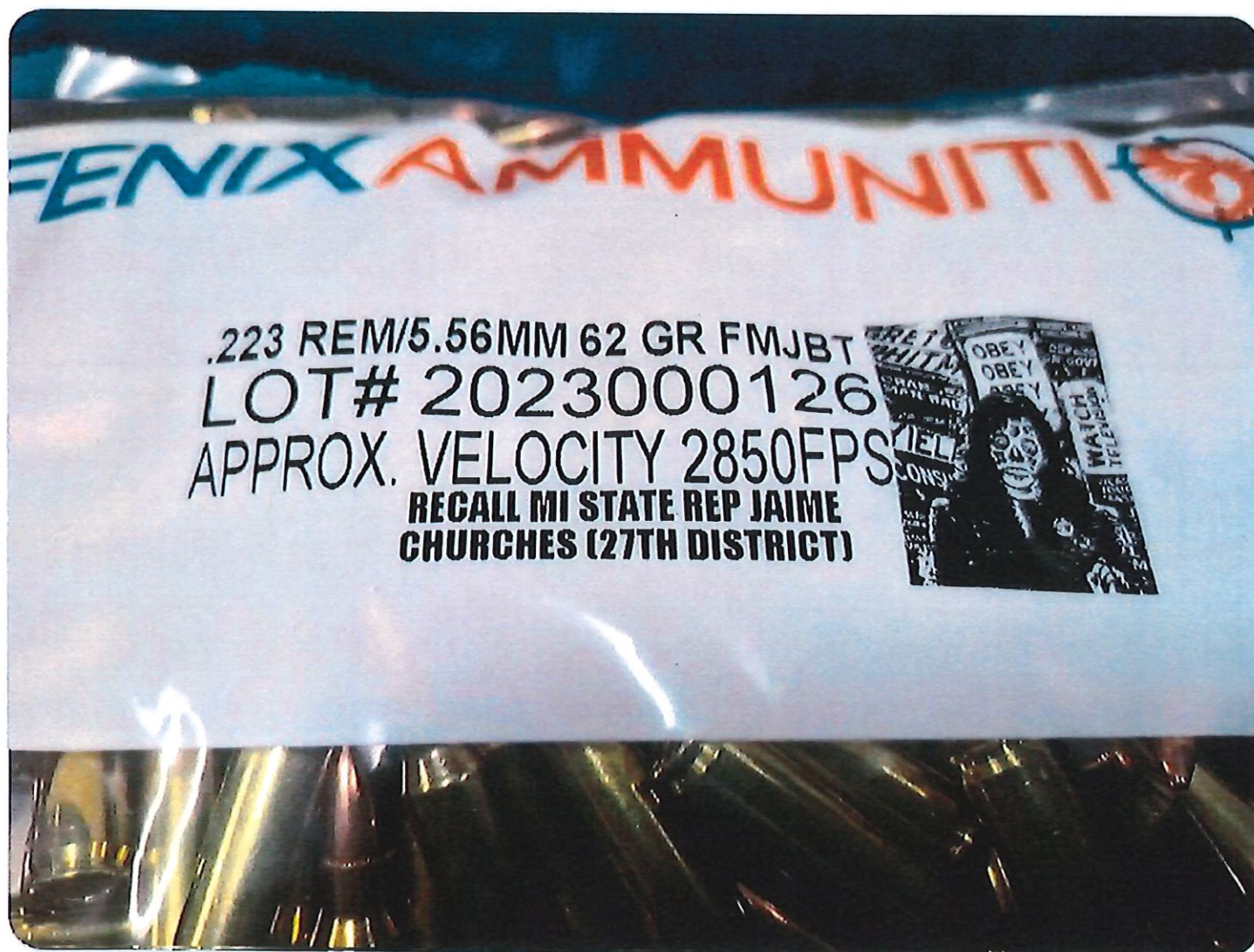
...

Today's propaganda:

Recall MI State Rep [@Jaime_Churches](#).

Jamie's a "Downriver girl", if you know what I mean. She represents the 27th district and she never met a Constitutional infringement she didn't like.

Put her back at the Starbucks drive-thru, where she belongs.





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

September 8, 2023

Sebastian Palamara
519 Cedar St.
Wyandotte, MI 48192

Frank Tarnowski
1106 15th Street
Wyandotte, MI 48192

Fenix Ammunition
42920 W. 10 Mile Rd, Unit 13-18
Novi, MI 48375

Re: *Brewer v. Palamara et al.*
Campaign Finance Complaint No. 23-067

Dear Mr. Palamara, Mr. Tarnowski, & Fenix Ammunition:

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 three of you are engaging in a coordinated effort to recall State Representative Churches 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.

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).

Alternatively, if Fenix Ammunition acted alone in the production of the bullets and the label advocating for the recall of Jamie Churches this would be considered an independent expenditure under section 47 of MCFA. Section 47 (1) of MCFA contains identification requirements for printed materials considered an independent expenditure that advocates for the elections or recall of a candidate.

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 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 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.

Palamara et al.

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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

Enclosure
c: Mark Brewer

Walter L. Baumgardner, Esq
22197 Morley
Dearborn, Mi, 58124
mbwp@aol.com

Jonathan Brater, Director
Secretary, Board of State Canvassers.

Sebastian Palamara
313 Cedar St
Wyandotte, Mi. 48192

Frank Tarnowski
1106 15th Street
Wyandotte, Mi. 46192

Re: Brewer v. Palamara et al
Campaign Finance Complaint No. 23-067.

Dear Mr. Brater,

This response is filed solely on behalf of Sebastian Palamara and Frank Tarnowski.

The Complaint filed by Mr. Brewer contains several false assumptions.

There was no committee formed to carry out the proposed recall. There was no committee, as set forth in the relevant statutes in view of the denial of the Petition to Recall by the Board of Canvassers on August 1, 2023. Mr. Brewer attended the hearing in Lansing and was well aware of the denial.

There was no effort made to collect funds nor was there any expenditure of funds,

The fact that Mr. Brewer was at the hearing on August 1, representing Ms. Churches, he knew, or should have known, that the Application for the Recall Petition had been denied and there would be no Recall. No appeal has been filed.

THE ARTICLE

An effort to recall one Democratic state representative is moving forward after the Michigan Board of State Canvassers gave its approval Monday.

The petition targets Representative Sharon MacDonell (D-Troy) for voting in favor of a bill to

keep firearms from those deemed a threat to themselves or others.

Attorney Mark Brewer represents MacDonell. He said the petition needs to describe that legislation in further detail.

As approved, the petition reads, “On April 13, 2023, State Representative Sharon MacDonell voted “yes” on Michigan House Bill 4145 creating the Extreme Risk Protection Act, i.e. “Red Flag” Law.”

Brewer unsuccessfully argued before the board that “red flag” wasn’t descriptive enough.

“It’s not defined in the reason for the petition, and it is capable of many, many different meanings, leaving the signers to guess as to what that is,” Brewer said.

He said he planned to challenge the board’s approval before the state Court of Appeals. That could delay petition circulation by up to 40 days, depending on how long it takes to get a ruling.

A successful recall campaign could threaten the slim two-seat Democratic majority in the state House.

A Republican House lawmaker, Rep. Cam Cavitt (R-Cheboygan) is also facing a recall effort.

Recall petitions against five other Democratic House lawmakers were also under consideration before the Board of State Canvassers on Monday.

One also dealt with the extreme risk protection order legislation. The other four petitions involved a bill to outlaw hate crimes.

A divided board, however, decided 2-1 the rest of the efforts didn’t include enough details about their respective legislation.

Board member Tony Daunt disagreed with the decision to hold the petitions back.

“If you’re unclear, you can always decline to sign these things. Nobody’s holding a gun to their head and saying you must sign this. If you are a petition circulator, if you’re organizing a campaign like this, it would behoove you to be as clear and as factual up front as you can be,” Daunt said.

The organizers of the rejected petitions have the option of coming back with an updated version. Four of the six considered Monday also had earlier versions blocked at an August 1 meeting.

A few concerns regarding those petitions that had been expressed at that earlier meeting involved them being handwritten and not including any disclaimer explaining who was paying for the effort.

Each of the petitions included similar wording, leading to speculation of a coordinated effort.

Brewer told reporters he planned on filing a campaign finance complaint against the sponsors of each of the petitions, in addition to other groups he claimed had promoted the efforts.

“All these people that are working together should have formed a committee and it’s illegal for them not to form a committee and then report on their finances,” Brewer said.

None of the petition sponsors spoke at Monday’s meeting.

THE LAW IS VERY CLEAR

The State statute very clearly lays out the way forward, which did not happen

168.951a Recall petition under MCL 168.959; requirements; submission to board of state canvassers; determination that reason for recall is factual and of sufficient clarity; notice; meeting; presentation of arguments; appeal; validity of petition.

Sec. 951a.

(1) A petition for the recall of an officer listed in section 959 must meet all of the following requirements:

(a) Comply with section 544c(1) and (2).

(b) Be printed.

(c) State factually and clearly each reason for the recall. Each reason for the recall must be based upon the officer's conduct during his or her current term of office. The reason for the recall may be typewritten. If any reason for the recall is based on the officer's conduct in connection with specific legislation, the reason for the recall must not misrepresent the content of the specific legislation.

(d) Contain a certificate of the circulator. The certificate of the circulator may be printed on the reverse side of the petition.

(e) Be in a form prescribed by the secretary of state.

(2) Before being circulated, a petition for the recall of an officer under subsection (1) must be submitted to the board of state canvassers.

(3) The board of state canvassers, not less than 10 days or more than 20 days after submission to it of a petition for the recall of an officer under subsection (1), shall meet and shall determine by an affirmative vote of 3 of the members serving on the board of state canvassers whether each reason for the recall stated in the petition is factual and of sufficient clarity to enable the officer whose recall is sought and the electors to identify the course of conduct that is the basis for the recall. If any reason for the recall is not factual or of sufficient clarity, the entire recall petition must be rejected. Failure of the board of state canvassers to meet as required by this subsection constitutes a determination that each reason for the recall stated in the petition is factual and of sufficient clarity to enable the officer whose recall is being sought and the electors to identify the course of conduct that is the basis for the recall.

Therefore, the Complaint must be dismissed.

Walter L. Baumgardner, Esq,

WLB/ss/ (P28935)

DANIEL J WHOLIHAN – Attorney at Law
P.O. Box 1182
Brighton, MI 48116
(517) 896-9992

September 19, 2023

Michigan Department of State
Department of Elections
430 West Allegan
Lansing, MI 48918

Dear Bureau of Elections:

Re: Brewer v. Palamara et al (Fenix Ammunition, LLC)

Please be advised that I am representing Fenix Ammunition LLC (Fenix) in this complaint. Attorney Mark Brewer filed a complaint with several campaign finance allegations. I am only representing Fenix and not representing Mr. Palamara or Mr. Tarnkowski in this matter and will not be addressing any allegations against those two individuals.

Fenix Ammunition, LLC is a business in Novi, Michigan owned by Mr. Justin Nazaroff, which manufactures ammunition. They are not in the business of politics, although politics does greatly affect their business as legislation and proposed legislation impacts their customers. Most of Fenix's business is conducted online. The ammunition produced for their customer is placed into bags which have labels on them. The printing of the labels for the bags is done in house. The labels on the bags have the name of the company, the type of ammunition purchased, the lot number, and approximate velocity when fired. At the end of the label is a message which varies from time to time, usually related to general 2nd Amendment and Article 1 Sec 6 advocacy in regard to the Right to Keep and Bear Arms. The costs of a bag and the printing of the label on the bag is negligible and less than one cent per bag. On one occasion, Fenix exercised his 1st Amendment rights in regards to Representative Jaime Churches, her statements, and her voting record, which is what results in the complaint we see here today.

We are addressing the allegations against Fenix and the statutes cited in order:

- MCL 169.203(4) references a "Committee." Fenix Ammunition, LLC, is a Limited Liability Company (LLC) owned by Justin Nazaroff. The statute specifically states "An individual, other than a candidate, does not constitute a committee." Mr. Nazaroff, nor any employees of Fenix, have been knowingly in contact with Mr. Palamara or Mr. Tarnkowski. Neither of those two individuals were even customers of Fenix. There was no coordination with those individuals in political matters. Neither Mr. Nazaroff, nor any

Fenix employees, have been involved with circulating or drafting a recall petition of Rep Churches, nor were they aware of the banner which stated “Recall Jaime Churches.” Fenix has not solicited any funds from individuals for any purposes besides regular non-political transactions in the ordinary course of business. Fenix is an independent “person” under the Michigan Campaign Finance Act, and is thus not required to form a Committee. Attorney Brewer has not provided any evidence of any coordination between Fenix and the other two individuals. That is because no evidence exists.

- MCL 169.205(2) references an election. While “recalls” are considered elections, no recall petition was approved for Representative Churches. There is no recall election pending. There were no signatures circulated because the Board of Canvassers did not approve the petition. - <https://michiganadvance.com/2023/08/01/recall-petition-for-one-lawmaker-approved-seven-rejected/>
- MCL 169.209(2) references definition of “independent expenditures.” “Independent expenditure” means an expenditure by a person if the expenditure is not made in cooperation, consultation, or concert with, or at the request or suggestion of, a ballot question committee or a candidate, a candidate committee or its agents, or a political party committee or its agents, and if the expenditure is not a contribution to a committee.” Fenix spent an extremely small amount of money to print a label on a bag, then posted it on social media. The cost to print that label was less than one cent. The post of that picture on social media did not cost anything. The question whether this applies is if a recall petition that is rejected counts as an “election” the same way as if the recall petition is approved.
- MCL 169.211(2) references the definitions of “person” and “committee.” A “person” includes a business and Limited Liability Company for the purposes of Michigan Campaign Finance Law. Sec 203(4) already stated that an individual, other than a candidate, does not constitute a committee.
- MCL 169.224(1) references the requirement of a committee to form a Statement of Organization. Fenix is not a committee. Fenix did not coordinate with any other entities in any recall campaign, including a recall campaign against Rep Churches. Therefore, there is no requirement for Fenix, a “person,” under Sec 211(2) to form a Statement of Organization.
- MCL 169.233 references required campaign statements. These are required for committees. However, Fenix is a “person” under Sec 211(2) and is not a committee. Therefore, Fenix is not required to file quarterly or pre-post election campaign statements.
- MCL 169.247(1) references disclaimers. Fenix Ammunition is not a political organization. It is an ammunition business and LLC owned by Mr. Justin Nazaroff. Under Attorney General Opinion 6807, ““contributions or expenditures to a candidate from a limited liability company may be attributed to individual members of the company.”” While the label is not a direct or in-kind “expenditure” to a candidate, it is

considered an “independent expenditure,” under MCFA, if a rejected recall reference is considered an election. The bag is a printed matter of an “individual” (Mr. Nazaroff) acting independently and not as an agent for a candidate or committee. “”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. As this is a individual acting alone, a disclaimer is not necessary.

<https://mertsplus.com/mertsuserguide/index.php?n=MANUALS.AppendixJ>

- In addition, the Secretary of State in “Sawicki” exempted “labels” from disclaimers. The “electioneering message,” if any, was a label on the bag. A list of “exempted items” is also on the same page as Appendix J.

<https://mertsplus.com/mertsuserguide/index.php?n=MANUALS.AppendixJ>

- Attorney Brewer also mentioned an alternative theory of Independent Expenditure in terms of a required disclaimer. We earlier addressed the matter of the disclaimer of an individual acting alone, as well as labels being exempt from disclaimers. The same arguments in regards to disclaimers applies with independent expenditures.

In this entire complaint, the only evidence Attorney Brewer presented in regards to Fenix was a picture of a social media post that had a picture of a label on a bag. That’s it. There is no evidence of coordination presented with the other individuals who are not customers and live 45 minutes away from Novi. That’s because no evidence exist. Unfortunately, this is another example of “lawfare” from a known partisan attorney representing an angry State Representative who has a thin skin due because she does not wish to be held accountable for her authoritarian votes. Mr. Brewer, representing his politician client, is using the campaign finance complaint process in an authoritarian attempt to intimidate less political minded individuals from being involved in the political process. It is unfortunately par for the course these days in political law. Mr. Brewer has filed multiple campaign finance complaints against individuals in the past. Perhaps the Secretary of State’s office should enact a “sanctions” process for future frivolous complaints, especially when they are drafted by an attorney who should know better than to file baseless complaints without proof. The Michigan Rules for Professional Conduct state that “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous.” *Mich. R. Prof'l. Cond.* 3.1 Attorneys should know better and only make allegations that are provable. All Attorney Brewer proved was that a low cost exempted item (label) from a company had a potential electioneering message (if a rejected petition is considered part of a recall election) on it that was posted to social media. That’s still legal these days in the State of Michigan.

Fenix and Mr. Nazaroff used his 1st Amendment and Article 1 Sec 5 Rights under the United States and Michigan Constitutions to express his political opinion and free speech which was expressed on a label and a social media post. That is still allowed in the United States and State of Michigan. There’s a reason why MCFA statute exempted persons from being required to form a Political Action Committee. In terms of disclaimers, Fenix Ammunition LLC, or its member,

Mr. Nazaroff, is an individual who acted independently and was not required to print a disclaimer on an item (label) that is exempted per the *Sawicki* statement by the Bureau of Elections.

Due to the lack of merit of the allegations presented, we request that all matters in this complaint against Fenix Ammunition, LLC be dismissed with prejudice. Thank you for your time.

Sincerely:

Daniel J Wholihan
Attorney at Law
(517) 896-9992



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. Palamara et al.*
Campaign Finance Complaint No. 23-067

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.

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

Attachment

c: Sebastian Palamara & Frank Tarnowski c/o Walter L. Baumgardner, Esq



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

September 26, 2023

Mark Brewer
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Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

Attachment
c: Fenix Ammunition c/o Attorney Daniel J. Wholihan



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

November 14, 2023

Walter L. Baumgardner
22197 Morley
Dearborn, MI 58124

Sebastian Palamara
519 Cedar St.
Wyandotte, MI 48192

Frank Tarnowski
1106 15th Street
Wyandotte, MI 48192

Daniel J Wholihan
P.O. Box 1182
Brighton, MI 48116

Fenix Ammunition
42920 W. 10 Mile Rd, Unit 13-18
Novi, MI 48375

Re: *Brewer v. Palamara et al.*
Campaign Finance Complaint No. 23-067

Dear Mr. Baumgardner & Mr. Wholihan:

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

The complaint alleged that your clients should have formed a committee for their coordinated effort to recall State Representative Jaime Churches.

Mr. Wholihan on behalf of your client Fenix Ammunition denied any coordinated effort to recall State Representative Jamie Churches. The response indicated that Fenix Ammunition acted alone when they printed the label for their bags supporting the recall of Jamie Churches. The printing of the labels was done in-house with minimal cost.

Mr. Baumgardner on behalf of your clients Mr. Palamara & Mr. Tarnowski indicated that your clients were not soliciting contributions or making expenditures that would have required 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 requirement to form a committee is not contingent on the recall being approved by the Board of State Canvassers. Thus, recall activities that are either a contribution or expenditure are subject to MCFA when the monetary threshold is met.

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.

Sincerely,

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

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

c: Mark Brewer