

Campaign Finance Complaint Form

Michigan Department of State

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MICHIGAN DEPT OF STATE
2018 JUL 10 PM 2:53

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (the MCFA, 1976 PA 388, as amended; MCL 169.201 *et seq.*). All information on the form must be provided along with an original signature and evidence. Please print or type all information.

I allege that the MCFA was violated as follows:

| Section 1. Complainant | | |
|----------------------------------|--|--------------|
| Your Name Valerie Housour | Daytime Telephone Number 231-492-3327 | |
| Mailing Address 419 Bates St. | | |
| City Fife Lake | State mi | Zip 49633 |

| Section 2. Alleged Violator | | |
|--|-------------|--------------|
| Name David McGough, Village President | | |
| Mailing Address Lello Bates St. | | |
| City Fife Lake | State mi | Zip 49633 |

Section 3. Alleged Violations (Use additional sheet if more space is needed.)

Section(s) of the MCFA violated:

He violated 169.257 section 57(1)

Explain how those sections were violated:

The Village President included a letter to request support for him in an upcoming election placed inside the Village tax bill. I am the treasurer and was

ordered to do so be the president he wasted Village postage, copying and paper cost as well as staff

Evidence that supports those allegations (attach copies of pertinent documents and other information):

I did not read the letter until I received my bill
I have included the letter that was in
with my tax Bill

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X

Valerie Howson
Signature of Complainant

7-2-18
Date

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

Section 15(6) of the MCFA (MCL 169.215) requires that the signed certification found in section 4 of this form be included in every complaint. However, if, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence, you may also make the following certification:

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

I have attached the letter
that came with my tax bill
and envelope

X

Valerie Howson
Signature of Complainant

7-2-18
Date

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

Mail or deliver the completed complaint form with an **original signature and evidence** to the following address:

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

David McGough, Village President

616 Bates Street

Fife Lake MI, 49633

(231) 879-4291

June 27, 2018

Dear Village of Fife Lake Citizens

There have been many positive things happening in the village! First off, I would like to welcome two new members to our team. Tammy Healan is now on the Village Council. She has been a village resident for ten years and works at the Post Office. Owen Hentschel has joined our Department of Public Works Staff. Owen lives in the area; and has been doing a wonderful job, for the last 7 months, working alongside Jamie. I would like to thank them both and welcome them aboard.

We have completed our bike path on Boyd Street, and it is looking great and should make it much safer walking or riding through town. I would like to thank Linda Forwerck and Terry Street, as this was a joint effort, between the Township and the Village, to get the grant and complete this project. A Special thanks to The Band of Ottawa and Chippewa Tribe for giving us the grant money for this project.

We have been doing some major street repairs throughout the village. We used the funds available, to fix the streets that were in the worse shape and did as much repair work as possible. A huge thank you to Ryan and team Elmer's for their excellent work. We plan to meet with Elmer's in the fall and schedule more road repairs for next Spring.

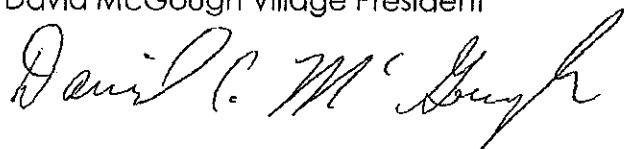
The Fife Lake Village Downtown Development Association, and the Village of Fife Lake worked together in a joint effort to get a sprinkler system installed by the beach. Thank you to Wilhite Irrigation, for doing such an excellent job installing the system.

If there are any citizens, that are leaving for the winter months, our local police officer will check on your home, while you are away. If you are interested contact Eric Meiers, at the Township Office, and he will put you on the list.

In closing I will be running for Village President for another two year term, and would greatly appreciate your support.

Sincerely

David McGough Village President





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

July 10, 2018

David McGough
Village President
616 bates Street
Fife Lake, Michigan 49633

Re: *Housour v. McGough*
Campaign Finance Complaint
No. 2018-07-31-57

Dear Mr. McGough:

The Department of State (Department) has received a formal complaint filed against you by Valerie Housour alleging that you have violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.*¹ 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.* A copy of the complaint and supporting documentation is enclosed with this letter.

Ms. Housour alleges that you authorized public resources to be used when a letter urging township residents to support your reelection was included in the village's tax bill. Included with the complaint was the letter.

In Michigan it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4).

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.


¹ A second complaint was filed against you raising the same allegations. Because both complaints concern the same allegations, the Department dismisses the complaint filed by Ms. Leedy as the resolution will be governed by the complaint filed by Ms. Housour.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 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 Ms. Housour, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether “there may be reason to believe that a violation of [the MCFA] has occurred [.]” MCL 169.215(10). Note that the Department’s enforcement powers include the possibility of entering a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 57(4) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 373-2540.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Valerie Housour

David C McGough
616 Bates Street
Fife Lake MI 49633

BUREAU OF ELECTIONS

2018 JUL 23 P 3: 21

DEPT OF STATE

July 17, 2018

Michigan Department of State
Bureau of Elections
Richard H. Austin Building, 1st Floor
430 West Allegan Street
Lansing MI 49633

Attn: Adam Fracassi

Re: Complaint filed by Valerie Housour

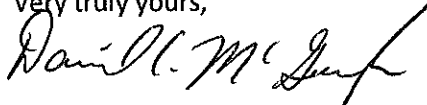
Dear Adam,

Please accept this as my response to the complaint filed by Valerie Housour alleging a violation of the Michigan Campaign Finance Act. In her complaint Ms. Housour alleges that I violated Section 15 of the Michigan Campaign Finance Act, MCL 169.201. Section 15 states the it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are the terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A knowing violation of this provision is a misdemeanor offense. MCL 169.257(4). Ms. Housour alleges that I violated this section by using the Village copy machine, paper and postage in sending out this letter. The letter that was included with the tax bills was something that the Village does every year. I did not realize that I could not add the last line of the letter that stated "In closing I will be running for Village President for another two year term, and would greatly appreciate your support".

After review of Section 15 of the Michigan Campaign Finance Act I now see how my adding that last sentence would be considered a violation. I would be more than willing to pay back the postage cost for this mailing if required. I sincerely apologize and ensure that this will never happen again.

I thank you for your consideration of this matter. If I may be of any further assistance please let me know.

Very truly yours,



David McGough



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

October 3, 2018

David McGough
616 Bates Street
Fife Lake, Michigan 49633

Dear Mr. McGough:

The Department of State (Department) has completed its investigation of the complaint filed against Jefferson Township by Valerie Housour, which alleged you violated section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of Ms. Housour's complaint.

Ms. Housour filed her complaint on July 10, 2018 alleging that a letter was placed into the tax bill that expressly advocated for your reelection. Specifically, the last sentence of the bill states "In closing I will be running for Village President for another two year term, and would greatly appreciate your support."

You filed your response by letter dated July 17, 2018 and indicated that you did not intentionally violate the MCFA and admitted that the last sentence could be considered a violation. You further indicated that you would be willing to pay back postage. Ms. Housour did not file a rebuttal.

In Michigan, it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words "contribution" and "expenditure" are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). A person who knowingly violates this section is guilty of a misdemeanor punishable by a fine up to \$1,000 or a fine equal to the amount of the improper expenditure – whichever is greater. MCL 169.257(4).

It is undisputed that the letter at issue was sent using public funds and resources and that the last sentence in the letter contains words of express advocacy. Under the MCFA, express advocacy is defined as language that specifically urges voters to "vote yes," "vote no," "elect," "defeat," "support," or "oppose" a ballot question or candidate, using these or equivalent words and phrases. MCL 169.206(2)(j). The letter meets this standard as you have urged voters to support your reelection.

Therefore, the evidence provided to the Department supports a conclusion that the Township expended public resources to advocate for the passage of a ballot question. Because you used

public resources to mail a letter urging readers to “vote yes” on a township millage, the Department finds that there is a reason to believe that you violated section 57 of the Act.

Upon the finding of a potential violation, the Act requires the Department to “endeavor to correct the violation or prevent a further violation by using informal methods [.]” if it finds that there may be reason to believe that a violation has occurred, and if the Department is unable to correct or prevent additional violations, it must ask the Attorney General to prosecute if a crime has been committed. MCL 169.215(10)(a). The objective of an informal resolution is “to correct the violation or prevent a further violation [.]” *Id.*

The Department offers to resolve Ms. Housour’s complaint against you informally through the execution of the enclosed conciliation agreement. The agreement requires the Township be reimbursed a total of \$182.00 (the total amount of Township funds and resources that were improperly used). The purpose of this settlement is to correct the violation, ensure taxpayers are made whole. (These funds may be raised through a MCFA committee or from a person’s personal funds, made as an expenditure from your candidate committee, or all of these.)

If you wish to enter into the conciliation agreement, please return the original signed document to this office, along with proof of reimbursement of \$182.00 to the Township by November 7, 2018.

Please be advised that if the Department is unable to resolve this informally, it is required by MCL 169.215(10)-(11) to:

- 1) Refer you to the Attorney General with a request that his office prosecute it for the crime of expending public funds to make an expenditure, a misdemeanor violation of MCL 169.257(1); or
- 2) Conduct an administrative hearing to enforce the civil penalty provided in MCL 169.215(11), which provides that the Secretary of State may seek a civil fine of triple the amount outlined in 169.257(4), plus up to \$1,000.00 for each violation of the Act.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State



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

In the Matter of:

**Valerie Housour
419 Bates Street
Fife Lake, Michigan 49633**

v.

**David McGough
616 Bates Street
Fife Lake, Michigan 49633**

CONCILIATION AGREEMENT

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

The Secretary of State alleges that there may be reason to believe that Respondent violated MCL §169.257 by improperly using township funds to ask voters to cast a yes vote for a township millage.

Therefore, Respondent, without admitting any issue of law or fact, except as stated herein, hereby voluntarily enter into this conciliation agreement and assure the Secretary of State that they will comply with the Act and the Rules promulgated to implement the Act.

By executing this conciliation agreement, Respondent certifies that the Township has been repaid at total of \$182.00 representing the amount of the improperly used township funds and resources.

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

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

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

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

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

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

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

**RUTH JOHNSON
SECRETARY OF STATE**

RESPONDENT

**Sally Williams, Director
Bureau of Elections**

David McGough

Date: _____

Date: _____



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

November 7, 2018

David McGough
616 Bates Street
Fife Lake, Michigan 49633

Dear Mr. McGough:

Enclosed is a signed copy of the conciliation agreement entered into in response to the complaint filed by Valerie Housour which concerned alleged violations of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* The Department considers this matter closed and resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

November 7, 2018

Valerie Housour
419 Bates Street
Fife Lake, Michigan 49633

Dear Ms. Housour:

The Department of State has concluded its investigation of the complaint that you filed against David McGough, which concerned an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the final resolution is provided as an enclosure with this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

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ELECTIONS/GREAT SEAL

In the Matter of:

**Valerie Housour
419 Bates Street
Fife Lake, Michigan 49633**

v.

**David McGough
616 Bates Street
Fife Lake, Michigan 49633**

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The Secretary of State alleges that there may be reason to believe that Respondent violated MCL §169.257 by improperly using township funds to ask voters to cast a yes vote for a township millage.

Therefore, Respondent, without admitting any issue of law or fact, except as stated herein, hereby voluntarily enter into this conciliation agreement and assure the Secretary of State that they will comply with the Act and the Rules promulgated to implement the Act.

By executing this conciliation agreement, Respondent certifies that the Township has been repaid at total of \$182.00 representing the amount of the improperly used township funds and resources.

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

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

**RUTH JOHNSON
SECRETARY OF STATE**

RESPONDENT



**Sally Williams, Director
Bureau of Elections**



David McGough

Date: 11/5/18

Date: 10-30-18