

Michigan Department of State RECEIVED/FILED Campaign Finance Complaint FOR PR - 3 PM 2: 36

ELECTIONS/GREAT SEAL

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.

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Section 1. Complainant		
Your name		Daytime telephone number
		(249) 845-0831
Richard Briand Mailing address		, , , , , , , , , , , , , , , , , , ,
124 Matthew RL		
City	State	Zip
Niles	Michigan	49120
Email (recommended)		<u> </u>
rickbriand Dymail.com		
Section 2. Alleged Violato	r (Respondent)	
Name		
Charles Heit (Chuck)	/ Heit For Sheriff	
Mailing address	1	
P.O. Box 632		
City	State	Zip
St. Joseph	Michigan	19085
Email (recommended)		
chuckheita gmail. (om Committee ID (optional)		
Committee io (optional)		
		in a seed softing to see all delivers
Piease incluae email ada	resses to expedite processing t	ime and mitigate mail delays.
Section 3. Allegations (use	additional sheets if more spac	e is needed)
Section(s) of the MCFA alleged to be v		
See Atlatched Complaint	Accompanying this comp	Izint
•		

Explain how these sections were violated:

See Attatched Complaint Accompanying this complaint Form

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

See Attatched Exibits (A, B, C, D) Accompanying this composint form

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:

See Attatched Complaint Accompying Complaint Form

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

Complaint

The undersigned, on behalf of himself, Rick Briand For Sheriff, and for the benefit of the citizens of Berrien County, State of Michigan, brings this Complaint against Charles ("Chuck") Heit for his violation of the Michigan Campaign Finance Act 388 of 1976, hereafter referred to as "Respondent". Upon information and the undersigned's belief, and in accordance with Michigan's Campaign Finance Act (MCL § 169.203), Respondent, an individual advertising himself as a candidate running for the elective Office of Sheriff of Berrien County, became a candidate by definition under the Michigan Campaign Finance Act 388 of 1966, when he held the "first Chuck Heit for Sheriff" fundraiser at Indian Hills Lake Golf Course on or about June 24, 2022. As defined in section 3(1)(c) of the Act, a candidate is an individual who receives a contribution with a view to bringing about their nomination or election to an elective office, whether or not the specific elective office for which the individual will seek nomination or election is known at the time the contribution is received. As of March 27, 2023 Respondent had not filed an Affidavit of Identity and Receipt of Filing.

According to the Facebook post shared by Respondent (attached as exhibit A), he held the event and had "27 foursomes and 21 named holes." Assuming that each participant paid \$50, the total donation would be \$5,400, and if the teams paid \$300 each, the total raised by their entry fees would be \$8,100. Assuming the costs to name the holes were \$50, the total raised would be \$1,050, and if the holes cost \$100, the total raised would be \$2,100. Although the Complainant does not know the actual total amount raised by the first Chuck Heit for Sheriff fundraiser, given that Chuck Heit is currently advertising another fundraiser in which he is selling tickets for \$50 each (exhibit B), complaintant believes it is safe to assume that Mr. Heit raised at least \$6,450 on his first fundraiser. He is also currently advertising another golf outing on his Facebook page which is scheduled for June 23, 2023 (exhibit C). Berrien County Clerk Tyler has verbally confirmed that no records of the event have been reported to or recorded by the Clerk of the County of Berrien as of March 23, 2033. Therefore, the actual total raised cannot be ascertained.

Complaintant has received written confirmation that Respondent filed his Statement of Campaign Organization on January 23, 2023 (exhibit D). That is seven months after Respondent held his "first Heit for Sheriff" golf outing. Section 24 (1) states a Committee shall file a statement of organization within ten days of its having been formed. Respondent's failure to file a statement of organization within ten days of his golf outing fundraiser is a violation of this section as well. Section 21 (1) states a candidate "shall" file for a committee within ten days of becoming a candidate. Respondent became a candidate on June 24, 2022 when he held his first fundraiser. He waited seven months to file his Statement of Organization on January 23, 2023.

Under section 168.203(2) of the Act, a candidate committee is defined as the committee designated in a candidate's filed statement of organization as that individual's candidate committee. A candidate committee must be under the control and direction of the candidate named in the same statement of organization. Notwithstanding subsection (4), an individual running for elective office who has not filed a statement of organization for their candidacy, such as Respondents, could not have a candidate committee until his January 23, 2023 filing. He also could not not have a treasurer, nor a bank account to receive campaign contributions.

As defined in section 168.204(1) of the Act, a contribution means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, made for the purpose of influencing the nomination or election of a candidate. Contributions include the full purchase price of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and other fundraising events. Under section 169.207(5) of the Act, a gift means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is given in exchange.

Respondent became a "candidate" on June 24, 2022, when he received the contributions raised by the golf outing in question. He also received an "in kind" contribution from the Bailey for Sheriff Committee (name could be incorrect, but the event was previously held as a fundraiser for Sheriff L. Paul Bailey) when Mr Bailey allowed Respondent the pleasure of entertaining his campaign donors at the event.

As noted above, Respondent received more than one contribution as defined in section 4(1) of the Act. The cash contributions gained from the June 24, 2023 fundraiser were also a gift donation from the "Paul Bailey for Sheriff" committee, which held the same fundraiser the year before. Mr. Bailey's offer and donation of his fundraiser and the guests/participants invited meets the definition of in-kind because it has monetary value to both Sheriff Bailey and Respondent. Sheriff Bailey has publicly endorsed Respondent and is actively campaigning for him, as evidenced by his endorsement as well as his in-kind donation.

Alleged Violations:

Respondent's conduct has been and/or is now a violation of the Michigan Campaign Finance Act. Specifically, Respondent violated and/or is violating 169.221 sec (1) by accepting contributions without registering a campaign finance committee. Moreover, under 169.207 sec 7 (1) (4) (5) Respondent's conduct violates 169.221 sec (1) (2) (8) (10) (11) (12) by failing to file his Statement of Campaign in a timely manner, failing to appoint a campaign treasurer, and failing to acquire a banking institution for campaign deposits. Respondent also violated section 22 by failing to appoint a treasurer (because he didn't have a committee) to file campaign statements and other required reports. Additionally, the incumbent's in-kind donation of his traditional fundraiser to his chosen successor violates the Michigan Campaign Finance Act, specifically section 26(1) (a) (b) (d) (e) (f) (g) (h) (I) and (j) and sec 22. The incumbent's actions appear to be a clear attempt to circumvent the campaign finance laws and provide an unfair advantage to Respondent.

Relief Requested:

The undersigned requests that the Michigan Secretary of State investigate Respondent's campaign finance activities and take appropriate action under the law. The undersigned also requests that the Michigan Attorney General investigate the incumbent's in-kind donation and take appropriate action under the Michigan Campaign Finance Act.

Respectfully submitted,



Chuck Heit is at Indian Lake Hills Golf Course.

June 24, 2022 · Eau Claire, MI · 🛝

Held the first. Chuck Heit For Sheriff golf outing today. We were blessed with great weather. We had 27 foursomes and 21 hole sponsors. Thank you to all that participated and the Indian Lake Hills Golf Course staff. A special thanks to the volunteers that helped make it possible; Michelle Heit, Alexandra MP, Kyra Kruse, Barb Woerdehoff, Patty lazzetto, Jennifer Flick and Kevin Proshwitz!!



OO Jim Oseika, Lori Kuntz and 178 others

19 comments 1 share

ည် Like





CHUCK HEIT FOR SHERIFF FUNDRAISER

Come to the Solarium at
Watermark Brewery
2688 Kimmel St. Stevensville, MI 49127
for food and fun!

\$50.00 per person Includes food and one drink ticket

MAY 5TH, 2023

OUTING

2023

Indian Lake Hills Golf Course Eau Claire, MI status of the Heit for Sheriff campaign.

- 1) Has Chuck Heit (or Charles Heit) filed any Statement of Organization For Local Candidate Committee with the Berrien County Clerks Office?
- 2) Has Mr. Heit filed an Affidavit of Identity registering him or his campaign as a candidate for the Office of Sheriff of Berrien County?

Thank you,

Rick Briand

Sent from my iPhone

Thanks again, Rick Briand

On Mar 28, 2023, at 2:46 PM, Victoria Graham <<u>vgraham@berriencounty.org</u>> wrote:

Hello Rick,

After reviewing the inquired account, I can verify that Chuck Heit has a Statement of Organization form on file.

I do not currently have an Affidavit of Identity on file for Chuck Heit for the next running election.

A calendar with deadline dates for the inquired

Rick Briand

On Mar 29, 2023, at 9:11 AM, Victoria Graham < vgraham@berriencounty.org > wrote:

Good morning Rick,
I understand, the committee, Chuck Heit for
Sheriff, was formed on January 31, 2023. That
time was before I was employed at the
courthouse.

---- Original Message ----

From: "rickbriand" < rickbriand@ymail.com >

To: "Victoria Graham"

<<u>vgraham@berriencounty.org</u>>

Sent: Tuesday, March 28, 2023 5:08:31 PM

Subject: Re: Campaign Paperwork



STATE OF MICHIGAN JOCELYN BENSON, SECRETARY OF STATE

DEPARTMENT OF STATE Lansing

April 12, 2023

Charles Heit P.O. Box 632 St. Joseph, MI 49085

Re: Briand v. Heit

Campaign Finance Complaint No. 23-026

Dear Mr. Heit:

The Department of State (Department) has received a formal complaint against you by Richard Briand, alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Specifically, the complaint alleges that you failed to report expenditures for fundraisers in furtherance of your campaign for Sheriff of Berrien County. His complaint cites a fundraiser conducted on or about June 24, 2022.

Section 24 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). Section 21 provides the requirements for formation of a candidate committee. MCL 169.221. 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 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*.

By statutory definition, a candidate committee is designated in the candidate's filed statement of organization. An individual must form a candidate committee if the individual becomes a candidate. MCL 169.203(2). A committee must be formed if contributions received or expenditures made total \$500 or more in a calendar year.

The MCFA requires that candidates and committees record the full name, street address, amount contributed, and date of contribution for each individual from whom contributions are received. MCL 169.226(1)(e). Additionally, the following information regarding each fundraising event must be included in the report:

• The type of event, date held, address and name, if any, of the place where the activity was held, and approximate number of individuals participating or in attendance.

Charles Heit Page 2

- The total amount of all contributions.
- The gross receipts of the fundraising event.
- The expenditures incident to the event.

MCL 169.226(1)(d).

Mr. Briand also alleges that you violated the MCFA by failing to submit an Affidavit of Identity (AOI). However, the Department's investigatory powers are strictly limited to purported violations of the MCFA. MCL 169.215(5), (10). The requirement to submit an AOI falls under the Michigan Election Law (MEL) and concerns ballot access. Accordingly, that allegation is dismissed.

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. Briand, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [.]" MCL 169.215(10). Note that the Department's enforcement powers include the possibility of entering a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement.

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

Sincerely,

Regulatory Section Bureau of Elections Michigan Department of State

Enclosure c: Richard Briand