

September 7, 2023

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

Email: BOERegulatory@michigan.gov; fracassia@michigan.gov

Re: Campaign Finance Complaint against **RFFW LLC d/b/a RFFW Ballot Question Committee**
and **Renae Moore, Treasurer** for Filing Fraudulent Campaign Finance Reports

To the Michigan Department of State:

This Complaint is submitted, pursuant to the Michigan Campaign Finance Act Section 169.215, to request the Michigan Department of State (the “Department”) to immediately investigate and take appropriate enforcement action against RFFW LLC d/b/a RFFW Ballot Question Committee (Committee ID #521201), 1901 St Antoine Street, Detroit, MI 48220 (committee address)/3410 Belle Chase Way, Suite 600, Lansing, MI 48911 (registered office address), Telephone No. (517) 374-9100 and against Renae Moore, Treasurer, 201 Townsend Street, Suite 900, Lansing, MI 48933, Telephone No. (517) 374-9100.

I. FACTS

A. A Campaign Finance Complaint Was The Only Thing That Made RFFW LLC Register Under The Michigan Campaign Finance Act And Abandon Its \$1,000,000 Money Laundering Scheme

RFFW LLC is a Michigan limited liability company that failed to register as a ballot question committee within 10 days after the committee was formed in violation of MCL 169.224(1). Only after a campaign finance complaint (the “Initial Complaint”) was filed against RFFW LLC on October 31, 2022,¹ and only after the Department rejected RFFW LLC’s claims and determined that RFFW LLC was a ballot question committee,² did RFFW LLC eventually concede that it was subject to the Michigan Campaign Finance Act.³ A minimum of \$1,000,000 and 351 days later, RFFW LLC filed its Statement of Organization on June 30, 2023.⁴

The Department’s decision to make RFFW LLC register under the Michigan Campaign Finance Act and abandon its \$1,000,000 money laundering scheme was inevitable.

¹ See Meyers v. RFFW LLC, Campaign Finance Complaint No. 2022 – 11 – 178 – 24, 34, 41 available on the Department website at [Meyers v. RFFW \(michigan.gov\)](#).

² See Attachment A, the Department’s Determination Letter dated February 8, 2023 concluding that RFFW LLC is subject to the Michigan Campaign Finance Act. For some reason, perhaps by oversight, this critical document is not available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#).

³ See Conciliation Agreement dated August 7, 2023 available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#).

⁴ See [RFFW BALLOT QUESTION COMMITTEE | Michigan Campaign Finance Committee Search \(nictusa.com\)](#).

On July 14, 2022, RFFW LLC filed as a Michigan limited liability company.⁵ Thereafter, in what could be one of the greatest business miracles ever witnessed for a startup limited liability company, RFFW LLC somehow amassed \$1,000,000 and donated this entire amount in two separate contributions a mere 15 days later to Reproductive Freedom For All, a Michigan ballot question committee:⁶

REPRODUCTIVE FREEDOM FOR ALL	520255–BAL	DIRECT	<i>RFFW LLC</i> 1901 ST. ANTOINE ST.	DETROIT MI 48220	07/20/2022	\$500,000.00
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REPRODUCTIVE FREEDOM FOR ALL	520255–BAL	DIRECT	<i>RFFW LLC</i> 1901 ST. ANTOINE ST.	DETROIT MI 48220	07/29/2022	\$500,000.00
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The Department’s decision on this money laundering scheme was unequivocal:⁷

“That is the case here. The amounts contributed to Reproductive Freedom for All accounted for only a small portion of the total contributions the ballot question committee received in 2022. However, RFFW was a newly established LLC on July 14, 2022, and amassed \$500,000 to donate to Reproductive Freedom for All a mere 15 days later. It is clear that RFFW had to solicit funds in order to make expenditures to Reproductive Freedom for All given that RFFW could not have funded a single expenditure without conducting aggressive fundraising in those first 15 days as an LLC. Any rationale to the contrary strains credulity.

Such fundraising for the purpose of supporting a ballot question committee, as is evidenced in the instant case, makes RFFW itself a ballot question committee responsible for registration and for filing appropriate campaign statements under the MCFA, but your organization, to date, has not registered as a committee nor filed those campaign statements as required by sections 24 and 33 of the Act. Because RFFW solicited for the purpose of making a contribution to a ballot question committee, and RFFW failed to file campaign statements, the Department concludes there may be reason to believe that a potential violation of the Act has occurred.”

Accordingly, the Department found that there is reason to believe that multiple violations of the Michigan Campaign Finance Act occurred based upon RFFW LLC’s actions.⁸

⁵ See Initial Complaint, Exhibit B, the Articles of Organization of RFFW LLC, available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#).

⁶ See Amended 2022 July Quarterly filed on July 27, 2022 and Amended 2022 Pre-General Campaign Finance Report filed on January 17, 2023.

⁷ See Attachment A, the Department’s Determination Letter dated February 8, 2023 concluding that RFFW LLC is subject to the Michigan Campaign Finance Act. For some reason, perhaps by oversight, this critical document is not available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#).

⁸ MCL 169.15(10).

B. After Correctly Finding That RFFW LLC Violated The Michigan Campaign Finance Act, The Department Broke With Established Precedent And Failed To Impose An Appropriate Fine Against RFFW LLC

On February 4, 2021, the Michigan Republican Party self-reported \$200,000 in previously unreported expenditures and the Department imposed a \$200,000 fine.⁹

Conversely, RFFW LLC, which attempted a \$1,000,000 money laundering scheme to conceal the true identity of a donor, was fined only \$1,300. That is not a misprint. The fine here was \$1,300.¹⁰

The public outcry was understandable.¹¹ In an attempt to justify its failure to impose an appropriate fine in this matter, the Department spokesperson indicated:¹²

“Under Michigan law, the bureau is required to enter discussions with anyone whom it determines might have committed a campaign finance violation,” said Cheri Hardmon, press secretary for Benson.

"Those who fully cooperate with that process are treated differently than those who do not," Hardmon said. "A decision to fully cooperate and disclose material facts helps the department determine what is an appropriate fine.

"The \$1,300 fine is in keeping with this practice mandated by statute."

The foregoing “justification” is difficult to accept when respondents such as the Michigan Republican Party have been fined 100% of the unreported expenditures when it self-reported (the ultimate decision to cooperate and disclose material facts). Conversely, RFFW LLC, which did not self-report and vigorously fought against the Initial Complaint, was fined about one-tenth of 1% of the unreported contributions.

And referring to the “practice mandated by statute”, Section 24(1) of the Michigan Campaign Finance Act contains a tailor-made penalty for an outrageous \$1,000,000 money laundering scheme such as the one attempted by RFFW LLC:¹³

“A person who violates this subsection by failing to file [a Statement of Organization] for more than 30 days after a statement of organization is required to be filed is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.”

With all due respect, the “practice mandated by statute” was not followed with respect to the resolution of the Initial Complaint.

And just as important, RFFW LLC’s money laundering scheme was the functional equivalent of a 2014 matter where an entity called Home Care First, Inc. solicited and received funds from various SEIU organizations, and then made corresponding contributions to a ballot

⁹ See Michigan Republican Party Self Report available on the Department’s website at [MRP Web Posting.pdf \(michigan.gov\)](#).

¹⁰ See Conciliation Agreement dated August 7, 2023 available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#)

¹¹ See Attachment B, “Secret donor of \$1M to abortion rights campaign revealed” Detroit News August 31 2023.

¹² Id.

¹³ MCL 169.224(1).

question committee.¹⁴ In that 2014 matter, by forming a nonprofit corporation instead of a ballot question committee, the respondents “thwarted the disclosure purposes of the Michigan Campaign Finance Act and deprived the electorate of any meaningful opportunity to discover the source of [a ballot question committee’s] funds prior to Election Day.”¹⁵ Consequently, the Department found reason to believe that the Michigan Campaign Finance Act was violated in that 2014 matter.¹⁶ In the present case, by forming a limited liability company instead of a ballot question committee to solicit and receive funds for a ballot question committee, RFFW LLC’s money laundering scheme attempts to achieve the same result as the 2014 matter involving Home Care First, Inc. and should have received similar treatment from the Department here. Again, with all due respect, a fine of about one-tenth of 1% of the unreported contributions is not appropriate.

The hope here is that the consequences of the present Complaint are not similarly ignored.

C. Other Than The Two Contributions To Reproductive Freedom For All, RFFW LLC Reported No Expenditures

The Department determined that RFFW LLC must file campaign finance reports.¹⁷ Pursuant to this determination, RFFW LLC belatedly filed two reports on July 6, 2023: A 2022 July Quarterly Statement¹⁸ and a Dissolution Statement.¹⁹ Significantly, other than the two contributions to Reproductive Freedom For All totaling \$1,000,000, RFFW LLC reported no expenditures. Without limiting the generality of the foregoing statement, at a minimum, the following expenditures were not reported:

1. There were no filing fees or expenses reported with respect to the formation of RFFW LLC. In this regard, RFFW LLC was formed on July 14, 2022. The Organizer of RFFW LLC is an attorney named Brandon Dalziel.²⁰ The registered office of RFFW LLC (1905 Northwood Boulevard, Royal Oak, MI 48073) is a residential property owned by Mr. Dalziel.²¹ RFFW LLC contributed \$1,000,000 to Reproductive Freedom For All. The campaign finance reports filed by Reproductive Freedom For All listed the address for RFFW LLC as 1901 St. Antoine Street, Detroit, MI 48220, which by no coincidence happens to be the office address for attorney Brandon Dalziel.²²
2. There were no compliance fees reported with respect to filing campaign finance

¹⁴ See *D’Assandro v. Home Care First, Inc.*, MI Campaign Finance Complaint filed August 30, 2013 (decision filed February 9, 2014 and is available on the Department’s website at [DAssandro v Home Care and Citizens CA cover letter and Conciliation Agreement.pdf \(michigan.gov\)](#)).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See Attachment A, the Department’s Determination Letter dated February 8, 2023 concluding that RFFW LLC is subject to the Michigan Campaign Finance Act. For some reason, perhaps by oversight, this critical document is not available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#).

¹⁸ This campaign finance report is available on the Department’s website at [Document Details | Michigan Campaign Finance Committee Search \(nictusa.com\)](#).

¹⁹ This campaign finance report is available on the Department’s website at [Statement Details | Michigan Campaign Finance Committee Search \(nictusa.com\)](#).

²⁰ See Exhibit B of the Initial Complaint, the Articles of Organization of RFFW LLC, available on the Department website at [Meyers v. RFFW \(michigan.gov\)](#).

²¹ See Exhibit C of the Initial Complaint, the property assessment record for 1905 Northwood Boulevard, Royal Oak, Michigan 48073, available on the Department website at [Meyers v. RFFW \(michigan.gov\)](#).

²² [Brandon M. Dalziel - Bodman \(bodmanlaw.com\)](#)

- reports for RFFW LLC. The Treasurer of RFFW LLC is Renae Moore, whose address is the Dykema law firm in Lansing, Michigan.²³ Upon information and belief, Renae Moore is employed by Dykema.²⁴
3. There were no legal fees reported with respect to defending the Initial Complaint filed against RFFW LLC. As the records related to the Initial Complaint illustrate, the Dykema law firm spent a significant amount of time to vigorously defend RFFW LLC.²⁵
 4. There were no ongoing compliance costs reported with respect to the maintenance of RFFW LLC. According to the Department of Licensing and Regulatory Affairs website, RFFW LLC has engaged CSC – Lawyers Incorporating Service to serve as resident agent.²⁶
 5. The \$1,300 fine paid on July 17, 2023 was not reported.²⁷

Accordingly, RFFW LLC has incurred significant expenditures related to its ballot question activity but has, to date, reported nothing. And because RFFW LLC has inappropriately filed a Dissolution Statement when it clearly had significant activity (at least in terms of expenditures) well beyond July 29, 2022,²⁸ it is reasonable to conclude that absent this Complaint and the subsequent enforcement from the Department, RFFW LLC has no intention of reporting any expenditure.

II. LAW

The Department’s historical position has been that legal and accounting costs related to compliance with the Michigan Campaign Finance Act are expenditures.²⁹ According to Section 34(7) of the Michigan Campaign Finance Act:³⁰

“(7) If a treasurer or other individual designated as responsible for the record keeping, report preparation, or report filing of a ballot question committee knowingly files an incomplete or inaccurate statement or report required by this section, that treasurer or other designated individual is subject to a civil fine of not more than \$1,000.00 or the amount of the undisclosed contribution, whichever is greater.”

Because the definition of “contribution” encompasses the definition of “expenditure”,³¹ the failure to report an expenditure also is prohibited by Section 34(7) of the Michigan Campaign Finance Act.

Section 26(1)(j) of the Michigan Campaign Finance Act requires that expenditures or other disbursements be reported.³² According to the Department:³³ “Section 34 and Section

²³ [Lansing | Dykema](#).

²⁴ [Renae D. Moore - Government Solutions Senior Compliance Specialist - Dykema Gossett PLLC | LinkedIn](#)

²⁵ See Meyers v. RFFW LLC, Campaign Finance Complaint No. 2022 – 11 – 178 – 24, 34, 41 available on the Department website at [Meyers v. RFFW \(michigan.gov\)](#).

²⁶ See [Search Summary State of Michigan Corporations Division](#)

²⁷ See Meyers v. RFFW LLC, Campaign Finance Complaint No. 2022 – 11 – 178 – 24, 34, 41 available on the Department website at [Meyers v. RFFW \(michigan.gov\)](#).

²⁸ RFFW LLC cannot file a Dissolution Statement as of July 29, 2022 because a “committee can request dissolution when activity in the committee ends.” See Appendix W, [Michigan Elections - Disclosure Division - - Appendices \(mertsplus.com\)](#)

²⁹ See Interpretive Statement issued to David Lambert dated October 31, 1984.

³⁰ MCL 169.234(7).

³¹ See MCL 169.204(1).

³² MCL 169.226(1)(j).

35 of the MCFA require accurate and complete statements. A committee treasurer or designated record keeper who knowingly files an inaccurate or incomplete campaign statement may be subject to penalties and late filing fees.”

Significantly, reporting requirements for activity which occurs after the committee has dissolved must be reported and disposed of in the same manner as if the committee remained in existence.³⁴ For example, a refund given to a committee is an asset of the committee, even after the committee files a Dissolution Statement.³⁵ The receipt and disposition of the refund must be reported by filing an amended Dissolution Statement.³⁶ Since the Michigan Campaign Finance Act does not impose a filing deadline for Dissolution Statements, the Department interprets the Michigan Campaign Finance Act as requiring corrections in a Dissolution Statement to be reported when they are discovered.³⁷ Therefore, a ballot question committee cannot avoid reporting its expenditures by simply filing a Dissolution Statement with a self-selected termination date.

Moreover, RFFW LLC is unable to claim immunity from compliance with the Michigan Campaign Act simply because its campaign finance reports were attached to a conciliation agreement. In this regard, when RFFW LLC filed its campaign finance reports, it made the following certification:³⁸

“Verification: I/We certify that all reasonable diligence was used in the preparation of this statement and attached schedules (if any) and to the best of my/our knowledge and belief the contents are true, accurate and complete.”

This certification/representation has been clearly violated because RFFW LLC failed to report a significant amount of expenditures; therefore, a conciliation agreement does not immunize RFFW LLC from fraudulent reporting.³⁹

III. ANALYSIS

Issue Presented: Whether RFFW LLC Has Violated Section 34(7) Of The Michigan Campaign Finance By Filing Incomplete Or Inaccurate Reports Which Contain No Expenditures Other Than The Contributions To Reproductive Freedom For All

The analysis in the present matter is straightforward and may be summarized as follows:

1. The Department required RFFW LLC to register as a ballot question committee and file campaign finance reports.
2. RFFW LLC necessarily incurred significant legal and accounting expenses related to its formation, maintenance, and compliance with the Michigan Campaign Finance Act and the defense of the Initial Complaint, including the payment of the \$1,300 fine. Upon information and belief, the army of lawyers and compliance professionals

³³ See Ballot Question Filing Guide available at [Michigan Elections - Disclosure Division - - Ballot Question Filing Guide \(mertsplus.com\)](https://michigan.gov/elections/disclosure/division/-/Ballot-Question-Filing-Guide-(mertsplus.com)).

³⁴ Interpretive Statement issued to Leon Nobes dated September 4, 1980; Declaratory Ruling issued to Gary Peters dated April 9, 1991.

³⁵ Declaratory Ruling issued to Gary Peters dated April 9, 1991.

³⁶ Declaratory Ruling issued to Gary Peters dated April 9, 1991.

³⁷ Declaratory Ruling issued to Gary Peters dated April 9, 1991.

³⁸ This Verification is set forth on Exhibit B of the Conciliation Agreement dated August 7, 2023 available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](https://michigan.gov/elections/disclosure/division/-/Ballot-Question-Filing-Guide-(mertsplus.com))

³⁹ MCL 169.215(10).

assisting RFFW LLC did not volunteer their services.

3. RFFW LLC may have incurred other expenses which were similarly not reported.
4. RFFW LLC may not avoid its reporting obligations by merely filing a Dissolution Report with a self-selected date of July 29, 2022 and use the filing of this report to avoid any expenditures incurred after July 29, 2022.⁴⁰
5. RFFW LLC violated Section 34(7) of the Michigan Campaign Finance Act by filing incomplete or inaccurate reports which contain no expenditures other than the two contributions made to Reproductive Freedom For All.

IV. CONCLUSION AND REQUEST FOR ACTION

This case is all about transparency. From its beginning on July 14, 2022, RFFW LLC began to carry out its \$1,000,000 money laundering scheme to shield its donor from public disclosure. As a result of the Initial Complaint, this scheme backfired as the donor was not only publicly revealed as required by the Michigan Campaign Finance Act, but made headline news as her picture was prominently displayed.⁴¹ Now, instead of hiding contributions, RFFW LLC appears ready to hide expenditures.

The facts support a finding that RFFW LLC filed incomplete or inaccurate reports in violation of Section 34(7) of the Michigan Campaign Finance Act. Again, this activity is consistent with its \$1,000,000 money laundering scheme to avoid transparency which was the subject of the Initial Complaint. We respectfully request the Michigan Department of State immediately investigate the apparent violations set forth in this Complaint and find reason to believe that RFFW LLC has violated the Michigan Campaign Finance Act and to deny its request to file a Dissolution Statement. It is clear, given the facts in this case, that expenditures have been intentionally not reported. While this Complaint has referenced a number of obvious unreported expenditures, there may be more unreported expenditures. Therefore, any investigation here must require RFFW LLC to disclose all of its expenditures, under oath. Accordingly, RFFW LLC must file complete and accurate reports and identify all expenditures, including paying any late filing fees, the amount of the undisclosed expenditures as a reasonable fine, and any other applicable civil or criminal penalties.

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.

Respectfully submitted,



Patrick Meyers
105 Lake Ridge Drive
Mason, MI 48854

⁴⁰ The Dissolution Statement self-contains an ending date of July 29, 2022. See [Document Details | Michigan Campaign Finance Committee Search \(nictusa.com\)](#).

⁴¹ See Attachment B, "Secret donor of \$1M to abortion rights campaign revealed" Detroit News August 31 2023.

ATTACHMENT A



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

February 8, 2023

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

Re: *Meyers v. RFFW LLC*
Campaign Finance Complaint No. 2022 – 11 – 178 – 24, 34, 41

Dear Mr. W. Alan Wilk:

The Department of State (Department) has finished its initial investigation of the campaign finance complaint filed against your client, RFFW LLC (RFFW), by Patrick Meyers alleging that your client violated the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the current disposition of the complaint against your clients.

Specifically, the complaint alleges that your client registered in Michigan as a limited liability company for the purpose of contributing money to a ballot question committee and used its status as a limited liability company to shield the committee's donors from the reporting requirements in the MCFA. The complaint alleges that your failure to file as a ballot question committee puts you in violation of sections 24 and 34 of the MCFA, which require committees to submit a statement of organization within ten days of the committee's formation and require the timely reporting of specified information, respectively. Further, the complaint appears to allege that RFFW is in violation of section 41 of the MCFA, which prohibits a person from making contributions in another's name.

You responded to the complaint on December 13, 2022. In your response you indicate RFFW simply making a donation to a ballot question committee is insufficient to meet the definition of a committee under the act, but rather it must be established that RFFW solicited or received contributions for the purpose of making an expenditure to that ballot question committee. You further indicate that the only conduct at issue in this matter is a one-time donation made by RFFW to Reproductive Freedom for All, and that the complaint did not establish any level of intermingling or coordination between RFFW and Reproductive Freedom for All because the two are in fact independent of each other. Finally, you also indicate that besides contributing to Reproductive Freedom for All, RFFW has other activity and plans to use its funds to support other measures and interests that promote reproductive rights, as this is why RFFW was formed.

On December 26, 2022, Mr. Meyers provided a rebuttal. In his rebuttal, Mr. Meyers indicates that RFFW was created as a Michigan LLC on July 14, 2022, and somehow amassed \$500,000 to donate to Reproductive Freedom for All a mere 15 days later. The rebuttal also notes that your client failed to present any facts to negate an obvious finding that RFFW solicited contributions for the purpose of making expenditures to a ballot question committee. Mr. Meyers claims that RFFW impliedly admits a violation of the MCFA when it seeks to draw a distinction that does not exist: between soliciting contributions from third parties for the purpose of making an expenditure to a ballot question committee and soliciting contributions from its member(s) and owner(s) for the purpose of making expenditures to a ballot question committee.¹ Further, Mr. Meyers argues that no evidence of other activities or plans has been provided by RFFW to establish that their sole purpose was anything but to support the ballot question committee.

In Michigan, a committee is an organization which “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, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, 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 requires committees to file certain campaign statements detailing contributions and expenditures. See, e.g., MCL 169.234. Failure to file these required statements can result in civil and criminal penalties. *Id.* An organization making an expenditure to a ballot question committee is not a committee under the MCFA and is not subject to the reporting requirements of the MCFA, however, unless that organization “solicits or receives contributions for the purpose of making an expenditure to that ballot question committee.” MCL 169.203(4). Upon meeting the definition of committee, the organization is obligated to file a statement of organization with the appropriate filing official within 10 days of the committee’s formation, MCL 169.224, and is also required to file various campaign statements detailing the organization’s contributions and expenditures.

The MCFA requires ballot question committees to file campaign statements before and after elections, on a quarterly basis, and after the filing of the petition form. MCL 169.234(1-2). If a treasurer or other designated individual fails to file a required report, the committee, treasurer, or designated individual is subject to a late filing fee of not more than \$2,000, depending on the amount raised by the committee. MCL 169.234(4). If the statement is unfiled for more than seven days, the treasurer or other individual is also guilty of a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both. MCL 169.(6) A person who knowingly omits or underreports expenditures required to be disclosed by the Act is subject to a civil fine of not more than \$1,000 or the amount of the expenditures omitted or underreported, whichever is greater. MCL 169.241(7)

¹ While this exception exists in the MCFA, it only applies to separate segregated funds soliciting contributions from its members and does not apply to ballot question committees. See MCL 169.255.

The MCFA also prohibits a contribution from being made, directly or indirectly, when it is made in the name of a person other than the name by which the person is identified for legal purposes. MCL 169.241(3).

As the Department stated in a 2020 campaign finance complaint determination,² “it is not a violation of the Act for a group to raise funds in its normal course of conduct and make contributions to a ballot question committee or to coordinate with that ballot question committee. It is, however, a violation of the Act for an organization to raise money on behalf of the ballot question committee in order to shield the organization’s donors from the reporting requirements of the Act.” The complaint alleges that your groups’ activities amount to such a violation.

The Department has reviewed this matter and finds that there is sufficient evidence to support a finding that there “may be reason to believe” that your client violated the MCFA. The evidence establishes that RFFW took actions that qualify the organization as a ballot question committee under the MCFA. The question here is not whether the funds contributed from a group to a ballot question committee accounted for an outsized proportion of total contributions received by the committee; rather, it is whether the contributions accounted for an outsized proportion of total contributions from the contributing group. As the Department stated in *LaBrant*, “The disparity between [the contributing groups’] assets going into 2020, the amount that each organization contributed to [the ballot question committee], and the timing of those contributions demonstrate a level of coordination showing the entities were not independent of each other.” In that case, the only way that the contributing groups could have contributed the amounts they did to the ballot question committee was through aggressive fundraising, with virtually all of those funds raised going to the ballot question committee.

That is the case here. The amounts contributed to Reproductive Freedom for All accounted for only a small portion of the total contributions the ballot question committee received in 2022. However, RFFW was a newly established LLC on July 14, 2022, and amassed \$500,000 to donate to Reproductive Freedom for All a mere 15 days later. It is clear that RFFW had to solicit funds in order to make expenditures to Reproductive Freedom for All given that RFFW could not have funded a single expenditure without conducting aggressive fundraising in those first 15 days as an LLC. Any rationale to the contrary strains credulity.

Such fundraising for the purpose of supporting a ballot question committee, as is evidenced in the instant case, makes RFFW itself a ballot question committee responsible for registration and for filing appropriate campaign statements under the MCFA, but your organization, to date, has not registered as a committee nor filed those campaign statements as required by sections 24 and 33 of the Act. Because RFFW solicited for the purpose of making a contribution to a ballot question committee, and RFFW failed to file campaign statements, the Department concludes there may be reason to believe that a potential violation of the Act has occurred.

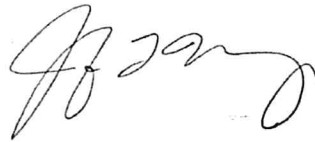
² *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021)

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 June 21, 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,

A handwritten signature in black ink, appearing to read 'Jenny McInerney', with a stylized flourish at the end.

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

c: Patrick Meyers

ATTACHMENT B

Secret donor of \$1M to abortion rights campaign revealed



[Craig Mauger](#)

The Detroit News

Lansing — A prominent Metro Detroit businesswoman supplied \$1 million for the campaign to enshrine abortion rights in the Michigan Constitution, but a newly formed company and lawyers masked her involvement, according to records from the Secretary of State's office.

On July 14, 2022, the limited liability company called RFFW — an acronym that its attorney suggested stood for Reproductive Freedom for Women — launched, according to filings with the state of Michigan. Within 15 days, the business sent \$1 million to the Reproductive Freedom for All campaign, which supported the ballot measure [voters approved in November](#).

Eight months later, after a complaint about the mystery money, RFFW agreed to reveal where the \$1 million came from through an agreement with the Secretary of State Jocelyn Benson's office: All of it had been provided by Shery Cotton, who co-founded the insurance company Meridian Health Plan.



The \$1 million from Cotton that ended up with Reproductive Freedom for All represented about 2% of the \$47 million the successful campaign in favor of Proposal 3 raised overall.

The Secretary of State's office concluded, according to an agreement with RFFW, "there may be reason to believe" RFFW broke state laws that require those raising or spending money in support of a ballot proposal to file disclosures. Violations of the laws can bring fines or misdemeanor penalties.

Amid other high-profile investigations into money in Michigan politics, the newly released records that resulted from the state's probe provide a rare glimpse into how other wealthy donors might be hiding efforts to influence policy decisions and into the meager penalties they can face if they're caught.

As part of the agreement that resolved the complaint against RFFW, the company paid \$1,300 in late fees.

Fred Wszolek, a Republican political consultant, noted the penalty amounted to less than 1% of the \$1 million in campaign money involved. Wszolek described it as a mere "carrying charge."

"They've established a precedent now that you pay a trivial penalty if you want to use this method," Wszolek said of the strategy of forming a business to shield the identity of a donor.

The fees that RFFW was forced to pay amounted to minimal penalties for filing reports late. In the past, some groups have been required to hand over tens of thousands of dollars for violations.

The state Bureau of Elections operates within Democratic Secretary of State Benson's office and handles complaints about alleged campaign finance violations.

The bureau agreed not to pursue any other penalties against RFFW, according to a conciliation agreement that resolved the complaint and was signed on Aug. 7 by Jonathan Brater, Michigan's elections director.

Under Michigan law, the bureau is required to enter discussions with anyone whom it determines might have committed a campaign finance violation, said Cheri Hardmon, press secretary for Benson.

"Those who fully cooperate with that process are treated differently than those who do not," Hardmon said. "A decision to fully cooperate and disclose material facts helps the department determine what is an appropriate fine.

"The \$1,300 fine is in keeping with this practice mandated by statute."

Cotton did not respond Tuesday and Wednesday to a request for comment.

In a statement on behalf of RFFW, lawyer Alan Wilk said RFFW maintains it's in full compliance with Michigan law.

"As a result of a complaint by presumably a political opponent of Reproductive Freedom for All, there was a disagreement as to whether RFFW was required to file as a ballot question committee," Wilk said.

"In order to resolve the complaint, RFFW worked with the Bureau of Elections to file as a ballot question committee, filed all required paperwork and paid a late filing fee."

'Obvious extension'

Michael Stines, who [previously served as general counsel for Meridian Health Plan](#), signed the conciliation agreement on July 7 on behalf of RFFW.

In its exchanges with the Bureau of Elections, the company was represented by Wilk, a lawyer with the firm Dykema who has worked with a bevy of nonprofit fundraising organizations connected to Michigan politicians, including former [Gov. Rick Snyder](#) and [former House Speaker Lee Chatfield](#).



In a December 2022 letter to the Bureau of Elections, Wilk said RFFW didn't violate state campaign finance laws and wasn't set up to simply move money to Reproductive Freedom for All.

"RFFW was formed for liability purposes and to promote reproductive rights generally," Wilk wrote of the company. "It determined a natural first and obvious extension of this purpose was to support a reproductive rights constitutional amendment in Michigan."

Under Michigan law, a company can give money to a ballot proposal campaign. But it can't take cash from donors with plans to turn around and support a campaign, because it then would have to form an official committee and file its own disclosures.

The RFFW Ballot Question Committee publicly reported receiving the \$1 million contribution from Cotton on July 6, 353 days after the money was actually provided, according to its disclosures.

In his communications with the Bureau of Elections, Wilk acknowledged his client was reluctant to file the campaign finance paperwork "outside of the conciliation agreement" that resolved the complaint.

Mystery money

Shery Cotton and her former husband, David Cotton, co-founded what became Meridian Health Plan in 1997. Meridian eventually became Michigan's largest privately owned Medicaid insurance provider, managing the health care of low-income adults and children.

In 2018, Tampa-based [WellCare Health Plans Inc.](#) purchased Meridian from the Cottons for \$2.5 billion. In December 2020, David and Shery Cotton got divorced, according to Wayne County court records.

Shery Cotton has moved into the real estate business in recent years in downtown Grosse Pointe Park. She and two of her sons, Sean and Michael, co-own Coreander's Children's Bookshope on Kercheval Avenue.

Cotton family members have been active donors in Michigan politics for years. Shery Cotton contributed to both Democrats, like Gov. Gretchen Whitmer, and Republicans, like Snyder, in the past, according to campaign finance disclosures.

CONTRIBUTIONS (4A) BALLOT QUESTION

• Committee ID	S21201-0
• Committee Name	RFFW Ballot Question Committee
• Document Name	July - Quarterly

4101- -Add

Date of Receipt: 07/18/2022

Amt: 1,000,000.00

Cumul: 1,000,000.00

Name: Shery Cotton

Occupation: Member

Employer: RFFW

Address: 1901 St Antoine St

Business Address: 1901 St Antoine

City: Detroit State: MI

St

Zip: 48220

City: Detroit State: MI

Zip: 48220

Type of Contribution: Direct

Schedule Total

\$ 1,000,000.00

It's unclear how much the Cottons have given in additional money to nonprofit organizations connected to lawmakers or other accounts that fall outside of disclosure requirements in Michigan because the accounts aren't used to tell people directly how to vote.

Fundraising for those types of accounts has come under increased scrutiny in Lansing over the last two years as Attorney General Dana Nessel [investigates whether Chatfield, a Republican former state House speaker, misused money he brought in through his nonprofit Peninsula Fund.](#)

More:[Dixon was warned by Trump to pivot on abortion messaging; Trump backs 'exceptions'](#)

Nessel has also been probing whether former Senate Majority Leader Mike Shirkey, a Republican, used two nonprofit organizations to conceal the donors behind a campaign to repeal the law that granted emergency powers to the governor during the COVID-19 pandemic.

Benson's office referred a campaign finance complaint against the two nonprofit organizations, Michigan! My Michigan! and Michigan Citizens for Fiscal Responsibility to Nessel's office in June 2022 for "the enforcement of any criminal penalties," [according to a letter](#).

'All about transparency'

People should know who's providing the money for the campaigns to change Michigan law, said Bob LaBrant, a longtime Michigan lawyer who previously served as general counsel for the Michigan Chamber of Commerce.

LaBrant filed the complaint against the nonprofits that supplied \$2.3 million in funding for the Unlock Michigan campaign.

"It's all about transparency," LaBrant said. "If you're an informed voter, then you can make a decision on whether this is important or not."

There's been an evolution in political funding, LaBrant said. In the past, money flowed to campaigns primarily through political action committees, which have to disclose information about their donors, he said.

Then more money started moving through nonprofit organizations, which don't have to disclose their donors but do have to file annual reports on their fundraising totals. Now, more money is moving through limited liability companies that have to disclose little to no information, LaBrant said.

cmauger@detroitnews.com



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

September 27, 2023

RFFW Ballot Question Committee
1901 St Antoine Street
Detroit, MI 48220

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

Re: *Meyers v RFFW Ballot Question Committee*
Campaign Finance Complaint No. 23-070

Dear RFFW Ballot Question Committee:

The Department of State (Department) has received a formal complaint filed against you by Patrick Meyers alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Specifically, the complaint alleges that you failed to disclose contributions and expenditures associated with the committee. A copy of the complaint is included with this notice.¹

The MCFA requires ballot question committees to file contributions and expenditures with the appropriate filing official by specific dates. MCL 169.234(1). 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 undisclosed contribution, whichever is greater. MCL 169.234(7).

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](#).

¹ The Department inadvertently failed to include the determination letter in the online posting of complaint 2022-11-178 involving Mr. Meyers and RFFW LLC that is referenced in this complaint. That has been corrected and the online posting of complaint 2022-11-178 now includes that determination letter.

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. Meyers, 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: Patrick Meyers



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

October 18, 2023

Via Email and U.S. Mail

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

Re: September 7, 2023 Complaint Against RFFW LLC and Renae Moore

Dear Bureau of Elections:

This is a response to a complaint filed against RFFW LLC (“*RFFW*”) and Renae Moore, Treasurer of the dissolved RFFW Ballot Question Committee (the “*Treasurer*”), on September 7, 2023 by Patrick Meyers (“*Complainant*”) alleging a violation of the Michigan Campaign Finance Act (the “*Act*”), 1976 PA 388, as amended, MCL 169.201 *et seq.* (the “*Complaint*” or the “*2023 Complaint*”). I respectfully request the Complaint be dismissed because it fails to establish that there is reason to believe that a violation of the Act has occurred.

Complainant asserts one suspected violation that RFFW and the Treasurer violated MCL 169.34(7), meaning RFFW “knowingly file[ed] an incomplete or inaccurate statement or report required by this section. . .”¹ In support of this allegation, Complainant claims that certain expenses tied to answering a previous complaint filed by Mr. Meyers against RFFW should have been reported but were not.² These alleged expenses include legal fees incurred by RFFW to defend itself against the previously alleged violations and the late filing fees paid in accordance with a Conciliation Agreement executed between the Bureau and RFFW to resolve those previous allegations. For reasons discussed below, Complainant has failed to demonstrate that there is reason to believe a violation has occurred.

¹ MCL 169.34(7).

² *Meyers v. RFFW LLC*, Campaign Finance Complaint No. 2022 – 11 – 178 – 24, 34, 41, Filed October 12, 2022 (the “*2022 Complaint*”).

As an initial matter, RFFW was not organized for the purpose of forming a ballot question committee, but to create a limited liability company. RFFW does not believe it is (or ever was) a ballot question committee. However, as contemplated by the Conciliation Agreement, RFFW registered as a ballot question committee—under the name RFFW Ballot Question Committee—for the purposes of reporting the funds RFFW donated to Reproductive Freedom for All.³ Besides that, RFFW has not engaged in any other political activity subject to the Act. Because RFFW was clearly no longer a ballot question committee following the reporting of the contributions in and expenditures out to the Reproductive Freedom for All ballot question committee, RFFW filed a statement of dissolution immediately after submitting its July 2022 Reports.⁴

As the Bureau knows, the July 2022 Reports were filed as a result of the Bureau’s obligation to address purported violations of the Act by engaging in a conciliation process, and by RFFW’s willing participation in that process – the result of which was a Conciliation Agreement between the parties that accomplished the goal as set forth in the Act. As such, the Act bars any further civil or criminal action, and that should be the end of the inquiry here.⁵

However, should the Bureau deem further inquiry necessary, dismissal is required because the July 2022 Reports are not “incorrect or incomplete” and include all known expenditures during the time periods of the agreed upon ballot question committee filings. Complainant does not (and cannot) allege that there were any other contributions or expenditures during the July 2022 Reports time frame or present any evidence that the Reports were “*knowingly* . . . incorrect or incomplete.” In fact, these expenses were properly left off of the Reports. The legal fees and filing fees were expenses incurred *after* the reporting period—the Reports indicate contributions and expenditures during the period July 18, 2022 and July 29, 2022.⁶ The ballot question committee was then dissolved. All the alleged expenditures identified by Complainant were incurred over a year later. It would be inappropriate to include those expenses on that report—even if the legal and filing fees were expenditures (which they were not).

Complainant simply assumes that all legal expenses and fees—because at one-point RFFW was a ballot question committee—are expenditures under the Act. This is incorrect. An “expenditure” regulated by the Act is “a payment, donation, loan, or promise of payment of money or anything

³ RFFW July 2022 Quarterly Reports, attached as **Exhibit A** (the “July 2022 Reports” or “Reports”).

⁴ RFFW Dissolution Statement, attached as **Exhibit B**.

⁵ As the Bureau knows, MCL 215(10) states “If the secretary of state determines that there may be reason to believe that a violation of this act occurred, the secretary of state shall endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion, and may enter into a conciliation agreement with the person involved. Unless violated, a conciliation agreement is a complete bar to any further civil or criminal action with respect to matters covered in the conciliation agreement.”

⁶ See Ex. A.

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.”⁷ As the Bureau would agree, not all expenses are considered “expenditures.” Indeed, the Legislature specifically limits certain uses of funds from being considered an expenditure, including “[a]n expenditure for communication on a subject or issue if the communication does not support or oppose a ballot question or candidate by name or clear inference,”⁸ and “an expenditure for a communication if the communication does not in express terms advocate the election or defeat of a clearly identified candidate so as to restrict the application of this act to communications containing express words of advocacy of election or defeat.”⁹ RFFW’s legal and filing fees do not meet the definition of an expenditure because there is not a necessary link between the funds and a ballot question.

Although there are instances where legal fees and filing fees may be considered an “expenditure,” neither the Legislature nor the Bureau has created a blanket rule that all legal and filing fees are expenditures. The analysis still turns on the purpose of the expenses in question and whether the expenses were paid “in assistance of,” or “in opposition to,” or the “defeat of” candidates, ballot questions, or new political parties. The analysis applied by the Bureau is the “express advocacy” standard.¹⁰ While it is not a constitutional requirement, the express advocacy standard prevents outrageous applications of the Act. The Bureau has noted that “the MCFA’s definitions of contribution and expenditures, if interpreted literally, would criminalize even private correspondence.”¹¹ In efforts to ensure clarity and consistency, the Bureau has determined that expenses, such as legal fees and other expenses, are only “expenditures” when it relates to express advocacy of a candidate, a ballot question, or a new political party.

For example, in a 2011 Interpretative Statement, the Bureau addressed whether legal fees tied to the litigation of a recall petition would be considered expenditures.¹² The Bureau stated:

Legal fees paid or incurred for the purpose of prosecuting or defending a lawsuit relating to *the sufficiency of a recall petition, or for submitting challenges to signatures*, constitute expenditures within the meaning of MCL 169.206(1)

⁷ MCL 169.206(1). Note, the language under MCL 169.206(1) expressly defines expenditures in relation to a “**ballot question**;” it is not in relation to a ballot question *committee*.

⁸ MCL 169.206(2)(b).

⁹ MCL 169.206(2)(j).

¹⁰ April 20, 2004 Interpretive Statement issued to Robert S. LaBrant, attached as **Exhibit C**.

¹¹ *Id.* at p. 4.

¹² November 1, 2011 Department of State Interpretive Statement, attached as **Exhibit D**; see also 2009 Attorney General Opinion No. 7240, (December 15, 2009); available at: <https://www.ag.state.mi.us/opinion/datafiles/2000s/op10317.htm>

because they represent payments for services that assist or oppose the election of a candidate.¹³

Certain legal fees, like attending hearing and engaging with counsel, are subject to the Act because those fees related to activities that were “made for the purpose of influencing or made in assistance of, or in opposition to, the recall of an elected official.”¹⁴ “A communication or activity that does not constitute a contribution or expenditure is not regulated by the MCFA.”¹⁵

Complainant’s reliance on the Michigan Republican Party (“MRP”) matter involving the services of Stanley Grot is misplaced. There, the Bureau determined that Mr. Grot’s fees were expenditures because it was related to political activity. Mr. Grot, who was running for public office, provided services to the MRP pursuant to a Memorandum of Agreement for approximately \$200,000.¹⁶ The Bureau determined that the payment to Mr. Grot was an expenditure because the payment was “expressly made contingent upon the execution of a letter withdrawing [Mr. Grot] from the Secretary of State race.”¹⁷ Stated differently, the \$200,000 expense was made “in opposition of” Mr. Grot’s candidacy for public office.¹⁸

RFFW’s legal and filing fees were not incurred for the purpose of assisting or opposing a ballot question. Instead, these expenses were incurred to defend *itself* and respond to what it believed to be an unfounded complaint. Even viewing the facts in a light most favorably to Complainant, the contributions made by RFFW in 2022 were for a ballot question on the 2022 ballot. That election is over; there is no longer a ballot question to support or oppose. Complainant does not and cannot point to a ballot question that RFFW was supporting during the proceeding for the previous complaint.¹⁹ Thus, Complainant has not made a facial showing that any legal and filing fees are expenditures. Noteworthy is the fact that the Bureau has never subjected any corporate or other

¹³ *Id.* at p. 4. (Emphasis added).

¹⁴ *Id.* at p. 3. (Quotations omitted).

¹⁵ *Id.*

¹⁶ Michigan Republican Party; Self-Report, MI Campaign Finance Complaint filed February 4, 2021; May 3, 2021 Decision at p. 2; available at https://www.michigan.gov/sos/-/media/Project/Websites/sos/03mcalpine/MRP_Web_Posting.pdf?rev=7be778781b62459ea5bd54f622bd0de2&hash=E99929070C30FE33793A7027F79D6A00.

¹⁷ *Id.* (quotations omitted).

¹⁸ Recently, the Bureau issued an Interpretative Statement confirming that a candidate committee could use campaign contribution for legal fees incurred in defense of a candidate because the litigation was directly challenging the candidate’s validity on the November 2022 General Election Ballot. See February 14, 2023 Interpretative Statement to Richard L. Cunningham.

¹⁹ RFFW was notified of the 2022 Complaint on November 21, 2022; counsel was not retained until after this date.

actors to the registration and reporting obligations of the Act when they are not engaged (or no longer engaged) in any activity regulated by the Act. Taken to Complainant's illogical conclusion, Complainant himself (and any others acting jointly with him) to register and report costs and fees for filing all past, present, and future complaints filed not only in this matter but also relating to any other similar complaint he has filed or will file.

Complainant's bolstering of an alleged "money laundering scheme"²⁰ is a red herring and appears to be Complainant's primary motivation for filing the 2023 Complaint. Complainant is clearly dissatisfied with the resolution of the 2022 Complaint. Indeed, Mr. Meyers dedicates a majority of his 2023 Complaint repeating the facts and issues from the previous complaint and insinuating that the Conciliation Agreement executed pursuant to MCL 169.215(10) is somehow insufficient, which is completely contrary to the statutory language and intent of the Act. The Bureau maintains discretion and authority to resolve violations of the Act informally.²¹ In fact, the Bureau encourages the practice and both the Bureau and RFFW complied with those requirements in resolving these matters.

²⁰ Complainant's reliance of *D'Assandro v Home Care First Inc.*, is entirely misplaced. Complainant seems to reference this case in order to demonstrate a resolution to the 2022 Complaint he believes should have occurred. See *DAssandro v Home Care First, Inc*, MI Campaign Finance Complaint filed August 30, 2021, February 7, 2014 Decision; available at [https://www.michigan.gov/-/media/Project/Websites/sos/06diljak/DAssandro v Home Care and Citizens CA cover letter and Conciliation Agreement.pdf?rev=1aa8a102696646e9a671d843e59a7615](https://www.michigan.gov/-/media/Project/Websites/sos/06diljak/DAssandro_v_Home_Care_and_Citizens_CA_cover_letter_and_Conciliation_Agreement.pdf?rev=1aa8a102696646e9a671d843e59a7615)

²¹ MCL 169.215(10).



Department of State
October 18, 2023
Page 6

Complainant is just that: a complainer questioning the Bureau's judgment in handling a complaint in a manner consistent with its authority and discretion under the Act. As relevant here, Complainant seeks to challenge the parties engagement in conciliation processes to resolve alleged or future violations. The Bureau should not entertain Complainant's new claims as they are nothing more than an attempt to rewrite the Conciliation Agreement and criticize the Bureau along the way.²² RFFW complied with the Conciliation Agreement and the Act by accurately reporting funds contributed or expended for its political activity as initially determined by the Bureau and, specifically, for its donations to Reproductive Freedom for All. Any expenses paid by RFFW after the 2022 election (like legal and filing fees) bear no relationship to political activity covered by the Act or the time period covered by the Reports. Accordingly, it is respectfully requested that the Complaint be dismissed in its entirety in accordance with the Conciliation Agreement and the Act.

Sincerely,

Dykema Gossett PLLC

A handwritten signature in black ink that reads "W. Alan Wilk". The signature is written in a cursive, flowing style.

W. Alan Wilk

²² The Conciliation Agreement and the Act clearly state that issues arising from the 2022 Complaint will not be raised again. MCL 169.215(10) (“[A] conciliation agreement is a complete bar to any further civil or criminal action with respect to matters covered in the conciliation agreement.”) Moreover, permitting a second complaint based on facts arising out of the same transaction or occurrence raises issues of *res judicata*. *ER Drugs v HHS*, 341 Mich App 133, 142-43; 988 NW2d 826 (2022) (holding *res judicata* is applicable to administrative decisions).

Exhibit A



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

BALLOT QUESTION COVER PAGE

• Committee ID	521201-0		
• Committee Name	RFFW Ballot Question Committee		
• Coverage Period	07/18/2022 - 07/20/2022		
• Address Information			
• Committee Mailing	1901 St Antoine St Detroit MI 48220		
• Phone			
• Treasurer Name	RENAE MOORE		
• Treasurer Residential	201 Townsend St Ste 900 Lansing MI 48933		
• Phone			
• Treasurer Business			
• Phone			
• Recordkeeper Name			
• Recordkeeper Mailing			
• Phone			
• Statement Type	July - Quarterly		
• Relates To			
• Election Date	//		
• Dissolution Date (effective)	//		
• Qual/Non-Qual Date	//		
• Annual Statement Coverage Year			
• Treasurer/Recordkeeper Signed	RENAE MOORE	• Date	07/06/2023

A committee that does not have a Reporting Waiver must file all required Campaign Statements. The Campaign Statements must include all applicable Schedules. Direct contributions, in-kind contributions, loans, expenditures, and outstanding debts count against the \$1,000 Reporting Waiver threshold. If any of the information listed in the items above has changed since the information was shown on the committee's Statement of Organization, an amendment to the Statement of Organization should accompany this Campaign Statement. **If a request for a Reporting Waiver is not received on or before the filing deadline of a required campaign statement, that campaign statement cannot be waived.**

Verification: I\We certify that all reasonable diligence was used in the preparation of this statement and attached schedules (if any) and to the best of my\our knowledge and belief the contents are true, accurate and complete.

Current Treasurer or Designated Record keeper:

(Type or Print) Name: _____ Signature: _____ Date: _____

BALLOT SUMMARY PAGE

• Committee ID		521201-0		
• Committee Name		RFFW Ballot Question Committee		
• Document Name		July - Quarterly		
RECEIPTS		This Period	Cumulative	
3. Contributions				
a. Itemized Contributions	(3a.)	1,000,000.00		
b. Unitemized	(3b.)	0.00		
c. Subtotal of Contributions	(3c.)	1,000,000.00	(18.)	1,000,000.00
4. Other Receipts	(4.)	0.00	(19.)	0.00
5. Total Contributions and Other Receipts	(5.)	1,000,000.00	(20.)	1,000,000.00
IN-KIND CONTRIBUTIONS				
6. In-Kind Contributions				
a. Itemized	(6a.)	0.00		
b. Unitemized (less than \$20.01 each)	(6b.)	0.00		
7. Total In-Kind Contributions	(7.)	0.00	(21.)	0.00
EXPENDITURES				
8. Expenditures				
a. Itemized	(8a.)	500,000.00		
b. Itemized GOTV	(8b.)	0.00		
c. In-Kind Expenditures - Purchase of Goods or Services	(8c.)	0.00		
d. Unitemized (less than \$50.01 each)	(8d.)	0.00		
e. Subtotal of Expenditures	(8e.)	500,000.00	(22.)	500,000.00
9. Independent Expenditures	(9.)	0.00	(23.)	0.00
10. Total Expenditures	(10.)	500,000.00	(24.)	500,000.00
IN-KIND EXPENDITURES				
11. In-Kind Expenditures, Endorsements, Donations or Loans of Goods and Services	(11.)	0.00	(25.)	0.00
DEBTS AND OBLIGATIONS				
12. Debts and Obligations				
a. Owed by the Committee	(12a.)	0.00		
b. Owed to the Committee	(12b.)	0.00		
BALANCE STATEMENT				
13. Ending Balance of last report filed	(13.)			0.00
14. Amount received during reporting Period	(14.)			1,000,000.00
15. Subtotal	(15.)			1,000,000.00
16. Amount Expended during reporting Period	(16.)			500,000.00
17. ENDING BALANCE	(17.)			500,000.00

CONTRIBUTIONS (4A) BALLOT QUESTION

• Committee ID	521201-0
• Committee Name	RFFW Ballot Question Committee
• Document Name	July - Quarterly

4101- -Add**Date of Receipt:** 07/18/2022**Amt:** 1,000,000.00**Cumul:** 1,000,000.00**Name:** Shery Cotton**Occupation:** Member**Employer:** RFFW**Address:** 1901 St Antoine St**Business Address:** 1901 St Antoine
St**City:** Detroit **State:** MI**City:** Detroit **State:** MI**Zip:** 48220**Zip:** 48220**Type of Contribution:** Direct

Schedule Total	\$ 1,000,000.00
-----------------------	------------------------

DIRECT EXPENDITURES (4B) BALLOT QUESTION

• Committee ID	521201-0
• Committee Name	RFFW Ballot Question Committee
• Document Name	July - Quarterly

4102- -Add**Date:** 07/20/2022**Amt:** 500,000.00**Cumul:** 500,000.00**Name:** Reproductive Freedom for All**Address:** 2966 WOODWARD AVE.**City:** DETROIT **State:** MI**Zip:** 48201**Purpose:** contribution**Ballot Proposal:** Reproductive
Freedom for All**Support or Oppose:** Support**State or Local:** State**County:** Statewide**Payment on Debt/Obligation
reported on
previous statement:****Fund Raiser:**

Schedule Total	\$ 500,000.00
-----------------------	----------------------

Vykydal, Rebecca

From: elecfile@nictusa.com
Sent: Thursday, July 6, 2023 9:31 AM
To: Vykydal, Rebecca
Subject: Michigan Filing Status

*** EXTERNAL ***

MERTS Disclosure Filing Acknowledgement

CONGRATULATIONS! This is to acknowledge the receipt and acceptance of your electronic filing via the DISCLOSE protocol.

Your filing was received and accepted by our system at **Thu Jul 6 09:30:49 2023**,

Your reference document sequence number: **548581**

Please make a note of this or save this mail in a special folder, as it may be necessary to refer to this information in the future.

Filing Information:

Committee ID#: 521201
Reporting Period: 20220718-20220720
Report Type: JULY QUARTERLY CS-0
Committee Name: RFFW BALLOT QUESTION COMMITTEE
Running For:
Software: MERTS2,012019001

MERTS PLUS Report Validation and Error Checking

Committee ID #: 521201-0 **Report Type:** Original Quarterly
Reporting Period: 2022/07/18 - 2022/07/20 **Running For:**
Committee Name: RFFW Ballot Question Committee
Candidate Name:
Software: MERTS2, 012019001

Error Type	Number Of
Fatal Errors	0
MCFA Warnings	0
General Warnings	2

Fatal Level Errors (F)

Record Name	Field Name	Field Data	Reason	Transaction ID	Hint
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Statutory Warning Possible Michigan Campaign Finance Act Requirement (MCFA)

Record Name	Field Name	Field Data	Reason	Transaction ID	Hint
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General Warning Level Errors (W)

Record Name	Field Name	Field Data	Reason	Transaction ID	Hint
CVR	Treasurer Telephone		Required field		
4B	Ballot Name	Reproductive Freedom for All^^^	Exceeds Maximum length of 30	4102	Payee Name(Reproductive Freedom for All^^^) Date Paid(20220720)

Filing has passed client validation

Exhibit B



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

BALLOT QUESTION COVER PAGE

• Committee ID	521201-0		
• Committee Name	RFFW Ballot Question Committee		
• Coverage Period	07/21/2022 - 07/29/2022		
• Address Information			
• Committee Mailing	1901 St Antoine St Detroit MI 48220		
• Phone			
• Treasurer Name	RENAE MOORE		
• Treasurer Residential	201 Townsend St Ste 900 Lansing MI 48933		
• Phone			
• Treasurer Business			
• Phone			
• Recordkeeper Name			
• Recordkeeper Mailing			
• Phone			
• Statement Type	Dissolution Report		
• Relates To			
• Election Date	//		
• Dissolution Date (effective)	07/29/2022		
• Qual/Non-Qual Date	//		
• Annual Statement Coverage Year			
• Treasurer/Recordkeeper Signed	RENAE MOORE	• Date	07/06/2023

A committee that does not have a Reporting Waiver must file all required Campaign Statements. The Campaign Statements must include all applicable Schedules. Direct contributions, in-kind contributions, loans, expenditures, and outstanding debts count against the \$1,000 Reporting Waiver threshold. If any of the information listed in the items above has changed since the information was shown on the committee's Statement of Organization, an amendment to the Statement of Organization should accompany this Campaign Statement. **If a request for a Reporting Waiver is not received on or before the filing deadline of a required campaign statement, that campaign statement cannot be waived.**

Verification: I\We certify that all reasonable diligence was used in the preparation of this statement and attached schedules (if any) and to the best of my\our knowledge and belief the contents are true, accurate and complete.

Current Treasurer or Designated Record keeper:

(Type or Print) Name: _____ Signature: _____ Date: _____

BALLOT SUMMARY PAGE

• Committee ID		521201-0		
• Committee Name		RFFW Ballot Question Committee		
• Document Name		Dissolution Report		
RECEIPTS		This Period	Cumulative	
3. Contributions				
a. Itemized Contributions	(3a.)	0.00		
b. Unitemized	(3b.)	0.00		
c. Subtotal of Contributions	(3c.)	0.00	(18.)	1,000,000.00
4. Other Receipts	(4.)	0.00	(19.)	0.00
5. Total Contributions and Other Receipts	(5.)	0.00	(20.)	1,000,000.00
IN-KIND CONTRIBUTIONS				
6. In-Kind Contributions				
a. Itemized	(6a.)	0.00		
b. Unitemized (less than \$20.01 each)	(6b.)	0.00		
7. Total In-Kind Contributions	(7.)	0.00	(21.)	0.00
EXPENDITURES				
8. Expenditures				
a. Itemized	(8a.)	500,000.00		
b. Itemized GOTV	(8b.)	0.00		
c. In-Kind Expenditures - Purchase of Goods or Services	(8c.)	0.00		
d. Unitemized (less than \$50.01 each)	(8d.)	0.00		
e. Subtotal of Expenditures	(8e.)	500,000.00	(22.)	1,000,000.00
9. Independent Expenditures	(9.)	0.00	(23.)	0.00
10. Total Expenditures	(10.)	500,000.00	(24.)	1,000,000.00
IN-KIND EXPENDITURES				
11. In-Kind Expenditures, Endorsements, Donations or Loans of Goods and Services	(11.)	0.00	(25.)	0.00
DEBTS AND OBLIGATIONS				
12. Debts and Obligations				
a. Owed by the Committee	(12a.)	0.00		
b. Owed to the Committee	(12b.)	0.00		
BALANCE STATEMENT				
13. Ending Balance of last report filed	(13.)			500,000.00
14. Amount received during reporting Period	(14.)			0.00
15. Subtotal	(15.)			500,000.00
16. Amount Expended during reporting Period	(16.)			500,000.00
17. ENDING BALANCE	(17.)			0.00

DIRECT EXPENDITURES (4B) BALLOT QUESTION

• Committee ID	521201-0
• Committee Name	RFFW Ballot Question Committee
• Document Name	Dissolution Report

4105- -Add**Date:** 07/29/2022**Amt:** 500,000.00**Cumul:** 1,000,000.00**Name:** Reproductive Freedom for All**Address:** 2966 WOODWARD AVE.**City:** DETROIT **State:** MI**Zip:** 48201**Purpose:** contribution**Ballot Proposal:** Reproductive Freedom for All**Support or Oppose:** Support**State or Local:** State**County:** Statewide**Payment on Debt/Obligation
reported on
previous statement:****Fund Raiser:**

Schedule Total	\$ 500,000.00
-----------------------	----------------------

Vykydal, Rebecca

From: elecfile@nictusa.com
Sent: Thursday, July 6, 2023 9:34 AM
To: Vykydal, Rebecca
Subject: Michigan Filing Status

*** EXTERNAL ***

MERTS Disclosure Filing Acknowledgement

CONGRATULATIONS! This is to acknowledge the receipt and acceptance of your electronic filing via the DISCLOSE protocol.

Your filing was received and accepted by our system at **Thu Jul 6 09:34:29 2023**,

Your reference document sequence number: **548582**

Please make a note of this or save this mail in a special folder, as it may be necessary to refer to this information in the future.

Filing Information:

Committee ID#: 521201
Reporting Period: 20220721-20220729
Report Type: DISSOLUTION CS-0
Committee Name: RFFW BALLOT QUESTION COMMITTEE
Running For:
Software: MERTS2,012019001

MERTS PLUS Report Validation and Error Checking

Committee ID #: 521201-0 **Report Type:** Original Empty

Reporting Period: 2022/07/21 - 2022/07/29 **Running For:**

Committee Name: RFFW Ballot Question Committee

Candidate Name:

Software: MERTS2, 012019001

Error Type	Number Of
Fatal Errors	0
MCFA Warnings	1
General Warnings	2

Fatal Level Errors (F)

Record Name	Field Name	Field Data	Reason	Transaction ID	Hint
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Statutory Warning Possible Michigan Campaign Finance Act Requirement (MCFA)

Record Name	Field Name	Field Data	Reason	Transaction ID	Hint
CVR	Election Type		Required field		

General Warning Level Errors (W)

Record Name	Field Name	Field Data	Reason	Transaction ID	Hint
CVR	Treasurer Telephone		Required field		
4B	Ballot Name	Reproductive Freedom for All^^^	Exceeds Maximum length of 30	4105	Payee Name(Reproductive Freedom for All^^^) Date Paid(20220729)

Filing has passed client validation

Exhibit C



STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

April 20, 2004

Robert S. LaBrant
Michigan Chamber of Commerce
600 South Walnut Street
Lansing, Michigan 48933-2200

Dear Mr. LaBrant:

This is a response to your request for a declaratory ruling under the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, as amended.

FACTS

The Michigan Chamber of Commerce ("chamber"), a non-profit corporation, intends to use its treasury funds to finance issue advocacy advertisements that, for the purposes of this request, you define as "ads that discuss issues without expressly advocating the election or defeat of the candidate who is featured in that 'issue ad'." The chamber intends to hold meetings with the candidates and exercise exclusive direction, control, and decision-making authority over the content, timing, location, mode, intended audience, volume of distribution, and frequency of placement of the ads. No candidate shall be allowed to organize, supervise, or create, review, accept, or modify any of the ads. The chamber may request photographs or other information from a candidate in order to produce an ad.

QUESTIONS PRESENTED

In light of the United States Supreme Court's *McConnell* decision, does the MCFA apply to any of the chamber's intended issue advocacy activities?

ANSWER

No. The MCFA governs "contributions" and "expenditures". Section 4 of the MCFA defines "contribution", in relevant part, as "[A] payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage or defeat of a ballot question."

Section 6 of the MCFA defines "expenditure" as "[A] payment, donation, loan, or promise of payment 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, or the qualification, passage, or defeat of a ballot question. Expenditure includes ... A contribution or transfer of anything of ascertainable monetary value for purposes of influencing the nomination or election of a candidate or the qualification, passage, or defeat of a ballot question.” Section 6(2)(b) excludes from the definition of expenditure those communications that do not support a candidate or ballot question by name or clear inference.

The department has not interpreted the definitions of contribution and expenditure literally with regard to communications. In 1976, the United States Supreme Court interpreted several sections of the Federal Election Campaign Act (FECA) in *Buckley v Valeo*, 424 US 1 (1976). FECA defined “expenditure” as “the use of money or other assets for the purpose of influencing a federal election.” The Supreme Court, finding the definition vague and overbroad, created the “express advocacy” test for determining which communications were considered expenditures under FECA and which were issue ads, exempt from FECA’s reach. The court held that only those communications that contained words of express advocacy—“vote for”, “vote against”, “elect”, “defeat”, etc.—could be deemed expenditures under the FECA.

The MCFA’s definition of expenditure was similar to FECA’s overbroad and vague definition of expenditure. Moreover, unlike the latter definition, the MCFA’s definition of expenditure did not (and still does not) require that a person intend to influence an election. In order to meet the constitutional concerns discussed in *Buckley*, the department interpreted section 6(2)(b)—which excluded from the definition of expenditure those communications that do not support or oppose a candidate or ballot question by name or clear inference—to apply to all non-express advocacy communications.

The department eventually attempted to address *Buckley*’s constitutional barriers by promulgating an “issue ad” administrative rule in 1998. This rule (1999 AC, R 169.39b) prohibited section 54 entities (corporations, unions, and domestic dependent sovereigns) from running any advertisement that contained a candidate’s name or likeness 45 days before an election. The rules were declared unconstitutional in *Right to Life of Michigan v Miller*, 23 F Supp 2d 766 (1998) and *Planned Parenthood of Michigan v Miller*, 21 F Supp 2d 740 (1998).

The department received a declaratory ruling request from a Mr. Norman Witte in August 2002. Mr. Witte asked the department for clarification regarding the regulation of issue ads. The department, believing itself constitutionally compelled by *Buckley*, *Right to Life*, and *Planned Parenthood*, officially adopted the express advocacy standard for all election-related communications.

MCCONNELL V FEC

The U.S. Supreme Court decided *McConnell v FEC* (*cite pending*), in December 2003. *McConnell* upheld several provisions of the Bi-Partisan Campaign Reform Act of 2002 (“BCRA”), including the new restrictions on “electioneering communications.” BCRA defines an electioneering communication as any broadcast, cable, or satellite communication that:

- I. Refers to a clearly identified candidate for federal office;
- II. Is made within—
 - (aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or
 - (bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and
- III. In the case of a communication which refers to a candidate other than President or Vice President, is targeted to the relevant electorate. 2 U.S.C.A. §434(f)(3)(A)(i)

A communication is “targeted to the relevant electorate” if it “can be received by 50,000 or more persons in the district or state the candidate seeks to represent.” 2 U.S.C.A. §434(f)(3)(c)

Congress adopted this new “electioneering communication” standard to prevent corporations and unions from influencing elections and avoiding disclosure by running issue ads in the weeks before an election. Congress created the electioneering communication standard to address the *Buckley* court’s concern for vagueness and overbreadth. Specifically, by regulating only certain communications (broadcast, cable, and satellite), the content of the communications (those that refer to a clearly identified candidate for federal office), and the timing of the communications (30 days before a primary election, 60 days before a general election), Congress believed it had removed the ambiguity and uncertainty that necessitated the express advocacy test.

The Supreme Court upheld BCRA’s definition of electioneering communication. Further, it held that the express advocacy test was not a constitutional requirement but rather an interpretation of a vague and overbroad statute. By removing the vagueness and overbreadth in the definition of electioneering communication, Congress had dispensed with the need for the courts to apply the express advocacy test.

The *McConnell* court addressed the *Buckley* court’s reasoning regarding express advocacy:

In *Buckley*, the Supreme Court considered FECA’s definition of “expenditure” to include the use of money or other assets “for the purpose of...influencing” a federal election. Finding the ambiguous phrase to pose constitutional problems, the court attempted to interpret the statute in order to avoid an unconstitutionally vague interpretation. To do this, the court construed “expenditure”.... to reach only funds used for communications that expressly advocated the election or defeat of a clearly identified candidate...In short, the concept of express advocacy [was] born of an effort to avoid constitutional infirmities...Our [decision] in *Buckley* [was] specific to the statutory language before us; [it] in no way drew a constitutional boundary that forever fixed the permissible scope of provisions regulating campaign-related speech. (*McConnell*, p 84-85)

APPLICATION TO MCFA

McConnell indicates that the “express advocacy” standard is not a constitutional requirement. Presumably, the Michigan legislature could enact FECA’s “electioneering communication” standards. Yet, *McConnell* unambiguously requires the express advocacy test for any statutory definition of expenditure that employs vague, broad language. The vagueness and over-breadth discussed in *Buckley* and clarified in *McConnell* still lurk in the MCFA’s definitions of contribution and expenditure. For that reason, we are compelled to apply the express advocacy test to all communications.

The 6th Circuit Court of Appeals in *Anderson v Spear*, 356 F.3d 651 (2004), recently confirmed the constitutional requirement to apply the express advocacy test to vague and broad definitions of expenditures. *Anderson* concerned Kentucky’s interpretation of its election statute, which prohibited “electioneering” within 500 feet of the entrance of a polling place. Kentucky interpreted “electioneering” to prohibit persons from providing instructions to voters regarding how to “write-in” a candidate’s name on the ballot. *Anderson*, a candidate for governor whose name was not on the ballot, challenged Kentucky’s interpretation of its statute.

The court, finding the Kentucky statute vague and overbroad, opined:

In eschewing the express advocacy distinction, the Court also relied upon substantial evidence that the line between express and issue advocacy had become “functionally meaningless” as applied to the [FECA]. Accordingly, while the *McConnell* Court disavowed the theory that “the First Amendment erects a rigid barrier between express advocacy and so-called issue advocacy,” it nonetheless left intact the ability of courts to make distinctions between express advocacy and issue advocacy, where such distinctions are necessary to cure vagueness and overbreadth in statutes which regulate more speech than that for which the legislature has established a significant governmental interest. And *McConnell* in no way alters the basic principle that the government may not regulate a broader class of speech than is necessary to achieve its significant interest. (*Anderson*, p 11)

The department must take its guidance from *McConnell* and *Anderson*. The MCFA’s definitions of contribution and expenditure, if interpreted literally, would criminalize even private correspondence. We also note that the definition of expenditure does not include an intent element. In the absence of more definite standards, we must administer the statute in such a way as to avoid the constitutional problems of vagueness and overbreadth. The department will continue to apply the express advocacy standard in determining which communications are regulated by the MCFA.

APPLICATION TO CONTRIBUTIONS AND EXPENDITURES

Both *Buckley* and *McConnell* dealt with the express advocacy test as it concerned expenditures; it did not require such a standard for contributions. The court believed that the possibility of corruption or the appearance of corruption was more likely to occur in a contribution to a

candidate than in an expenditure on behalf of the candidate. The court's distinction was premised on the FEC's ability to distinguish between contributions and expenditures.

The department, in its Witte interpretive statement, explained that it did not have the same tools, such as subpoena power or the ability to create a factual record, possessed and often deployed by the FEC. Without the ability to create a record, or even compel a person to testify, the department would have to speculate as to the degree of control exercised by a candidate over a communication produced on his or her behalf. Such speculation hardly accords with any concept of equal protection or due process. In order to avoid an arbitrary application of the law, the department must analyze a communication by its four corners to determine whether it can be regulated under the MCFA. If not, the department will not inquire further as to the circumstances behind the creation or production of the communication.

CONCLUSION

After a thorough review of the *McConnell* and *Anderson* cases, the department does not believe it has the authority to regulate issue ads. In determining which communications are subject to the MCFA, the department will continue to apply the express advocacy standard.

The only change from the Witte ruling is our rationale. In Witte, we premised our conclusion on the assumption that the express advocacy standard was a constitutional requirement. It is now clear that the express advocacy standard is required when the government relies on broad, ambiguous language to regulate election-related speech. Congress addressed that concern with its clear definitions of electioneering communications. In the absence of an amendment to the MCFA's definition of expenditure, the department must apply the express advocacy standard in order to avoid constitutional problems.

This in no way endorses some of the so-called issue ads, which are often more vicious than MCFA-regulated ads. Clearly, many if not most of these issue ads are campaign ads without words of express advocacy. Moreover, because they are not considered expenditures, relevant information, such as who paid for them, is often not disclosed.

Because your request does not include a statement of facts sufficient to form the basis for a declaratory ruling, this response is informational only and constitutes an interpretive statement with respect to your inquiries.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian DeBano", with a long horizontal flourish extending to the right.

Brian DeBano
Chief of Staff

Exhibit D



STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 1, 2011

Eric E. Doster
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, Michigan 48933-2193

Dear Mr. Doster:

The Department of State (the Department) acknowledges receipt of your letter dated August 8, 2011, in which you sought a declaratory ruling or interpretive statement under the Michigan Campaign Finance Act (the MCFA), 1976 PA 388, as amended, MCL 169.201 *et seq.* A copy of your request was published on the Department's website beginning August 10, 2011 for public comment, yet no public comments were submitted for consideration.

Specifically, you asked a series of questions concerning the applicability of the MCFA to recall activities under section 952 of the Michigan Election Law, 1954 PA 116, as amended, MCL 168.1 *et seq.* As you point out, section 5(2) of the MCFA provides that a recall vote is an election; therefore, the funds spent or received by elected officeholders to defend themselves from a recall and the funds spent or received by groups supporting or opposing the recall of an elected official are regulated under the MCFA.

According to your request, your office represents individuals, candidates, committees and entities who participate in the recall process. Your request includes a statement of facts, indicating among other things, that the recall petition process is essentially comprised of four stages:

1. "The preparation and submission of a recall petition," to occur "after a recall petition is prepared" by the sponsors of the recall to the Board of County Election Commissioners (the Board) located in the county where the officer whose recall is sought resides. MCL 168.952(2).
2. The "Clarity Hearing," to be conducted by the Board "before petitions are circulated" by the sponsors of the recall, so as to determine the sufficiency of each reason stated in the recall petition, so as to allow the officer and electors the basis for the recall. MCL 168.952(3).

3. The “petition gathering and petition review” process, which is intended¹ to culminate in the filing of a petition containing a sufficient number of valid signatures. Within 35 days after this filing, the official who accepts the petition must declare the sufficiency or insufficiency of the recall petition. MCL 168.963(1). If the petition is sufficient, then a special election to determine whether the electors will recall the officer must be held on the next regular election date that falls not less than 95 days after the date that the petition is filed. MCL 168.963 (2) and (3).
4. The procedures that govern the question of a “recall election” are the same, unless provided otherwise, as those by which the officer is elected to office. MCL 168.964. The recall ballot must include the reasons for demanding the recall, the officer’s justification against the recall and the “yes” or “no” question asking whether the officer shall be recalled from office. MCL 168.966(4).

As required by section 15(2) of the MCFA, the Department has reviewed your request and determined that it does not contain a sufficient statement of facts to warrant issuance of a declaratory ruling. Accordingly, the Department offers the following interpretive statement as an informational response to your questions, which are set forth below.

1. *“Does the [MCFA] apply to recall activities incidental to the preparation of a recall petition before the recall petition is initially submitted to the Board of County Election Commissioners to obtain a clarity hearing pursuant to MCL 168.952(2)?”*
2. *“Does the [MCFA] apply to recall activities once a recall petition is initially submitted to the Board of County Election Commissioners to obtain a clarity hearing pursuant to MCL 168.952(2)?”*
3. *“Does the [MCFA] apply to expenses incurred in connection with a recall petition clarity hearing held pursuant to MCL 168.952(3)?”*
4. *“Does the [MCFA] apply to expenses incurred in connection with recall petition litigation (authorized by MCL 168.952(6))?”*

Michigan Election Law requires the Board to review the language of a recall petition *before* the petition is circulated. MCL 168.952(3). Thus, a “clarity review” is the starting point of each and every recall effort launched in Michigan.

Pursuant to section 3(1)(d) of the MCFA, a candidate includes “an officeholder who is the subject of a recall vote.” Every candidate must organize and register a candidate committee without regard to the monetary threshold of contributions and expenditures established for other types of committees. MCL 169.203(2). Under the MCFA, a candidate committee must file its statement of organization within 20 days of its formation. MCL 169.221(1), 169.224(1).

¹ The Department is cognizant that the sponsor of a recall petition may abandon the effort without ever filing a complete petition. Nonetheless, the registration and reporting requirements of the MCFA may apply if the sponsor becomes a “committee” by receiving contributions or making expenditures in excess of \$500.00 in a calendar year. MCL 169.203(4).

For other committees, the registration and disclosure requirements of the MCFA become operative 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 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). Under the MCFA, a committee must file its statement of organization within 10 days of its formation. MCL 169.224(1).

The statute clearly provides that the legal obligation to register is triggered not more than ten days after an organization receives contributions or makes expenditures of at least \$500.00 in a single calendar year to support or oppose a candidate’s nomination or election. For purposes of determining whether a committee has attained or surpassed the \$500.00 threshold required for registration, the words “contribution” and “expenditure” are defined, in pertinent part, to include payments for goods or services that are “made for the purpose of influencing” or made “in assistance of, or in opposition to,” the nomination or election of a candidate. MCL 169.204(1), 169.206(1). A communication or activity that does not constitute a contribution or expenditure is not regulated by the MCFA.²

Thus, to the extent that the recall activities described in your correspondence constitute contributions or expenditures, the MCFA applies. With respect to the clarity hearing process such activities may include, by way of illustration, 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. The commonality among these activities is that each is “made for the purpose of influencing” or made “in assistance of, or in opposition to,” the recall of an elected official. Once the monetary threshold provided in MCL 169.203(4) is surpassed, the committee must submit a statement of organization to the designated filing official within 10 days. MCL 169.224(1). Contributions received and expenditures made by a committee, including the candidate committee of the official whose recall is sought, must be disclosed on the campaign statement covering the reporting period in which the contribution is received or the expenditure is made.³ MCL 169.226.

5. *“Does the [MCFA] apply to recall activities relating to gathering signatures for the recall petition after the Board of County Election Commissioners and/or a court of record determine[] that the recall petition is of sufficient clarity?”*
6. *“Does the [MCFA] apply to recall activities related to the review and/or challenge of recall petition signatures after the recall petition and signatures are filed with the filing official?”*

A recall is an election; therefore, expenditures attendant to supporting or opposing a recall (including legal fees) are legitimate campaign expenditures that may be paid with committee funds.

² For example, costs incurred by a labor organization or corporation to produce and disseminate communications to its members or shareholders are excluded from the statutory definition of expenditure. MCL 169.206(2)(a).

³ Unless the reporting waiver provisions of MCL 169.224(5)-(6) apply, a committee is required to file campaign statements according to the schedule established by MCL 169.233 and 169.235.

Legal fees paid or incurred for the purpose of prosecuting or defending a lawsuit relating to the sufficiency of a recall petition, or for submitting challenges to signatures, constitute expenditures within the meaning of MCL 169.206(1) because they represent payments for services that assist or oppose the election of a candidate. Such expenditures are subject to the ordinary disclosure requirements of the MCFA.

7. *"Since the term "election" includes a "recall election" (MCL 169.205(2)), please confirm that the [MCFA] applies to express advocacy activities conducted in connection with a recall election."*

By law, a communication that "does *not* support or oppose a ballot question or candidate by name or clear inference [,]" is not an expenditure and is exempt from the requirements and limitations of the MCFA. MCL 169.206(2)(b) (emphasis added). This provision requires the Department "to apply the express advocacy standard in determining which communications are regulated by the MCFA." Interpretive Statement to Robert LaBrant (April 20, 2004).

In conclusion, the MCFA applies to the contributions received and expenditures made for recall activities associated with a clarity hearing, such as the costs incurred in drafting and preparing the recall petition or attending or participating in such hearing. Legal fees paid or incurred for the purposes of prosecuting or defending such a lawsuit are regulated under the MCFA.

Sincerely,



Michael J. Senyko
Chief of Staff



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

October 31, 2023

Patrick Meyers
105 Lake Ridge Drive
Mason, MI 48854

Re: *Meyers v RFFW Ballot Question Committee*
Campaign Finance Complaint No. 23-070

Dear Mr. Meyers:

The Department of State received a response from Alan Wilk on behalf of RFFW 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

Attachment
c: RFFW Ballot Question Committee c/o Alan Wilk

November 8, 2023

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

Email: BOERegulatory@michigan.gov; fracassia@michigan.gov

Re: Meyers v. RFFW LLC; Campaign Finance Complaint No. 23-070; Rebuttal Statement for Filing Fraudulent Campaign Finance Reports

Dear BOE Regulatory Section:

I have received the Response filed by Respondent RFFW LLC. Please consider this letter to be the Rebuttal Statement filed in the above-referenced matter.

RESPONDENT RFFW LLC IS ITSELF A BALLOT QUESTION COMMITTEE RESPONSIBLE FOR FILING APPROPRIATE CAMPAIGN STATEMENTS UNDER THE MICHIGAN CAMPAIGN FINANCE ACT

As stated by the Michigan Department of State (the “Department”) in its Determination Letter dated February 8, 2023:¹

“...RFFW [is] itself a ballot question committee responsible for registration and for filing appropriate campaign statements under the MCFA.”

AS A BALLOT QUESTION COMMITTEE RESPONSIBLE FOR FILING APPROPRIATE CAMPAIGN STATEMENTS, SECTION 26(1)(J) OF THE MICHIGAN CAMPAIGN FINANCE ACT REQUIRES RFFW LLC TO REPORT “EXPENDITURES OR OTHER DISBURSEMENTS” – NOT JUST THE ITEMS THAT RFFW LLC HAS CHOSEN TO REPORT

Respondent RFFW LLC defiantly states that it only agreed to report the “funds RFFW donated to Reproductive Freedom for All.”² Therefore, according to the Respondent, “that should be the end of the inquiry here.”³

Before RFFW LLC takes its victory lap for having attempted to hoodwink the Department to allow RFFW LLC to ignore its reporting obligations with a conciliation agreement, it must be emphasized that RFFW LLC is unable to claim immunity from compliance with the Michigan

¹ This document is available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](https://michigan.gov/meyers-v-rffw).

² Response, Page 2.

³ Response, Page 2.

Campaign Act simply because its campaign finance reports were attached to a conciliation agreement. In this regard, when RFFW LLC filed its campaign finance reports, it made the following certification:⁴

“Verification: I/We certify that all reasonable diligence was used in the preparation of this statement and attached schedules (if any) and to the best of my/our knowledge and belief the contents are true, accurate and complete.”

This certification/representation has been clearly violated because RFFW LLC failed to report a significant amount of expenditures or other disbursements and violated the Conciliation Agreement; therefore, a conciliation agreement does not immunize RFFW LLC from fraudulent reporting.⁵

Further, the Conciliation Agreement -- upon which the Respondent so desperately relies on -- requires that the “Respondent will comply with the Act and the Rules promulgated thereunder.”⁶

Accordingly, the present Complaint is not affected by what Respondent RFFW LLC chooses to voluntarily report or not report; rather, as a ballot question committee responsible for filing appropriate campaign statements, Respondent RFFW LLC must comply with Section 26(1)(j) to report “expenditures or other disbursements”.

RESPONDENT RFFW LLC FAILED TO REPORT “EXPENDITURES OR OTHER DISBURSEMENTS” AS REQUIRED BY SECTION 26(1)(j) OF THE MICHIGAN CAMPAIGN FINANCE ACT

The Response was the opportunity for the Respondent to present facts to negate the obvious finding that RFFW LLC incurred significant expenditures or other disbursements. Instead of denying the existence of these significant expenditures or other disbursements, RFFW LLC makes two principal arguments, neither of which has any merit.

First, RFFW LLC argues that these expenditures or other disbursements occurred after its self-determined dissolution date of July 29, 2022, and therefore, because RFFW LLC chose an arbitrary dissolution date of July 29, 2022 and filed a dissolution report nearly a year after the fact, that any activity after July 29, 2022 need not be reported.⁷

Contrary to RFFW LLC’s position, reporting requirements for activity which occurs after the committee has dissolved must be reported and disposed of in the same manner as if the committee remained in existence.⁸ For example, a refund given to a committee is an asset of the committee,

⁴ This Verification is set forth on Exhibit B of the Conciliation Agreement dated August 7, 2023 available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#)

⁵ MCL 169.215(10).

⁶ See Conciliation Agreement dated August 7, 2023 available on the Department’s website at [Meyers v. RFFW \(michigan.gov\)](#)

⁷ Response, Page 2.

⁸ Interpretive Statement issued to Leon Nobes dated September 4, 1980; Declaratory Ruling issued to Gary Peters dated April 9, 1991.

even after the committee files a Dissolution Statement.⁹ The receipt and disposition of the refund must be reported by filing an amended Dissolution Statement.¹⁰ Since the Michigan Campaign Finance Act does not impose a filing deadline for Dissolution Statements, the Department interprets the Michigan Campaign Finance Act as requiring corrections in a Dissolution Statement to be reported when they are discovered.¹¹ Therefore, a ballot question committee cannot avoid reporting its expenditures by simply filing a Dissolution Statement with a self-selected termination date.

Moreover, some of the expenses referenced in the Complaint, such as RFFW LLC's formation expenses, certainly were incurred prior to July 29, 2022. And yet, none of these expenses were reported because RFFW LLC chose not to report in violation of Section 26(1)(j) of the Michigan Campaign Finance Act.

Second, RFFW LLC argues that the legal and filing fees referenced in the Complaint are not "expenditures" and therefore, not required to be reported.¹² However, these legal and filing fees are administrative expenses and the Department has historically considered a committee's administrative expenses to be regulated under the Michigan Campaign Finance Act.¹³

Moreover, RFFW LLC's "no expenditure, no reporting" claim ignores that Section 26(1)(j) of the Michigan Campaign Finance Act also requires that "disbursements" be reported. Consequently, even a ballot question committee that has no "expenditures" must still report its "disbursements" pursuant to Section 26(1)(j) of the Michigan Campaign Finance Act.

CONCLUSION AND REQUEST FOR ACTION

This case is all about transparency. From its beginning on July 14, 2022, RFFW LLC began to carry out its \$1,000,000 money laundering scheme to shield its donor from public disclosure. As a result of the initial Complaint filed against RFFW LLC, this scheme backfired as the donor was not only publicly revealed as required by the Michigan Campaign Finance Act, but made headline news as her picture was prominently displayed.¹⁴ Now, instead of hiding contributions, RFFW LLC appears ready to hide expenditures or other disbursements.

The facts support a finding that RFFW LLC filed incomplete or inaccurate reports in violation of Section 34(7) of the Michigan Campaign Finance Act. Again, this activity is consistent with its \$1,000,000 money laundering scheme to avoid transparency which was the subject of the initial Complaint filed against RFFW LLC and accepted by the Department. We respectfully request the Michigan Department of State immediately investigate the apparent violations set forth in this Complaint and find reason to believe that RFFW LLC has violated the Michigan Campaign Finance Act yet again and to deny its request to file a Dissolution Statement.¹⁵ It is clear, given

⁹ Declaratory Ruling issued to Gary Peters dated April 9, 1991.

¹⁰ Declaratory Ruling issued to Gary Peters dated April 9, 1991.

¹¹ Declaratory Ruling issued to Gary Peters dated April 9, 1991.

¹² Response, Pages 2-5.

¹³ Interpretive Statement issued to Larry Gerschbacher dated June 15, 1989.

¹⁴ See Attachment B of the Complaint, "Secret donor of \$1M to abortion rights campaign revealed" Detroit News August 31 2023.

¹⁵ It is noted that despite the pendency of the Complaint and the demonstrated violations of law committed by

the facts in this case, that expenditures or other disbursements have been intentionally not reported. While the Complaint has referenced a number of obvious unreported expenditures, there may be more unreported expenditures and disbursements. Therefore, any investigation here must require RFFW LLC to disclose all of its expenditures, under oath. Accordingly, RFFW LLC must file complete and accurate reports and identify all expenditures or disbursements, including paying any late filing fees, the amount of the undisclosed expenditures and disbursements as a reasonable fine, and any other applicable civil or criminal penalties.

Thank you for the opportunity to submit this Rebuttal Statement.



Patrick Meyers



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

November 29, 2023

Alan Wilk
C/O RFFW
201 Townsend St, Suite 900
Lansing, MI 48933

Re: *Meyers v. RFFW*
Campaign Finance Complaint No. 23-070

Dear Mr. Wilk:

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 enclosure 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



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

January 17, 2024

Alan Wilk
C/O RFFW
201 Townsend St, Suite 900
Lansing, MI 48933

Re: *Meyers v RFFW Ballot Question Committee*
Campaign Finance Complaint No. 23-070

Dear Mr. Wilk:

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

The complaint alleged that RFFW Ballot Question Committee failed to properly report expenditures. Specifically, the complaint alleged that RFFW failed to report administrative expenses, legal fees, and fines in their committee filings.

You responded to the complaint. In your response, you assert that the expenses alleged by Mr. Meyer are not considered "expenses" under MCFA and even if they were considered expenses they were not incurred during the reporting period that Mr. Meyers asserts that they should have been reported.

Mr. Meyers provided a rebuttal statement. In that statement, Mr. Meyers reasserts his position that the administrative expenses in forming the committee, legal expenses, and fines are considered expenses under MCFA and should have been reported. Mr. Meyers further contends that these expenses are required to be reported even after a committee has dissolved.

From the outset the Department must initially determine if the expenses considered an "expenditure" under MCFA. MCL 169.206 defines an expenditure as "a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, *the qualification, passage, or defeat of a ballot question*, or the qualification of a new political party."

This office has previously issued a *Declaratory Ruling to Mr. Peter H. Ellsworth (April 3, 1995)* outlining when ballot question contributions or expenditures are required to be reported. "The

purpose of the contributions or expenditures must be determined through the use of an objective standard: whether the payment directly influences or attempts to influence the qualification of a ballot question or an election regarding that question. A payment does not meet this standard if its impact on the qualification of a ballot question or an election regarding that question is incidental.”

On July 14, 2022, RFFW filed with the Department of Licensing and Regulatory Affairs to incorporate as an LLC. In the response to the first complaint of *Meyers v. RFFW* the respondents indicated that they had no intention of forming a ballot question committee. The formation of an LLC is not in and of itself an expense that would be covered by MCFA and considering this a MCFA “expense” would have wide reaching impacts for businesses throughout the state. Therefore, the department cannot consider the formation of RFFW as an LLC is a covered expense under MCFA.

Additionally, RFFW reported their contribution from Shery Cotton and two expenditures to Reproductive Freedom for All. These expenditures occurred prior to the citizens approval of Proposal 3 on November 8, 2022. The initial complaint from *Meyers v. RFFW* was sent to the respondent by the Bureau of Elections on November 21, 2022.

All other expenses in the complaint occurred after November 21, 2022. Proposal 3 was already approved when RFFW became aware of the initial complaint. Using the objective standard in the Declaratory Ruling to Mr. Peter H. Ellsworth the department must determine if these expenses **directly** impacted or influenced the passage of Proposal 3.

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. The unreported expenditures in the complaint didn’t have a “direct” impact on Proposal 3 of 2022 because they didn’t directly influence or attempt to influence the qualification of a ballot question or an election regarding that question. Because the expenses in question related to an enforcement action under the MCFA, the expenses cannot be taken as affecting the qualification or passage of a ballot question.

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,



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

February 2, 2024

Alan Wilk
C/O RFFW
201 Townsend St, Suite 900
Lansing, MI 48933

Re: *Meyers v RFFW Ballot Question Committee*
Campaign Finance Complaint No. 23-070

Dear Mr. Wilk:

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

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From the outset the Department must initially determine if the expenses are considered an “expenditure” under MCFA. MCL 169.206 defines an expenditure as “a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, *the qualification, passage, or defeat of a ballot question*, or the qualification of a new political party.”

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its impact on the qualification of a ballot question or an election regarding that question is incidental.”

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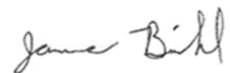
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All other expenses in the complaint occurred after November 21, 2022. Proposal 3 was already approved when RFFW became aware of the initial complaint. Using the objective standard in the Declaratory Ruling to Mr. Peter H. Ellsworth, the department must determine if these expenses **directly** impacted or influenced the passage of Proposal 3.

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. The unreported expenditures in the complaint didn’t have a “direct” impact on Proposal 3 of 2022 because they didn’t directly influence or attempt to influence the qualification of a ballot question or an election regarding that question. Because the expenses in question related to an enforcement action under the MCFA, the expenses cannot be taken as affecting the qualification or passage of a ballot question.

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,



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

c: Patrick Meyers

