



Michigan Department of State
Campaign Finance Complaint Form

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

RECEIVED/FILED
MICHIGAN DEPT OF STATE

2021 OCT -1 AM 1:45

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

Section 1. Complainant

Your Name

Michael Louis Elrick

Daytime Telephone Number

(313) 574-6731

Mailing Address

PO Box 241480

City

Detroit

State

MI

Zip

48224

Email (optional)

elrick4detroit@gmail.com

Section 2. Alleged Violator

Name

Save Detroit Jobs d/b/a Detroit Leaders

Mailing Address

PO Box 5675

City

Detroit

State

MI

Zip

48205

Email (optional)

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

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

Explain how those sections were violated:

See 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.

X

Signature of Complainant

September 30, 2021

Date

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

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

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

X

Signature of Complainant

Date

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

Section 6. Submission

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

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

ADDENDUM TO CAMPAIGN FINANCE COMPLAINT FORM

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

MCL 169.202(3)

MCL 169.203(4)

Explain how those sections were violated:

Save Detroit Jobs d/b/a Detroit Leaders ("Detroit Leaders") is a Michigan nonprofit corporation. (Ex. C.) The bylaws for this entity indicate that it was formed only as a Ballot Question Committee, and that it was "not formed for the purpose of influencing the election of candidates to public office and money of the Corporation will not be used for participation in, or intervention in, any political campaign on behalf of any candidate for public office. (Ex. C at ¶¶ 1.f, 4.) On August 10, 2021, the assumed name of Detroit Leaders was filed with the Michigan Secretary of State. (Ex. D.)

Latisha Johnson is one of two candidates in the general election for City Council District 4. Detroit Leaders has sent glossy, professionally printed campaign fliers and professionally printed signs in support of Ms. Johnson. (Exs. A, B.) Given the extent to which these fliers and signs have been distributed across the district, I believe that Detroit Leaders has spent more than \$500 in support of Ms. Johnson's campaign.

Detroit Leaders' expenditures in support of Ms. Johnson appear to violate the Michigan Campaign Finance Act in at least two ways. First, Detroit Leaders does not appear to be properly registered. Entities spending \$500 or more in a calendar year on independent expenditures must register as an Independent Expenditure Political Committee. MCL 169.203(4). Although Save Detroit Jobs was registered as a Ballot question committee in 2017, the Bureau of Elections' records indicate that the entity was "Dissolved." (Ex. E.) There is no further record for Save Detroit Jobs or Detroit Leaders registered with the Michigan Secretary of State or with Wayne County.

Second, Detroit Leaders' expenditures in support of Ms. Johnson appear to violate the requirements for a ballot question committee. Save Detroit Jobs d/b/a Detroit Leaders was formed and registered only as a ballot question committee. (Exs. C, E.) In Michigan, a "Ballot question committee" may **"not receive contributions or make expenditures or contributions for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate."** MCL 169.202(3) (emphasis supplied). In this case, the campaign fliers and printed signs are clear evidence of expenditures by Detroit Leaders made with the "purpose of influencing or attempting to influence the action of the voters for Ms. Johnson as a candidate in District 4 for the Detroit City Council.

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

- Exhibit A** - Copy of Campaign Flier
"Paid for by Detroit Leaders"
- Exhibit B** - Copy of printed sign
"Paid for by Detroit Leaders"
- Exhibit C** - Articles of Incorporation for Save Detroit Jobs
- Exhibit D** - Certificate of Assumed Name
- Exhibit E** - Statement of Organization Form for Ballot Question Committees
Save Detroit Jobs

EXHIBIT A

NOTHING



































LATISHA JOHNSON IS THE RIGHT CHOICE FOR DETROIT:

The Black Slate	Detroit Action	Plumbers Local 98
Michigan People's Campaign	LIUNA Local 1191	Operating Engineers Local 324
LGBT Detroit Mobilization	IBEW Local 58	SEIU Michigan Healthcare

SPH Michigan Healthcare

LGBT Detroit Mobilization

IBEW Local 58

SPH Michigan Healthcare

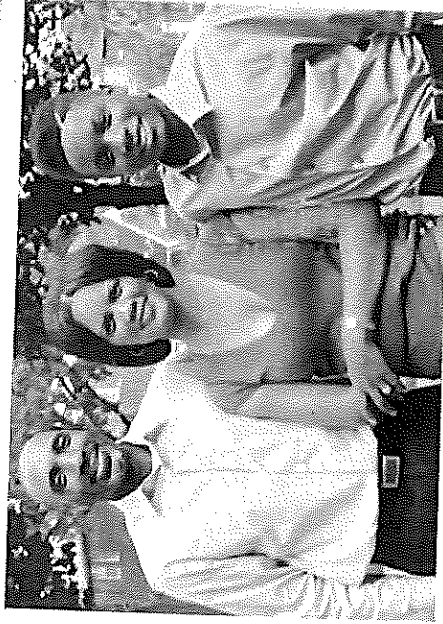
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LATISHA JOHNSON. MOVING DETROIT FORWARD.

After 14 years providing leadership in our communities, Latisha Johnson is ready to work with our neighbors on a greater scale to improve safety, to be available and accessible to all residents, and to create opportunities that support residents in becoming financially secure. **Latisha is ready to move all of us forward, together.**



Expand safe, affordable housing options to protect neighborhoods, stop family displacement, and develop sustainably in a way that benefits the people of our community.



Fight for environmental justice by updating our aging water infrastructure system and ensuring that everyone has access to clean, safe drinking water.



Create a Community Advisory Council to expand ways in which the City Council connects with its residents, and to hold councilmembers accountable for their actions.

LATISHA JOHNSON. THE LEADERSHIP DETROIT NEEDS.

EXHIBIT B



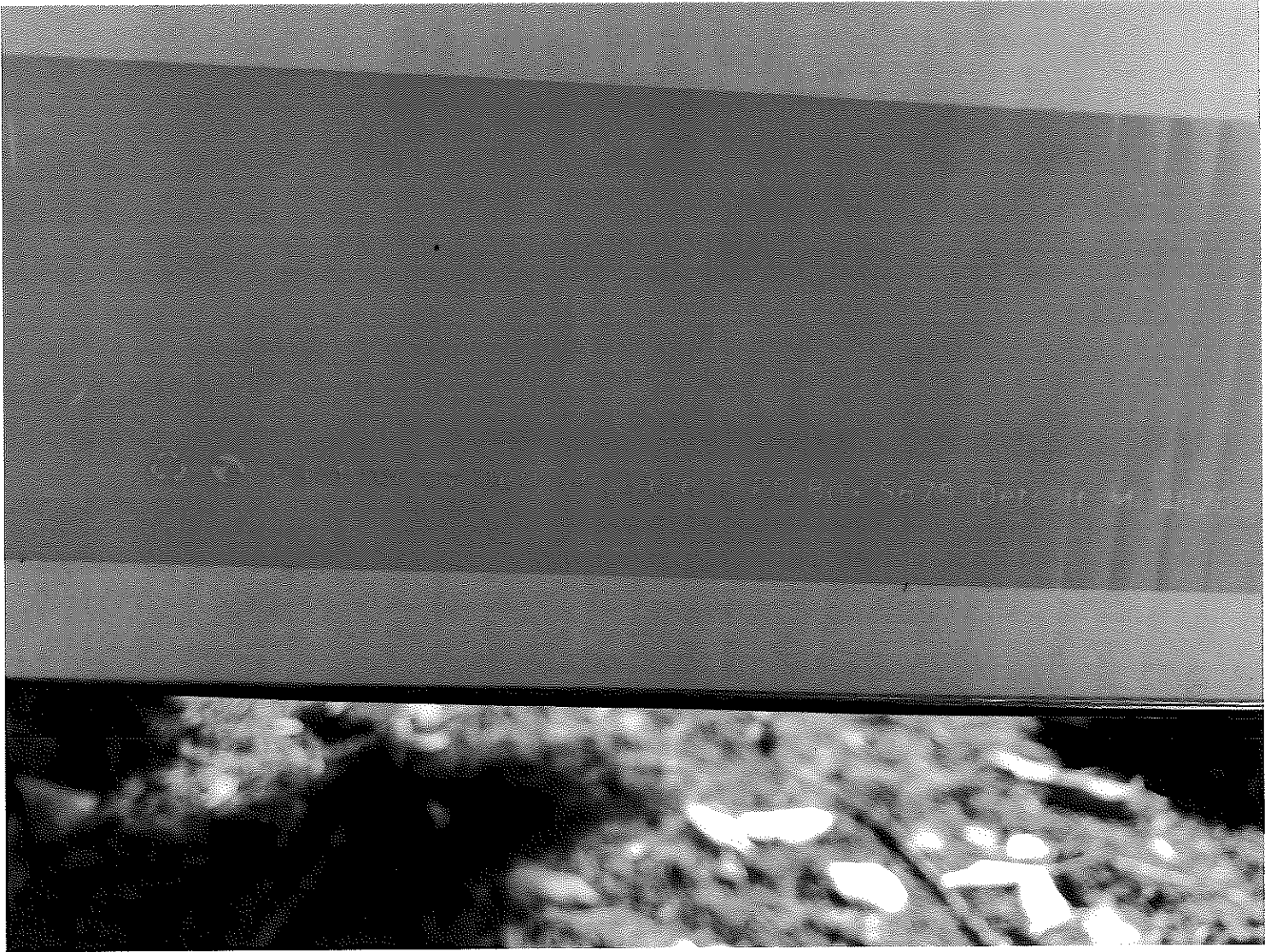


EXHIBIT C

Sep. 8. 2016 2:32PM

No. 1624 P. 2

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
FILING ENDORSEMENT

This is to Certify that the ARTICLES OF INCORPORATION - NONPROFIT

for
SAVE DETROIT JOBS

ID NUMBER: 72010V

received by facsimile transmission on September 8, 2016 is hereby endorsed.

Filed on September 8, 2016 by the Administrator.

This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.



Sent by Facsimile Transmission

In testimony whereof, I have hereunto set my
hand and affixed the Seal of the Department,
in the City of Lansing, this 8th day
of September, 2016.

Julia Dale

Julia Dale, Director
Corporations, Securities & Commercial Licensing Bureau

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU	
Date Received	(FOR BUREAU USE ONLY)
This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.	
Name	W. Alan Wilk
Address	Dykema, 400 Renaissance Center, Fl 23
City	Detroit
State	MI
Zip Code	48243-1502
Effective Date:	

Document will be returned to the issuer and address your action above.

If this document is not to be returned to the issuer, please indicate so on the registration form.

ARTICLES OF INCORPORATION
For use by Domestic Nonprofit Corporations

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation
executes the following Articles:

ARTICLE I
NAME

The name of the corporation is: Save Detroit Jobs

ARTICLE II
PURPOSES

The purpose or purposes for which the Corporation is organized are:

1. The Corporation is organized exclusively for the purposes set forth in Section 501(c)(4) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue law) (the "Code"). The purposes of the Corporation shall include:
 - a. To operate exclusively for the promotion of civic action and social welfare by promoting the common good and general welfare of the residents of, and visitors to, the State of Michigan;
 - b. To support public policies on the federal, state, and local levels, that will bring about civic betterments and social improvements to Michigan residents;

09/08/2016 2:34PM (GMT-04:00)

c. To support activities and programs that improve the quality and effectiveness of government within the state of Michigan;

d. To promote, encourage and advocate citizen participation in political events, civic events and activities, and governmental events and associated activities;

e. To promote charitable causes, including lessening the burdens of government in the state of Michigan;

f. To act as a ballot question committee under the Michigan Campaign Finance Act, 1976 PA 388, as amended, MCL 169.201 to 169.282, including receiving contributions and making expenditures in support of the qualification and passage of Proposal B, which is an initiative to enact the "Detroit Community Benefits Ordinance" proposed by the Detroit City Council to amend Chapter 14 of the City Code to add Division XII, Community Benefits; and

g. To receive and administer funds to sponsor, conduct research, secure goods and services, or to hold events in conjunction with the promotion of these purposes.

2. The Corporation, including all activities incident to its purposes, shall at all times be conducted so as to be an organization described in Section 501(c)(4) of the Code. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(4) of the Code; and, by a nonprofit corporation organized under the laws of the State of Michigan pursuant to the provisions of Act 162 of the Public Acts of 1982.

3. No part of the assets or net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to make payments and distributions (a) to such organizations operating as exempt organizations under Sections 501(c)(3) or 501(c)(4) of the Code, (b) to further the exempt purposes of the Corporation, and (c) as reasonable compensation for services rendered to the Corporation.

4. The Corporation is not formed for the purpose of influencing the election of candidates to public office and money of the Corporation will not be used for participation in, or intervention in, any political campaign on behalf of any candidate for public office.

ARTICLE III ORGANIZATION AND FINANCE

1. The Corporation is organized on a non-stock, directorship basis.

2. The value of assets which the Corporation possesses is:

Real Property: None.

Personal Property: None.

3. The Corporation is to be financed under the following general plan: gifts, grants and contributions of funds and property, and the income generated therefrom.

ARTICLE IV REGISTERED OFFICE/RESIDENT AGENT

1. The address of the initial registered office is: 30600 Telegraph Road, Suite 2345, Bingham Farms, Michigan 48025.

2. The mailing address of the initial registered office is the same.

3. The name of the initial resident agent at the registered office is The Corporation Company.

ARTICLE V INCORPORATOR

The name and address of the incorporator is:

W. Alan Wilk
Dykema Gossett PLLC
400 Renaissance Center, Fl. 23
Detroit, MI 48243-1502.

ARTICLE VI BOARD OF DIRECTORS

The Board of Directors of the Corporation shall maintain charge, control and management of the business, property, affairs, and funds of the Corporation and shall have the power and authority to do and perform all acts and functions permitted for an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 (or comparable provisions of subsequent legislation) not inconsistent with these Articles or with the laws of the State of Michigan. In addition to, and not in limitation of, all powers mentioned in and implied from Article II, the Board of Directors shall have the power to raise money for corporate purposes.

ARTICLE VII CONSENT ACTIONS

Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, is signed by all of the directors then in office. Such consent shall have the same effect as a vote of the directors and may be stated as such in any Articles or document filed with the State of Michigan.

ARTICLE VIII DISSOLUTION

Upon the dissolution of the Corporation, the board shall, after paying or making provision for the payment of all of the liabilities of the Corporation, dispose of all of the assets of the Corporation to such organizations organized for similar purposes as set forth in Article II hereof, or to such organizations operating as exempt organizations under Sections 501(c)(3) or 501(c)(4) of the Code. Any such assets not so disposed of shall be disposed of by the circuit court of the county in which the principal office of the Corporation is located exclusively for such purposes or to such organization or organizations as the circuit court shall determine which are organized and operated exclusively for such purposes.

ARTICLE IX COMPROMISE/ARRANGEMENT/REORGANIZATION

When a compromise or arrangement or a plan of reorganization of this Corporation is proposed between this Corporation and its creditors or any class of them or between this Corporation and its directors or any class of them, a court of equity jurisdiction within the state, on the application of this Corporation or of any creditor or director thereof, or on the application of any receiver or receivers appointed for this Corporation, may order a meeting of the creditors or class of creditors, or of the directors or class of directors to be affected by the proposed compromise or arrangement or reorganization, to be summoned in such manner as said court directs. If a majority in number, representing 3/4 in value of the creditors or class of creditors, or of the directors or class of directors, to be effected by the proposed compromise or arrangement or a reorganization, agree to a compromise or arrangement or to any reorganization of this Corporation as a consequence of compromise or arrangement, the compromise or arrangement or the reorganization, if sanctioned by the court to which the application has been made, shall be binding on all the creditors or class of creditors, or on all the directors or class of directors and also on this Corporation.

ARTICLE X INDEMNIFICATION

Each person who is or was a director or an officer of this Corporation, and each person who serves or has served at the request of this Corporation, as a director, officer, agent, or committee member of any other corporation, partnership, joint venture, trust or other enterprise shall be indemnified by the Corporation to the fullest extent permitted by the corporation laws of the State of Michigan as they may be in effect from time to time. This Corporation may purchase and maintain insurance on behalf of any such person against any liability asserted against and incurred by such person in any such capacity or arising out of his or her status as such, whether or not the Corporation would have power to indemnify such person against such liability under the laws of the State of Michigan.

ARTICLE XI DIRECTOR/OFFICER LIABILITY

No member of the Board of Directors of the Corporation who is a volunteer director, as that term is defined in the Act, or a volunteer officer of the Corporation shall be personally liable to this Corporation for monetary damages for a breach of the director's or the volunteer officer's fiduciary duty arising under the Act or other applicable law; provided, however, that this provision shall not eliminate or limit the liability of a director or volunteer officer for any of the following:

1. The amount of a financial benefit received by a director or volunteer officer to which he or she is not entitled;
2. Intentional infliction of harm on the corporation, its shareholders (if any), or members (if any);
3. A violation of section 551 of the Act;
4. An intentional criminal act; or
5. A liability imposed under section 497(g) of the Act.

If the Act is amended after the filing of these Articles of Incorporation to authorize the further diminution or limitation of the liability of directors of nonprofit corporations, then the liability of members of the Board of Directors, in addition to the limitation, elimination and assumption of personal liability contained in this Article XI, shall be assumed by the Corporation or eliminated or limited to the fullest extent permitted by the Act as so amended, except to the extent such limitation, elimination, or assumption of liability is inconsistent with status of the Corporation as an organization described in Section 501(c)(4) of the Code. No amendment or repeal of this Article XI shall apply to or have any effect on the liability or alleged liability of any member of the Board of Directors of this Corporation for or with respect to any acts or omissions of such director occurring prior to the effective date of any such amendment or repeal.

ARTICLE XII NONDIRECTOR VOLUNTEER LIABILITY

The Corporation hereby assumes the liability for all acts or omissions of its nondirector volunteers, as the term is defined in the Michigan Nonprofit Corporation Act, occurring on or after the effective date of this Article if all the following conditions are met:

1. The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority;
2. The volunteer was acting in good faith;

3. The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct;
4. The volunteer's conduct was not an intentional tort;
5. The volunteer's conduct was not an intentional tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in Section 3135 of the Insurance Code of 1956, Act No. 218 of the Public Acts of 1956, being Section 500.3135 of the Michigan Compiled Laws.

ARTICLE XIII
LIABILITY UNDER SECTION 501(C)(4)

The Corporation shall not be considered to have assumed any liability under these Articles of Incorporation to the extent such assumption is inconsistent with the status of the Corporation as an organization described in Section 501(c)(4) of the Code.

These Articles of Incorporation are hereby signed by the incorporator on this 31st day of August, 2016.


W. Alan Wilk, Incorporator

EXHIBIT D



Form Revision Date 07/201

CERTIFICATE OF ASSUMED NAME

For use by DOMESTIC NONPROFIT CORPORATION

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned execute the following Certificate:

1. The identification number assigned by the Bureau is:

802002459

2. The name of the nonprofit corporation is:

SAVE DETROIT JOBS

3. The assumed name under which business is to be transacted is:

DETROIT LEADERS

This document must be signed by an authorized officer or agent (corporations); a member, manager, or an authorized agent (limited liability companies); or general partner (limited partnerships):

Signed this 9th Day of August, 2021 by:

Signature	Title	Title If "Other" was selected
Alan Wilk	Authorized Agent	

By selecting ACCEPT, I hereby acknowledge that this electronic document is being signed in accordance with the Act. I further certify that to the best of my knowledge the information provided is true, accurate, and in compliance with the Act.

☐ Decline ☒ Accept

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
FILING ENDORSEMENT

This is to Certify that the CERTIFICATE OF ASSUMED NAME
for

SAVE DETROIT JOBS

ID Number: 802002459

to transact business under the assumed name of
DETROIT LEADERS

received by electronic transmission on August 09, 2021 ***, is hereby endorsed.***

Filed on August 10, 2021 ***, by the Administrator.***

The document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

Expiration Date: December 31, 2026



In testimony whereof, I have hereunto set my hand and affixed the Seal of the Department, in the City of Lansing, this 10th day of August, 2021.

Linda Clegg

Linda Clegg, Director

Corporations, Securities & Commercial Licensing Bureau

EXHIBIT E



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

ORIGINAL OR AMENDED
STATEMENT OF ORGANIZATION FORM FOR BALLOT QUESTION COMMITTEES
Information on this form is made public

1. Committee ID#: 82-156648		*2. Type of Filing: <input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment to Items Eff. Date: 04/24/2017	
*3. Date Committee was Formed: 09/09/2016			
*4. Full Name of Committee: Save Detroit Jobs			
5. Acronym or Abbreviation (if any):			
*6. Complete Committee Mailing Address (May be PO Box): 13560 E. McNichols Suite 131 Att: Carol Banks Detroit MI 48205-			
*7. Complete Committee Street Address (May not be PO Box): 400 Renaissance Center Ste 2300 Detroit MI 48243			
*Committee Phone#: 517-374-9121		Committee E-mail Address: rmoore@dykema.com	
Committee Fax#:		Committee Website Address:	
*8. Treasurer Name and Complete Address : Rhonda Kennedy 13560 E. McNichols Suite 131 Att: Carol Banks Detroit, MI 48205- Phone#: 313-655-0696 E-mail Address: rkenn216@gmail.com			
9. Designated Record Keeper Name and Complete Address: Renae Moore 400 Renaissance Center Ste 2300 Detroit , MI 48243 Phone#: 517-374-9121 E-mail Address: rmoore@dykema.com			
*10. REPORTING WAIVER REQUEST: <input type="checkbox"/> YES, I / WE WANT TO APPLY FOR THE REPORTING WAIVER: The committee does not expect to spend or receive in excess of \$1,000 in an election. I/We understand that if the committee does not spend or receive in excess \$1000 in an election, the committee does not owe Pre, Post, Quarterly and Annual Campaign Statements. I / We further understand that the Reporting Waiver will be automatically lost if the committee exceeds the \$1000 threshold and all required campaign statements must be filed. A Reporting Waiver does not exempt a committee from filing Late Contribution Reports or Petition Proposal Campaign Statements. <input checked="" type="checkbox"/> NO, I / WE DO NOT WANT TO APPLY FOR THE REPORTING WAIVER: The committee expects to spend or receive in excess of \$1,000 in an election. I/We understand that the committee owes Pre, Post, Quarterly and Annual Campaign Statements even if the committee does not spend or receive in excess of \$1000 in an election. I / We further understand that the Reporting Waiver cannot be requested retroactively to avoid filing requirements and to avoid paying late filing fees. Further information regarding Reporting Waivers can be found in Appendix C of the Ballot Question Manual.			
*11. Name and Address of Depositories or Intended Depositories of committee funds. (Michigan Bank, Credit Union or Savings & Loan Association) *Official Depository(name and address): PNC Bank 4111 Woodward Avenue Detroit , MI 48201 Secondary Depository(name and address):			
12. List the specific ballot proposal(s) involved using the official ballot designation if available and mark support or oppose as appropriate:			
Ballot Question		Support	Oppose
City of Detroit Proposal B Community Benefits Ordinance		<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. Verification: I/We certify that all reasonable diligence was used in the preparation of the above statement and that the contents are true, accurate and complete to the best of my/our knowledge or belief. If filing electronically, I/we further agree that the signatures below shall serve as the signatures that verify the accuracy and completeness of each statement filed electronically by the committee. I/We certify that all reasonable diligence will be used in the preparation of each statement electronically filed by this committee and that the contents of each statement will be true, accurate and complete to the best of my/our knowledge or belief.			
*Current Treasurer : Rhonda Kennedy		Designated Record Keeper Renae Moore (Required only if filing electronically)	
Date : 04/24/2017		Date: 04/24/2017	

INSTRUCTIONS FOR COMPLETING THE STATEMENT OF ORGANIZATION FOR BALLOT QUESTION COMMITTEES

Michigan's Campaign Finance Act (MCFA), P.A. 388 of 1976, covers a "person" operating within Michigan or out-of-state as soon as it spends or receives \$500.00 or more in a calendar year to influence voters for or against the qualification, passage or defeat of one or more ballot questions in Michigan. The term "person" is used to mean a business, proprietorship, firm, partnership, joint venture, syndicate, labor organization, company, corporation, association or two or more individuals who act jointly. As soon as a person reaches the \$500.00 threshold detailed above, it has 10 calendar days to register a "committee" under the MCFA. A person that is covered by the MCFA, registers a committee by filing this form with the appropriate filing official. **EXCEPTION:** A direct or in-kind contribution given by a "person" to a Ballot Question Committee does not count toward the committee registration threshold if the contribution was not solicited or received by the contributing person for the purpose of supporting or opposing the ballot question involved. All independent expenditures made by a "person" count toward the committee registration threshold regardless of how the funds involved were obtained.

TYPES OF COMMITTEES

Before registering a committee, the difference in the various committee types must be given careful consideration. Be sure you are filing as the appropriate committee type.

Ballot Question Committees: Formed to support or oppose the qualification, passage or defeat of ballot questions. A ballot question is an issue which is intended to be submitted to a popular vote at an election (including millage issues). A Ballot Question Committee cannot support or oppose candidates. For further information regarding committee types please see Appendix H of the Ballot Question Manual.

WHERE TO FILE THIS FORM

Two copies of this form must be filed when registering a Ballot Question committee. If the proposal supported or opposed is to be voted on statewide, the committee files with the Michigan Department of State, Bureau of Elections, Post Office Box 20126, Lansing, Michigan 48901-0726. Office location: 430 West Allegan, Richard H. Austin Building 1st Floor, Lansing, MI 48918-1700. Phone: (517) 373-2540.

If the proposal supported or opposed is to be voted on in a single county, the committee files with the clerk of that county; in more than one county — but not statewide — the committee files with the clerk of the county where the greatest number of voters eligible to vote on the proposal reside.

NOTE: The information contained on the Statement of Organization must be kept up-to-date. If a change in the information takes place, an amendment to the form must be filed no later than the due date of the first campaign statement required of the committee after the change. An amendment must be signed by the treasurer serving at the time of the change. If the treasurer is changing, the amendment must be signed by the new treasurer.

INSTRUCTIONS

Type or clearly print in ink all information requested on the Statement of Organization form. Each entry on the form is discussed below.

ITEM 1: On the original Statement of Organization, leave this item blank. An identification number will be assigned to the committee by the filing official. If an identification number has been assigned to the committee, enter it in item 1.

* **ITEM 2:** Indicate whether this is an original Statement of Organization filing or an Amendment to a Statement of Organization already on file. In an amendment, list the number of the item(s) affected and the date the change took place. If filing an amendment, complete item 2, the item(s) affected and items 1 and 13.

* **ITEM 3:** Enter the date the committee was formed in Michigan. The original Statement of Organization form must be received by the filing official within **10 calendar days** after the committee's formation date. Late filing fees are assessed at a rate of \$10.00 per business day if the form is filed late. A Statement of Organization is considered to be timely if mailed by registered mail, certified mail or over -night delivery service on or before the due date.

* **ITEM 4:** Enter the committee's official name. Do not use initials or abbreviations.

ITEM 5: If applicable, enter the committee's abbreviated name or acronym.

* **ITEM 6:** Enter the committee's mailing address if different from the committee's street address. A post office box is acceptable as a mailing address. All mail from the filing official will be directed to the committee's mailing address as shown in item 6.

* **ITEM 7:** Enter the committee's street address. A post office box is **not** acceptable. (List the treasurer's home address if no other address is available.) Enter the committee's area code, phone number, fax number, e-mail address and website address.

* **ITEM 8:** Enter the full name and mailing address, a daytime phone number and email address of the committee's treasurer. The committee's treasurer **must** be a qualified elector of Michigan if the committee conducts business through an office or facility located in Michigan. The committee treasurer does not have to be a Michigan resident if the committee does not conduct business through an office or facility located in Michigan. A committee that wishes to have a treasurer who is not a Michigan resident is required to file an "irrevocable written stipulation" with its Statement of Organization. Further information on this requirement can be obtained from your filing official.

ITEM 9: List the name, mailing address, area code and phone number and email address of the person who will be responsible for the committee's records and campaign statement filings. If the committee treasurer will personally handle these responsibilities, leave this item blank. A person designated in this item may sign campaign statements but does not have the authority to sign the Statement of Organization forms in place of the treasurer.

* ITEM 10: Reporting Waiver Request

• Select **"YES, I/WE WANT TO APPLY FOR THE REPORTING WAIVER"** on item 10 if the committee does not expect to spend or receive more than \$1,000 for any single election. The committee does not owe Pre, Post, Annual and Quarterly Campaign Statements as long as the committee does not receive or spend more than \$1000.

• Select **"NO, I/WE DO NOT WANT TO APPLY FOR THE REPORTING WAIVER"** on item 10 if the committee expects to spend or receive in excess of \$1,000 in an election. This means that the committee owes Petition Proposal, Pre, Post, Annual and Quarterly Campaign Statements even if the committee does not spend or receive in excess of \$1,000 in an election. Election means primary, general, special or millage election.

* **ITEM 11:** Enter the name and address of the Michigan bank, savings and loan association or credit union that the committee now uses or intends to use as its "official depository." The committee's official depository must be located in Michigan. List the names and addresses of any "secondary depositories" the committee currently uses or intends to use. A secondary depository may be used only for the deposit of contributions (for example, as a temporary holding place for receipts from a joint fund raiser); it may **not** be used for committee expenditures.

ITEM 12: Indicate the letter or number designation of the ballot issue supported or opposed or a description of the proposal. Check the appropriate box to indicate whether the committee supports or opposes the proposal. Check the appropriate box to indicate whether the proposal will be voted on statewide, in multiple counties, in one county or at the local level (city, township, village or school district).

ITEM 13: Enter the treasurer's name where indicated. The form must be signed and dated by the current committee treasurer.



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

February 9, 2022

Save Detroit Jobs
PO Box 5675
Detroit, MI 48205

Re: *Elrick v. Save Detroit Jobs*
Campaign Finance Complaint No. 2021-10-33-202

Dear Save Detroit Jobs,

The Department of State (Department) has received a formal complaint filed against you by Michael Elrick. The complaint alleges that you violated the Michigan Campaign Finance Act (MCFA or ACT) by making expenditures in excess of \$500 without registering as a committee under the MCFA and without filing the reports required by the MCFA. Specifically, Mr. Elrick submitted evidence showing mailers and yard signs advocating for the election of Latisha Johnson labeled as being paid for by Save Detroit Jobs, and the Wayne County clerk has no record of an active committee by that name.¹

In Michigan, an expenditure is “a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.” MCL. 169.206(1). Organizations making expenditures in excess of \$500 are required to register as a committee under the act. MCL 169.224(1); MCL 169.203(4). A failure to file a required statement of organization and register as a committee under the MCFA is “misdemeanor punishable by a fine of not more than \$1,000.00.” MCL 169.224(1). Committees are also required to submit campaign statements detailing their expenditures. MCL 169.226(1)(b). A failure to file two or more required campaign statements is a misdemeanor “punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both.” MCL 169.233(8).

The purpose of this letter is to inform you of the Department’s examination of these matters and of 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 are governed by section 15 of the Act

¹ The Wayne County clerk has records of a ballot question committee named Save Detroit Jobs which was active in 2016 and 2017, but the committee dissolved at the end of 2017.

and the corresponding administrative rules, R 169.51 *et seq.* An explanation of the investigation process is enclosed with this letter and a copy is available on the Department's [website](#).

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.

All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 420 West Allegan Street, Lansing, Michigan 48918. Materials should also be sent via email to Elections@Michigan.gov given the ongoing pandemic. 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 answers will be provided to Mr. Elrick, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all 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).

Sincerely,

Adam Fracassi
Regulatory Manager
Bureau of Elections



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

July 25, 2022

Save Detroit Jobs
201 Townsend Street
Lansing, MI 48933

Re: *Elrick v. Save Detroit Jobs*
Campaign Finance Complaint No. 2021-10-33-202

Dear Save Detroit Jobs,

The Department of State (Department) has received a formal complaint filed against you by Michael Elrick. The complaint alleges that you violated the Michigan Campaign Finance Act (MCFA or ACT) by making expenditures in excess of \$500.00 without registering as a committee under the MCFA and without filing the reports required by the MCFA. Specifically, Mr. Elrick submitted evidence showing mailers and yard signs advocating for the election of Latisha Johnson labeled as being paid for by Save Detroit Jobs, and the Wayne County clerk has no record of an active committee by that name.¹ A copy of the complaint and supporting documentation is enclosed with this letter.²

In Michigan, an expenditure is “a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.” MCL. 169.206(1). Organizations making expenditures in excess of \$500.00 are required to register as a committee under the act. MCL 169.224(1); MCL 169.203(4). A failure to file a required statement of organization and register as a committee under the MCFA is a “misdemeanor punishable by a fine of not more than \$1,000.00.” MCL 169.224(1). Committees are also required to submit campaign statements detailing their expenditures. MCL 169.226(1)(b). A failure to file two or more required campaign statements is a misdemeanor “punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both.” MCL 169.233(8).

¹ The Wayne County clerk has records of a ballot question committee named Save Detroit Jobs which was active in 2016 and 2017, but the committee dissolved at the end of 2017.

² Mr. Elrick supplied the Department with a Detroit mailing address for your committee, and the Department sent a Notice of this complaint to that address on May 24, 2021. Your filings with the Department of Licensing and Regulatory Affairs, however, suggest that you may no longer use that address. As a courtesy, the Department is re-sending this Notice to the new address.

The purpose of this letter is to inform you of the Department's examination of these matters and of 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 are governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq.* An explanation of the investigation process is enclosed with this letter and a copy is available on the Department's [website](#).

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.

All materials must be sent to the Michigan Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. Materials should also be sent via email to Elections@Michigan.gov given the ongoing pandemic. 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 answers will be provided to Mr. Elrick, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all 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).

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

c: Michael Elrick



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

September 9, 2022

SECOND NOTICE

Save Detroit Jobs
201 Townsend Street
Lansing, MI 48933

Re: *Elrick v. Save Detroit Jobs*
Campaign Finance Complaint No. 2021-10-33-202

Dear Save Detroit Jobs:

The Department of State (Department) has received a formal complaint filed against you by Michael Elrick alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Specifically, the complaint alleges that you made expenditures in excess of \$500.00 without registering as a committee under the MCFA and without filing the reports required by the MCFA. Specifically, Mr. Elrick submitted evidence showing mailers and yard signs advocating for the election of Latisha Johnson labeled as being paid for by Save Detroit Jobs, and the Wayne County clerk has no record of an active committee by that name.¹ A copy of the complaint is included with this notice.

The Department sent you notice of this complaint on July 25, 2022. That letter informed you that you had 15 business days from July 25, 2022 to provide a response to the complaint. **As a courtesy, the Department is extending you an opportunity to submit a response within 15 business days of the date of this second notice.** If you do not submit a response within 15 business days of the date of this notice, the Department will have no choice but to adjudicate the complaint based on the facts and allegations included in the complaint alone.

In Michigan, an expenditure is “a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party.” MCL. 169.206(1). Organizations making expenditures in excess of \$500.00 are required to register as a committee under the act. MCL 169.224(1); MCL 169.203(4). A failure to file a required statement of organization and register as a committee under the MCFA is a “misdemeanor punishable by a fine of not more than \$1,000.00.” MCL 169.224(1). Committees are also required to submit campaign statements detailing their expenditures. MCL 169.226(1)(b). A failure to file two or

more required campaign statements is a misdemeanor “punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both.” MCL 169.233(8).

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 available on the Department’s [website](#).

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. Elrick, 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 of the penalty provided in section 33(11) of the Act.

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



Dykema Gossett PLLC
Capitol View
201 Townsend Street, Suite 900
Lansing, MI 48933
WWW.DYKEMA.COM

Tel: (517) 374-9100
Fax: (517) 374-9191

W. Alan Wilk
Direct Dial: (517) 374-9122
Direct Fax: (855) 256-1485
Email: WAWilk@dykema.com

September 27, 2022

Via Email and U.S. Mail

Mr. Adam Fracassi
Bureau of Elections
Michigan Department of State
Richard H. Austin Building - First Floor
430 W. Allegan
Lansing, MI 48918

Re: October 1, 2021 Complaint Against Save Detroit Jobs d/b/a Detroit Leaders

Dear Mr. Fracassi:

This is a response to a complaint filed against Save Detroit Jobs d/b/a Detroit Leaders (“Detroit Leaders”) on October 1, 2021 by Michael L. Elrick (“*Complainant*”) alleging certain violations of the Michigan Campaign Finance Act (the “*Act*”), 1976 PA 388, as amended, MCL 169.201 et seq.¹ I respectfully request the complaint be dismissed in its entirety for failing to establish that there is reason to believe that a violation of the Act has occurred.

Complainant alleges that Detroit Leaders violated the Act by failing to register as a committee under MCL 169.203(4) and by violating the requirements of a ballot question committee under MCL 169.202(3). Both alleged violations are premised on the assertion that the communications at issue, certain printed fliers and lawn signs providing information about Latisha Johnson, are expenditures under the Act. Detroit Leaders has not made an “expenditure” as defined by the Act, so it has no registration or reporting requirements thereunder. This is a frivolous complaint with no explanation or analysis, which completely falls apart because there is no evidence of express advocacy.

First, Complainant claims Detroit Leaders “does not appear to be properly registered” in violation of MCL 169.203(4). Contrary to the Complainant’s assertion, Detroit Leaders is not required to register as a committee under the Act. An entity need only register pursuant to Section 24 of the Act if it meets the statutory definition of “committee” which, in relevant part, is an entity “that receives contributions or makes expenditures” for specific purposes of more than \$500 “**in a calendar year.**” MCL 169.203(4) (emphasis

¹ I note that the September 9, 2022 letter from the Bureau (which we received on September 19, 2022, and to which we are timely responding here) indicates a prior Notice from July 2022. Detroit Leaders simply wants to note that it did not receive any prior Notice and appreciates the Bureau sending the Second Notice.

added). Complainant fails to allege that Detroit Leaders has met the definition of a committee to require its registration under MCL 169.203(4).

Even though Detroit Leaders has previously registered as a ballot question committee, the Act does not require an entity to maintain active status or reregister. The Act does not require registration as a committee until an entity has received contributions or made expenditures in any given calendar year. MCL 169.203(4). Further, Detroit Leaders' organizational documents have no bearing on its obligations to register under the Act; its obligation is triggered by contributions received or expenditures made. As further explained below, Detroit Leaders has not made any expenditures since its dissolution. Accordingly, Detroit Leaders is not required to register as a committee under MCL 168.203(4).

Second, relying on the assertion that Detroit Leaders is a ballot question committee under the Act, Complainant alleges Detroit Leaders "appear to violate the requirements for a ballot question committee." Complainant reasons that the fliers and lawn signs distributed by Detroit Leaders violated the requirements of MCL 169.202(3) because such communications are in support of Ms. Johnson's campaign. Complainant, however, mistakenly assumes (without explaining in any detail) that these fliers and lawn signs are expenditures under the Act. The fliers and lawn signs are communication lacking express words of advocacy of election or defeat and thus costs to print the subject communication is not an expenditure. As a result, the fliers and lawn signs cannot be used as a basis to support a violation of the requirements of a ballot committee under MCL 169.202(3).

If a communication does not expressly advocate for the election or defeat of a candidate for public office, it is not an expenditure and is not subject to the Act. MCL 169.206(2)(j). Indeed, the Department of State has long held that it "does not believe it has the authority to regulate issue ads. In determining which communications are subject to the [the Act], the department. ... appl[ies] the express advocacy standard." See April 20, 2004 Interpretive Statement to Robert S. LaBrant. The communications of which Complainant writes do not constitute express advocacy under this time-honored standard, which was reinforced by the express advocacy codification under MCL 169.206(2)(j).

The Act describes the terms affectionately known as the "magic words" constituting express advocacy - "express words of advocacy of election or defeat, such as 'vote for', 'elect', 'support', 'cast your ballot for', 'Smith for governor', 'vote against', 'defeat', or 'reject'." MCL 169.206(2)(j); see also *Buckley v. Valeo*, 424 US 1, 44 n. 52 (1976). None appear in the subject communications. The fliers and lawn signs do not ask the public to vote for, elect, support, or cast their ballot for Ms. Johnson in any election. Nor do they include the words "for city council." On their face, the fliers and lawn signs are communications lacking express words of advocacy of election or defeat and so are not expenditures as defined by the Act. Under the *Buckley* standard, the presence or absence of magic words is determinative, not any inference that viewers of the communication may independently draw.

Notably, the communications also lack any context by which a person could infer that the communications expressly advocate for a candidate for public office. The fliers and lawn signs do not reference an election or campaign of any kind. They do not provide the date(s) of any upcoming election. They do not refer to Ms. Johnson as a candidate for public office. They do not include a political party designation.



Mr. Adam Fracassi
September 27, 2022
Page 3

In short, Complainant has not offered any evidence to allege a valid violation of MCL 169.203(4) and MCL 169.202(3). Both violations are premised on the assertion that Detroit Leaders expressly advocated for the election of Ms. Johnson. The Act is clear as to what constitutes express advocacy, and none is present here. It is respectfully requested that the complaint be dismissed in its entirety as frivolous and that the Department of State require Complainant to pay Detroit Leaders' attorney fees pursuant to MCL 169.215(16)(b).

Sincerely,

Dykema Gossett PLLC

A handwritten signature in black ink that reads "W. Alan Wilk".

W. Alan Wilk

113944.000001 4881-8912-1844.1



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

September 28, 2022

Michael Louis Elrick
PO Box 241480
Detroit, MI 48224

Re: *Elrick v. Save Detroit Jobs*
Campaign Finance Complaint No. 2021-10-33-202

Dear Mr. Elrick:

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

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

Sincerely,

Regulatory Section
Bureau of Elections
Michigan Department of State

Enclosure
c: W. Alan Wilk



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

October 26, 2022

W. Alan Wilk
Dykema Gossett PLLC
Capitol View
201 Townsend Street, Suite 900
Lansing, MI 48933

Re: *Elrick v. Save Detroit Jobs*
Campaign Finance Complaint No. 2021-10-33-202

Dear Mr. Wilk:

The Department of State (Department) has finished investigating the campaign finance complaint filed against Save Detroit Jobs d/b/a Detroit Leaders ("Detroit Leaders") by Michael Elrick on October 1, 2021. The complaint alleges that you violated the Michigan Campaign Finance Act (MCFA or ACT) by making expenditures in excess of \$500.00 without registering as a committee under the MCFA and without filing the reports required by the MCFA. Specifically, Mr. Elrick submitted evidence showing mailers and yard signs advocating for the election of Latisha Johnson labeled as being paid for by Save Detroit Jobs, and the Wayne County clerk has no record of an active committee by that name.¹

You responded to the complaint on September 27, 2022. In your response you indicated that the Detroit Leaders was not required to register as a committee under the Act because they did not meet the statutory definition of committee. You further indicate that Detroit Leaders have not made any expenditures since its dissolution, arguing that the mailers and yard signs contained in the complaint are not expenditures and are not subject to the Act. Specifically, you argue that the mailer and yard signs do not constitute express advocacy because they do not contain the "magic words", do not refer to an election or campaign, and do not refer to Ms. Johnson as a candidate for public office.

Mr. Elrick was notified of your response on September 28, 2022 but did not provide a rebuttal.

In Michigan, an expenditure is "a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, the qualification, passage, or

¹ The Wayne County clerk has records of a ballot question committee named Save Detroit Jobs which was active in 2016 and 2017, but the committee dissolved at the end of 2017.

defeat of a ballot question, or the qualification of a new political party.” MCL. 169.206(1). Organizations making expenditures in excess of \$500.00, other than independent expenditures, are required to register as a committee under the act. MCL 169.224(1); MCL 169.203(4). A failure to file a required statement of organization and register as a committee under the MCFA is a “misdemeanor punishable by a fine of not more than \$1,000.00.” MCL 169.224(1). Committees are also required to submit campaign statements detailing their expenditures. MCL 169.226(1)(b). A failure to file two or more required campaign statements is a misdemeanor “punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both.” MCL 169.233(8).

The sponsor of a campaign ad is required to comply with the registration and disclosure requirements of the MCFA if the ad "support[s] or oppose[s] a ... candidate by name or clear inference[,]" or if it contains "express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for governor,' 'vote against,' 'defeat,' or 'reject.'" MCL 169.206(2)(b), (j). The express advocacy standard originated with *Buckley v Valeo*, 424 US 1, 44 (1976), where the U.S. Supreme Court held that federal campaign finance laws, "must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office." As the *Buckley* Court explained, "[t]his construction would restrict the application of §608(e)(1) to communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'" *Id.* at n. 52. The MCFA adopted the *Buckley* standard through Section 6 of the Act. MCL 169.206(2)(j).

Through multiple administrations, this office has applied the express advocacy standard articulated in *Buckley*. See, e.g., *Declaratory Ruling to Thomas Ritter* (May 23, 1991), *Interpretive Statement to Kathleen Corkin Boyle* (June 15, 2001), *Interpretive Statement to Norman Witte* (August 26, 2002), *Interpretive Statement to Robert LaBrant* (April 20, 2004), and *Interpretive Statement to Bruce Courtade* (December 9, 2013). Express advocacy can take two forms: explicit statements advocating for a candidate’s election or defeat, *Buckley* at n. 52, or non-explicit statements which nevertheless are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *FEC v. Wisconsin Right to Life, Inc.*, 551 US 449, 470 (2007).

There are two advertisements at issue. The first is a mailer titled “Moving Forward Together. Latisha Johnson” and indicates it was paid for by Detroit Leaders. This advertisement discusses that “Latisha Johnson is the right choice for Detroit” and “Latisha Johnson. The leadership Detroit needs.” The advertisement goes into detail about things Latisha Johnson will do to help lead Detroit including expanding safe, affordable housing options, fight for environmental justice, and create a Community Advisory Council. In your response you indicate that this flier did not contain any express advocacy intended to support a candidate.

From the outset, the Department must consider whether this advertisement constitutes express advocacy. Although this flier does not explicitly use the “magic words” you reference in your response, nor does it name the position for which Latisha Johnson is running, the specific

language including “is the right choice” and is “the Leadership Detroit needs” together with the discussion of issues relevant to the election and the fact that the flier includes a paid for by statement, is enough to conclude that the advertisement expressly advocates for Latisha Johnson’s election.

Because this flier was designed to expressly advocate for the election of a candidate, it is covered by the Act’s requirements, meaning that Detroit Leaders may have been required to either file an independent expenditure report under section 51 or to form and register an independent committee. However, since neither occurred, the Department concludes there may be reason to believe that a potential violation of the Act has occurred.

The second advertisement is a yard sign that says “Latisha Johnson, Moving Forward Together.” When considering whether an advertisement expressly advocates for or against a candidate, the Department may only consider the four corners of the document. *Interpretive Statement to Robert LaBrant* (April 20, 2004). The Department concludes that when looking at just the four corners of this yard sign, there is insufficient language to establish that this sign contains express advocacy as defined above. As such, the Department dismisses allegations contained in the complaint relating to the yard sign.

Resolution

Upon review, the evidence submitted supports the conclusion that a potential violation of the Act has occurred. When the Department finds that there may be reason to believe a violation has occurred, the Act requires the Department to use “informal methods such as a conference [or] conciliation” to correct the potential violation or to prevent further violation. MCL 169.215(10). The Department has 90 business days to reach an informal resolution of the matter. *Id.*

Given this, please contact the undersigned by emailing BOERegulatory@Michigan.gov to informally resolve this complaint. If the Department is unable to informally resolve the complaint by March 15, 2023, the Act requires the Department to refer the matter to the Department of Attorney General with a request that her office prosecute the criminal penalties outlined under the Act.

Sincerely,

Adam Fracassi, *Regulatory Manager*
Bureau of Elections
Michigan Department of State

Enclosure

STATE OF MICHIGAN
DEPARTMENT OF STATE

In the Matter of:

Elrick v. Save Detroit Jobs
Campaign Finance Company Complaint No. 2021-10-33-202

_____ /

CONCILIATION AGREEMENT

Pursuant to MCL §169.215(10) of the Michigan Campaign Finance Act (the Act), MCL §169.201 *et seq.*, the Secretary of State and Save Detroit Jobs d/b/a Detroit Leaders (Respondent) hereby enter into a conciliation agreement with respect to certain alleged acts, omissions, methods, or practices prohibited by the Act.

The Respondent asserts that it did not engage in any activity that constitutes express advocacy of a candidate for elective office or otherwise violated the Act, but understands that a complaint was filed that alleges otherwise.

Based on that complaint and preliminary findings, the Secretary of State alleges that there may be reason to believe that Respondent violated MCL §§ 169.244(1) and/or 169.203(4) by making expenditures in excess of \$500.00 without filing an independent expenditure report required by the Act or registering or reporting as a committee.

Therefore, in furtherance of the obligation in MCL § 169.215(10) to endeavor to correct any alleged violation or prevent a further violation of the Act, the Secretary of State and Respondent hereby voluntarily enter into this conciliation agreement, and Respondent assures the

Secretary of State that Respondent will comply with the Act and the Rules promulgated to implement the Act.

Respondent and the Secretary of State agree that Respondent has filed the Independent Expenditure report with the applicable authority pursuant to the Act.

By executing this conciliation agreement, Respondent further agrees to pay a late filing fee, and certifies Respondent has or will pay such late fee in the amount of \$100.00 to the State of Michigan.

The Secretary of State and Respondent further agree that this agreement is in effect and enforceable for four years from the date it is signed by the Secretary of State or her duly authorized representative.

The Secretary of State and Respondent further agree that this agreement, unless violated, shall constitute a complete bar to any further action by the Secretary of State with respect to the alleged violations that resulted in the execution of this agreement.

The Secretary of State and Respondent further agree that the complaint and investigation that resulted in this agreement is disposed of and will not be the basis for further proceedings, except pursuant to this agreement.

The Secretary of State and Respondent further agree that this agreement will not prevent the Secretary of State from taking action for violations of this agreement.

The Secretary of State and Respondent further agree that Respondent's performance under this agreement shall be given due consideration in any subsequent proceedings.

The Secretary of State and Respondent further agree that this agreement, when signed, shall become a part of the permanent public records of the Department of State.

The Secretary of State and Respondent finally agree that the signatories below are authorized to enter into and bind the parties to this agreement, and have done so by signing this agreement on the date below.

JOCELYN BENSON
THE SECRETARY OF STATE



Jonathan Brater, Director
Michigan Bureau of Elections

Date: 03 / 30 / 2023

RESPONDENT



Ken Daniels, President

Date: 3 / 24 / 2023



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

March 29, 2023

W. Alan Wilk
Counsel for Save Detroit Jobs d/b/a Detroit Leaders
Dykema Gossett PLLC
Capitol View
201 Townsend Street, Suite 900
Lansing, MI 48933

Re: *Elrick v. Save Detroit Jobs d/b/a Detroit Leaders*
Campaign Finance Complaint No. 2021-10-33-202

Dear Mr. Wilk:

The Department of State (Department) is in receipt of your email on March 24, 2023, which included confirmation of the independent expenditure filing by Save Detroit Jobs d/b/a Detroit Leaders and a conciliation agreement between your client and the Department, submitted in response to the Department's October 26, 2022, determination that there may be reason to believe that your client violated the Michigan Campaign Finance Act (MCFA or Act).

The filing indicates that Save Detroit Jobs d/b/a Detroit Leaders made an independent expenditure in support of Latisha Johnson's candidacy for Detroit City Council. The conciliation agreement indicates that your client acknowledges the failure to file alleged, asserts that there was no duty to file, but has filed the requested report and has sent or will send a late fee in the amount of \$100 to the State of Michigan.

Given this, the Department concludes that a formal warning is a sufficient resolution to the complaint and considers the matter concluded. Additionally, the Department will execute the conciliation agreement and send it to you upon completion. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jenny McInerney".

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

c: Michael Elrick