

Campaign Finance Complaint Form
Michigan Department of State

RECEIVED
MICHIGAN
2018 NOV -5 AM 9:22
ELECTORAL

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 FRANK LYNN		Daytime Telephone Number (616) 942-8067
Mailing Address 3416 Devoe NE		
City Grand Rapids	State MI	Zip 49546

Section 2. Alleged Violator		
Name Kenneth James Yonker		
Mailing Address 3820 100th St SE		
City Galedonia	State MI	Zip 49316

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

Section(s) of the MCFA violated:

Section 57

Explain how those sections were violated:

Attached

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

Attached

Section 1 – your info

Section 2 – Yonkers info

Kenneth James Yonker
3820 100th St SE
Caledonia, MI 49316

Section 3 –

Section 57 violated

On the afternoon of Saturday, October 27, 2018 Kent County Drain Commissioner Ken Yonker was using his county-owned and tax-payer paid vehicle for campaign purposes. He was witnessed going home-to-home on Costner Dr. SE in Caledonia with the express purpose of campaigning and handing out political literature from the committee of "10 Million is Enough", a committee opposing a school millage in Caledonia. Mr. Yonker is listed as the designated record keeper on the Statement of Organization for "10 Million is Enough".

On Monday, October 29, 2018 the county administration was notified by a resident of this violation. According to county officials Mr. Yonker admitted it to administration that he, "had a lapse of judgement" and admitted that he did indeed violate policy by using a Kent County taxpayer-paid vehicle for political campaigning. Kent County Administration claims that Mr. Yonker has been "counseled" over the incident.

While Mr. Yonker has admitted to wrongdoing with Kent County Administration regarding his abuse of County property, he has yet to answer to the abuse of Section 57 of the Campaign Finance Act. Mr. Yonker has held elected office since 2002 – for 16 years as a School Board member, a State Representative, and now as a County Drain Commissioner. Campaign Finance rules and use of public resources for political purposes are not new concepts to him. This abuse of Section 57 was not a "momentary lapse of judgement" but a pattern of believing that the irony of Mr. Yonker wasting taxpayer funds and resources to campaign against a millage

Section 4 -

A Freedom of Information Act request has been filed with Kent County Administration for any supporting documents or confirmation of his "counselling" as well as any documents of

\$10 MILLION IS ENOUGH. CALEDONIA

VOTE NO ON MILLAGE INCREASE

TOP 5 REASONS TO VOTE NO

#1 School Fund Balance is greater than \$10 Million Dollars

The school fund balance represents the amount of financial savings the district has accumulated. These are TAX DOLLARS previously collected, and have not been spent on our students, teachers or assets. To date, the district has \$10,000,000 in savings. Maintaining a healthy fund balance is important, however, at 15% of annual revenue, Caledonia Community Schools proves to be one of the wealthiest and healthiest in Kent County. Moreover, earlier this year, Kent County voters passed a county millage, increasing revenue by \$240/pupil. Savings, increased revenue and new taxes negate the need to seek additional dollars, and certainly don't justify overriding the important Headlee Amendment and the valuable protections it provides to taxpayers.

#2 Headlee Amendment Override

The Headlee Amendment was put in place by voters to prevent government overgrowth during periods of high property value inflation, just like we see today in Caledonia. Headlee limits tax capture increases to the rate of inflation. This ballot initiative aims to override this important protection, and is a tax increase, by definition.

#3 State Funding at all-time high

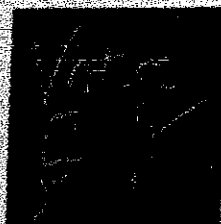
The State of Michigan has given schools the highest per pupil increase in the history of our state. Caledonia recently received a \$120/pupil increase, helping to offset past rollbacks. It's worth reminding that Kent County voters passes a tax increase earlier this year, totaling an additional \$240/pupil.

#4 \$156k = \$500,000 in LOST economic development

The Caledonia Community Schools operating millage proposal will override the Headlee Amendment, resulting in \$156,000 in new funds for the school. However, dollars left in the local economy are typically spent on a 3 to 1 ratio, meaning that \$156,000 has the potential of generating over \$500,000 by 2020.

#5 A "NO VOTE" is a Pro-School and Pro-Community choice

On the surface, this tax increase appears to be a fair capture of lost revenue from the recession a few years back, however, a closer examination reveals this is a regressive tax that will unfairly impact renters, raise consumer prices and provide an opportunity for Caledonia Schools to capture more than 18 mills in the future. Because this is a tax on non-homestead properties, the millage increase will predominately impact business owners and landlords, who will pass along the increase to shoppers and renters in the Caledonia Community in order to prevent revenue reductions.



On Election Day, November 6th

For more information, go to www.10MillionIsEnough.com

Paid for by 10MILLIONISENOUGH campaign committee

COMPLAINT PROCESS

Section 15 of the MCFA governs the filing and processing of complaints. If you believe someone has violated the MCFA, you may file a written complaint. The complaint **must** include all of the following:

- Your name, address and telephone number.
- The alleged violator's name and address.
- A description in reasonable detail of the alleged violation, including the section or sections of the MCFA you believe were violated, an explanation of how you believe the MCFA was violated, and any other pertinent information.
- Evidence which supports your allegations.
- A certification that:

To the best of your knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of the complaint is supported by evidence.

- If after a reasonable inquiry under the circumstances, you are unable to certify that certain specifically identified factual contentions of the complaint are supported by evidence, you may also certify that:

To the best of your knowledge, information, or belief, there are grounds to conclude that those specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry.

- Your signature immediately after the certification or certifications.

WARNING: Section 15(8) of the MCFA (MCL 169.215) provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. Under section 15(16) of the MCFA (MCL 169.215), the Secretary of State may require a person who files a complaint with a false certification to:

- Pay the Department some or all of the expenses incurred by the Department as a direct result of the filing of the complaint.
- Pay the alleged violator some or all of the expenses, including, but not limited to, reasonable attorney fees, incurred by that person as a direct result of the filing of the complaint.
- Pay a civil fine of up to \$1,000.00.

A complaint may be dismissed if any required information is not included, or if the complaint is determined to be frivolous, illegible, or indefinite. All parties are notified of dismissed complaints.

When a complaint meets the above requirements, the Department notifies the alleged violator that a complaint has been filed and provides a copy of the complaint. The alleged violator will have an opportunity to file a response. The complaint filer will have an opportunity to file a rebuttal to any response. All parties receive periodic reports concerning the actions taken by the Department on a complaint.



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

November 9, 2018

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Dear Mr. Yonker:

The Department of State (Department) received a formal complaint filed by Frank Lynn against you alleging that you violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* 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.

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).

Mr. Lynn alleges that you used your county-owned vehicle to go door-to-door for campaign purposes. Mr. Lynn alleges that you handed out flyers which urged voters to "vote no" on the millage increase. Mr. Lynn further alleges that you admitted to the wrongdoing and have been counseled.

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.

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 Mr. Lynn, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials

Kenneth Yonker
November 9, 2018
Page 2

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,

A handwritten signature in black ink, appearing to read "Adam Fracassi", written in a cursive style.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Frank Lynn

Dear Mr. Fracissi:

This is a response to the section 57 complaint filed against me by Mr. Lynn of Grand Rapids MI.

The complaint indicates I was using a county-owned vehicle for campaign purposes, "...going home-to-home on Costner Dr. SE in Caledonia with the express purpose of campaigning and handing out political literature from the committee of '10 Million is Enough,' a committee opposing a school millage in Caledonia."

REVIEW OF EVENTS

On the evening of Saturday, October 27 my personal vehicle was not running properly so I drove the county vehicle to a dinner meeting with community members, a legitimate use of the vehicle. After the dinner meeting I was scheduled to meet a volunteer for the "10 Million is Enough" campaign at my home to use his vehicle to distribute literature in the Caledonia community. After dinner, forgetting at least for a few moments that I was driving the county vehicle, I made a spur-of-the-moment decision to distribute flyers on my own in a neighborhood close to where my dinner meeting was held. I started on Costner Dr in the Glen Valley neighborhood because it is near the entrance to the development – and I didn't get far before realizing my mistake. At that point, I left the development.

EXPLANATION

Simply put, I had a momentary lapse in judgement and memory. I normally drive my personal vehicle to evening meetings and events – so it was unusual for me to be in the county vehicle for the dinner meeting. I made a quick decision to distribute flyers to save other volunteers time and energy -- without immediately remembering I was in a county vehicle. It should be noted that I am permitted to use the county vehicle for personal use, provided the miles are logged as such. So it is not uncommon to go back and forth between personal and official use of the vehicle, and this practice I believe contributed to my mistake.

SUMMARY

Acknowledgement:

I do acknowledge using a county vehicle to distribute flyers related to a school millage issue to homes on Costner Dr. SE in Caledonia – before recognizing my error and leaving the neighborhood.

Unusual circumstances: I typically use my personal vehicle for evening events so it was out of the ordinary for me to be driving the county vehicle the evening of October 27, not my own. That unusual circumstance contributed to my momentary lapse in judgement.

Inaccurate statements:

The complaint alleges my actions did not reflect a "momentary lapse of judgement" but rather a pattern of behavior of some kind (garbled language in the complaint). Any reference to a pattern of repetitive behavior is not factual and not supported by my record. In 16 years of public service I have never had a Section 57 violation, never been accused of a violation, and never been found to have committed a violation. Any reference to a pattern of behavior is an inaccurate, unfounded statement by the complainant.

Unqualified comments: The complainant alleges I did not have a 'momentary lapse of judgement' – yet he has no basis for making that statement. He has never met me, never discussed personal or political issues with me, and has no unique insight into my character. Inclusion of that unfounded statement in the complaint discredits the complainant and the complaint.

Thank you for considering my comments and perspective in your assessment of this complaint.

Sincerely



2016 NOV 30 PM 2:08
RECEIVED
CITY OF CALEDONIA



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

December 14, 2018

Frank Lynn
3446 Devon NE
Grand Rapids, Michigan 49546

Re: *Yonker v. Lynn*
Campaign Finance Complaint
No. 2018-11-102-57

Dear Mr. Lynn:

The Department of State received a response to the complaint you filed against Kenneth Yonker, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Kenneth Yonker

Dear Mr. Fracissi:

This is a response to the section 57 complaint filed against me by Mr. Lynn of Grand Rapids MI.

The complaint indicates I was using a county-owned vehicle for campaign purposes, "...going home-to-home on Costner Dr. SE in Caledonia with the express purpose of campaigning and handing out political literature from the committee of '10 Million is Enough,' a committee opposing a school millage in Caledonia."

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EXPLANATION

Simply put, I had a momentary lapse in judgement and memory. I normally drive my personal vehicle to evening meetings and events – so it was unusual for me to be in the county vehicle for the dinner meeting. I made a quick decision to distribute flyers to save other volunteers time and energy -- without immediately remembering I was in a county vehicle. It should be noted that I am permitted to use the county vehicle for personal use, provided the miles are logged as such. So it is not uncommon to go back and forth between personal and official use of the vehicle, and this practice I believe contributed to my mistake.

SUMMARY

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I do acknowledge using a county vehicle to distribute flyers related to a school millage issue to homes on Costner Dr. SE in Caledonia – before recognizing my error and leaving the neighborhood.

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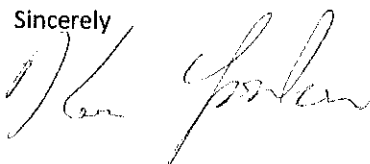
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Unqualified comments: The complainant alleges I did not have a 'momentary lapse of judgement' – yet he has no basis for making that statement. He has never met me, never discussed personal or political issues with me, and has no unique insight into my character. Inclusion of that unfounded statement in the complaint discredits the complainant and the complaint.

Thank you for considering my comments and perspective in your assessment of this complaint.

Sincerely



2019/10/30 PM 2:00

2018 DEC 26 PM 12:22

Rebuttal Statement – Yonker Complaint**Att: Adam Fracassi****From: Frank Lynn****3446 Devon NE****Grand Rapids, MI 49546**

In response to my complaint, Mr. Yonker emphasizes his "momentary lapse in judgement" in using county resources for political purposes in campaigning for "10 Million is Enough" (a committee opposing a Caledonia Schools funding millage). Mr. Yonker fails to offer that he is a principal officer of the ballot committee (Designated Record Keeper – see attached). As a primary organizer of the ballot committee, Mr. Yonker had a much higher stake in the defeat of this millage than an average volunteer. This increased pressure may have contributed to his supposed "lapse of judgement" to use taxpayer resources for political purposes.

I contend that this egregious act was not a simple case of a "momentary lapse in judgement". Mr. Yonker served six years as a State Representative who received annual trainings and quarterly reminders from the House Business Office and Republican Caucus Counsel about this very issue. As an elected official in one capacity or another for over 16 years, this is a fundamental and universal rule that every elected official understands. With more than sixteen years of experience – I find it very difficult to believe that someone simply lapsed in their judgement. A more likely scenario is that Mr. Yonker simply found it more convenient for himself to campaign with the county truck he was driving rather than go out of his way to change vehicles. That he chose to violate Section 57 out of personal convenience and did so until challenged by a resident (until he got caught). It is unknown how many additional times Mr. Yonker used the "convenience" of his county vehicle to stop along the way to campaign for his ballot committee.

Mr. Yonker's indignant claim that I have never met him, never discussed personal or political issues with him, and have no insight into his character are completely false. I have known Mr. Yonker for over ten years, first meeting him when he was a Representative and I was working at Disability Advocates of Kent County. In that position I met with him numerous times in Lansing and in the offices of Disability Advocates. Further I have interacted with him in his role as Drain Commissioner and at meetings of the Senior Advocates of Kent County. It is because of the years of personal experience in meeting with, speaking with, and communicating with Mr. Yonker that qualifies my belief that this was not a simple case of a "momentary lack in judgement".

Regardless of the circumstances, it is important to note the simplest facts:

- Mr. Yonker clearly and unequivocally acknowledges and confesses to violating Sec. 57
- Mr. Yonker has held elected office for more than 16 years and has extensive Sec 57 experience
- Mr. Yonker failed to offer that he is a principal officer of the ballot committee
- Kent County taxpayers were harmed by his egregious use of county resources for political purposes

Mr. Yonker is not new to this concept. He is not a first-time candidate nor a newly elected officeholder who would be more likely to make honest mistakes. Because of Mr. Yonkers years of experience and additional extensive trainings and warnings about this very issue from his time in the State House, Mr. Yonker deserves no less than the maximum penalty that the Sec. of State can impose. The residents and taxpayers of Kent County deserve nothing less than the strongest penalty to Mr. Yonker to serve as deterrent for future violations and as a warning to others to remain within the law when campaigning or holding office.



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

ORIGINAL OR AMENDED:

STATEMENT OF ORGANIZATION FORM FOR BALLOT QUESTION COMMITTEES

Information on this form is made public.

Kent County Clerk
Elections Division

1. Committee ID #: 129348		*2. Type of Filing: <input checked="" type="checkbox"/> Original; <input type="checkbox"/> Amendment to Items:		SEP 28 2018 Eff. Date:	
*3. Date Committee was Formed: 9/21/18					
*4. Full Name of Committee: 10 million is enough					
*5. Acronym or Abbreviation (if any):					
*6. Complete Committee Mailing Address (May be PO Box): 3820 10076 St SE Caledonia MI 49316					
*7. Complete Committee Street Address (May not be PO Box):					
*Committee Phone		*Committee Primary Email Address:			
Committee Fax #:		Committee Website Address:			
*8. Treasurer Name and Complete Address: David A. Nemmers 8580 Highway CT SE, Caledonia, MI 49316					
Phone #: 616-890-0951		Email Address: dsnemmers@aol.com			
*9. Designated Record Keeper Name and Complete Address: Ken Senger 3820 10076 St. Caledonia MI 49316					
Phone #: 616-401-1082		Email Address: ken564@gmail.com			
*10. REPORTING WAIVER REQUEST:					
<input type="checkbox"/> YES, I/WE WANT TO APPLY FOR THE REPORTING WAIVER. The committee does not expect to spend or receive in excess of \$1,000 in an election. I/We understand that if the committee does not spend or receive in excess of \$1,000 in an election, the committee does not owe Pre, Post, Quarterly and Annual Campaign Statements. I/We further understand that the Reporting Waiver will be automatically lost if the committee exceeds the \$1,000 threshold and all required campaign statements must be filed. A Reporting Waiver does not exempt a committee from filing Late Contribution Reports or Petition Proposal Campaign Statements.					
<input checked="" type="checkbox"/> NO, I/WE DO NOT WANT TO APPLY FOR THE REPORTING WAIVER. The committee expects to spend or receive in excess of \$1,000 in an election. I/We understand that the committee owes Pre, Post, Quarterly and Annual Campaign Statements even if the committee does not spend or receive in excess of \$1,000 in an election. I/We further understand that the Reporting Waiver cannot be requested retroactively to avoid filing requirements and to avoid paying late filing fees. Further information regarding Reporting Waivers can be found in Appendix C of the Ballot Question Manual.					
*11. Name and Address of Depositories or Intended Depositories of committee funds. (Michigan Bank, Credit Union or Savings & Loan Association)					
*Official Depository (name and address): 5/3rd Bank 9325 Cherry Valley Ave. Caledonia MI 49316					
Secondary Depository (name and address): United Bank 8540 Broadview Ave. Caledonia MI 49316					
12. List the specific ballot proposal(s) involved using the official ballot designation if available and mark support or oppose as appropriate: <input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
Description:					
Indicate the ballot proposal district below by selecting Statewide, County (include the county name), Multi-County or Local (include the name of the jurisdiction). If multi-county, list the county where the greatest number of voters eligible to vote on the proposal reside.					
<input type="checkbox"/> Statewide <input type="checkbox"/> County <input checked="" type="checkbox"/> Multi-County <input type="checkbox"/> Local					
13. ELECTRONIC FILING: This item applies to committees that file with the Michigan Department of State Bureau of Elections only and does not apply to committees that file with the County Clerk's office.					
<input type="checkbox"/> Committee spent or received or expects to spend or receive in excess of \$5,000 and is required to file electronically.					
<input type="checkbox"/> Committee did not spend or receive or does not expect to spend or receive in excess of \$5,000 and would like to file electronically voluntarily. Further information regarding Electronic Filing can be found in Appendix D of the Ballot Question Manual.					
14. Verification: I/We certify that all reasonable diligence was used in the preparation of the above statement and that the contents are true, accurate and complete to the best of my/our knowledge or belief. If filing campaign statements electronically, I/we further agree that the signatures below shall serve as the signatures that verify the accuracy and completeness of each statement filed electronically by the committee. I/We certify that all reasonable diligence will be used in the preparation of each statement electronically filed by this committee and that the contents of each statement will be true, accurate and complete to the best of my/our knowledge or belief.					
*Committee Treasurer		*Designated Record Keeper (if Applicable)			
Date: 9-21-18		Date: 9-21-18			



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

January 2, 2019

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Re: *Lynn v. Yonker*
Campaign Finance Complaint
No. 2018-11-102-57

Dear Mr. Yonker:

This letter concerns the complaint that was recently filed against you, which relates to a purported violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The Department of State has received a rebuttal statement from the complainant, a copy of which is enclosed with this letter.

Section 15(10) of the MCFA, MCL 169.215(10), requires the Department to determine within 45 business days from the receipt of the rebuttal statement whether there is a reason to believe that a violation of the Act has occurred. The complaint remains under investigation at this time.

If the Department needs more information, you may be contacted. The complaint will remain under investigation until a final determination has been made. At the conclusion of the review, all parties will receive written notice of the outcome of the complaint.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Frank Lynn

2018 09 26 PM 12:22

Rebuttal Statement – Yonker Complaint
Att: Adam Fracassi

From: Frank Lynn
3446 Devon NE
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Mr. Yonker’s indignant claim that I have never met him, never discussed personal or political issues with him, and have no insight into his character are completely false. I have known Mr. Yonker for over ten years, first meeting him when he was a Representative and I was working at Disability Advocates of Kent County. In that position I met with him numerous times in Lansing and in the offices of Disability Advocates. Further I have interacted with him in his role as Drain Commissioner and at meetings of the Senior Advocates of Kent County. It is because of the years of personal experience in meeting with, speaking with, and communicating with Mr. Yonker that qualifies my belief that this was not a simple case of a “momentary lack in judgement”.

Regardless of the circumstances, it is important to note the simplest facts:

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- Kent County taxpayers were harmed by his egregious use of county resources for political purposes

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MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

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Kent County Clerk
Elections Division

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*3. Date Committee was Formed: 9/21/18				
*4. Full Name of Committee: 10 million is enough				
5. Acronym or Abbreviation (if any):				
*6. Complete Committee Mailing Address (May be PO Box): 3820 10076 ST SE Caledonia MI 49316				
*7. Complete Committee Street Address (May not be PO Box):				
*Committee Phone		*Committee Primary Email Address:		
Committee Fax #:		Committee Website Address:		
*8. Treasurer Name and Complete Address: DAVID A. NEMMERS 8580 HILARY CT SE, Caledonia, MI 49316				
Phone #: 616-890-0951		Email Address: dsnemmers@aol.com		
9. Designated Record Keeper Name and Complete Address: Ken Yunker 3820 10076 St. Caledonia MI 49316				
Phone #: 616-401-1082		Email Address: ken564@gmail.com		
*10. REPORTING WAIVER REQUEST:				
<input type="checkbox"/> YES, I/WE WANT TO APPLY FOR THE REPORTING WAIVER. The committee does not expect to spend or receive in excess of \$1,000 in an election. I/We understand that if the committee does not spend or receive in excess of \$1,000 in an election, the committee does not owe Pre, Post, Quarterly and Annual Campaign Statements. I/We further understand that the Reporting Waiver will be automatically lost if the committee exceeds the \$1,000 threshold and all required campaign statements must be filed. A Reporting Waiver does not exempt a committee from filing Late Contribution Reports or Petition Proposal Campaign Statements.				
<input checked="" type="checkbox"/> NO, I/WE DO NOT WANT TO APPLY FOR THE REPORTING WAIVER. The committee expects to spend or receive in excess of \$1,000 in an election. I/We understand that the committee owes Pre, Post, Quarterly and Annual Campaign Statements even if the committee does not spend or receive in excess of \$1,000 in an election. I/We further understand that the Reporting Waiver cannot be requested retroactively to avoid filing requirements and to avoid paying late filing fees. Further information regarding Reporting Waivers can be found in Appendix C of the Ballot Question Manual.				
*11. Name and Address of Depositories or Intended Depositories of committee funds. (Michigan Bank, Credit Union or Savings & Loan Association)				
*Official Depository (name and address): 5/3rd Bank 9325 Cherry Valley Ave. Caledonia MI 49316				
Secondary Depository (name and address): United Bank 8540 Broadview Ave Caledonia MI 49316				
12. List the specific ballot proposal(s) involved using the official ballot designation if available and mark support or oppose as appropriate: <input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose				
Description:				
Indicate the ballot proposal district below by selecting Statewide, County (include the county name), Multi-County or Local (include the name of the jurisdiction). If multi-county, list the county where the greatest number of voters eligible to vote on the proposal reside.				
<input type="checkbox"/> Statewide <input type="checkbox"/> County <input checked="" type="checkbox"/> Multi-County <input type="checkbox"/> Local				
13. ELECTRONIC FILING: This item applies to committees that file with the Michigan Department of State Bureau of Elections only and does not apply to committees that file with the County Clerk's office.				
<input type="checkbox"/> Committee spent or received or expects to spend or receive in excess of \$5,000 and is required to file electronically. <input type="checkbox"/> Committee did not spend or receive or does not expect to spend or receive in excess of \$5,000 and would like to file electronically voluntarily. Further information regarding Electronic Filing can be found in Appendix D of the Ballot Question Manual.				
14. Verification: I/We certify that all reasonable diligence was used in the preparation of the above statement and that the contents are true, accurate and complete to the best of my/our knowledge or belief. If filing campaign statements electronically, I/We further agree that the signatures below shall serve as the signatures that verify the accuracy and completeness of each statement filed electronically by the committee. I/We certify that all reasonable diligence will be used in the preparation of each statement electronically filed by this committee and that the contents of each statement will be true, accurate and complete to the best of my/our knowledge or belief.				
*Committee Treasurer		*Designated Record Keeper (if Applicable)		
<i>[Signature]</i>		<i>[Signature]</i>		
Date: 9-21-18		Date: 9-21-18		



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

March 5, 2019

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Re: *Lynn v. Yonker*
Campaign Finance Complaint
No. 2018-11-102-57

Dear Mr. Yonker:

The Department of State (Department) has completed its initial investigation of the complaint filed against you by Frank Lynn, which alleged violations of section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of Mr. Lynn's complaint.

Mr. Lynn filed his complaint on November 5, 2018 and alleged that on Saturday, October 27, 2018 you utilized your county-owned vehicle in order to campaign against a proposed school millage in Caledonia. The complaint alleged that you went door-to-door using your county vehicle and handed out flyers that urged voters to vote against the school millage. Mr. Lynn submitted a copy of the flyer with the complaint. The top of the flyer contains the phrase "VOTE NO ON MILLAGE INCREASE." It lists five reasons to vote against the millage, and at the bottom against asks voters to vote against the millage.

By letter received on November 30, 2018, you responded and indicated that you utilized your county vehicle to attend a dinner meeting with community members. Then after the dinner, you were scheduled to return to your house to distribute literature for the "10 Million is Enough" campaign. You indicated that on your way home, you stopped to distribute the flyers in a neighborhood. You further acknowledged using the county vehicle to distribute flyers and indicated it was a momentary lapse in judgment. Mr. Lynn 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). A public body is allowed produce or disseminate factual information concerning issues relevant to the function of the public body. MCL 169.257(1)(b). 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).

The flyer attached to the complaint is the exact type of language that section 57 of the Act prohibits as it 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 flyer urges voters multiple times to “VOTE NO” on the ballot millage issue.

Given that the flyer contains words of express advocacy and your admission of utilizing a county-owned vehicle to distribute the flyer, the Department concludes that the evidence demonstrates that a potential violation of section 57 has occurred as county resources were improperly used in order to campaign against the school millage.

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.*

In order to determine the appropriate resolution, please provide written answers to the Department by March 20, 2019:

- 1. Are you assigned this vehicle for full time use?**
- 2. How many miles were driven in the county vehicle to disseminate flyers?**
- 3. Identify the total amount of time spent disseminating flyers.**
- 4. Were you previously required to reimburse the county as part of any employment discipline that may have been taken against you?**

The Department will use this information to facilitate an informal resolution of Mr. Lynn’s complaint. Please be advised that if the Department is unable to resolve the matter through informal methods, the Department must refer the matter to the Attorney General for enforcement of the criminal penalty provided in MCL 169.257(4). MCL 169.215(10)(a).

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2019 MAR 15 PM 4:34
ELECTION/GREAT SEAL

Mr. Fracassi:

In answer to your questions on the case Lynn v. Yonker, are as follows:

1. Are you assigned this vehicle for full time use?

Yes.

My job involves traveling the whole county extensively and I am able to take the vehicle home after my inspections instead of returning to the office first. This saves me from a lot of extra travel time.

2. How many miles were driven in the county vehicle to disseminate flyers?

1.5 to 2 miles

3. Identify the total amount of time spent disseminating flyers.

I spent 15 to 25 min. before I realized I made a mistake and left the development and went home.

4. Were you previously required to reimburse the county as part of any employment discipline that may have been taken against you?

The County took the vehicle away for one month where I couldn't take the vehicle home. The corporate attorney counseled me on the county vehicle policy and made it clear there better not be a reoccurrence, and ANY future abuse of the county policy will result in a much stronger consequence.

A log is kept daily to separate personal miles and work miles. All personal miles are filed as income with the IRS.



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

March 5, 2019

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Re: *Lynn v. Yonker*
Campaign Finance Complaint
No. 2018-11-102-57

Dear Mr. Yonker:

The Department of State (Department) has completed its initial investigation of the complaint filed against you by Frank Lynn, which alleged violations of section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of Mr. Lynn's complaint.

Mr. Lynn filed his complaint on November 5, 2018 and alleged that on Saturday, October 27, 2018 you utilized your county-owned vehicle in order to campaign against a proposed school millage in Caledonia. The complaint alleged that you went door-to-door using your county vehicle and handed out flyers that urged voters to vote against the school millage. Mr. Lynn submitted a copy of the flyer with the complaint. The top of the flyer contains the phrase "VOTE NO ON MILLAGE INCREASE." It lists five reasons to vote against the millage, and at the bottom against asks voters to vote against the millage.

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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). A public body is allowed produce or disseminate factual information concerning issues relevant to the function of the public body. MCL 169.257(1)(b). 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).

The flyer attached to the complaint is the exact type of language that section 57 of the Act prohibits as it 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 flyer urges voters multiple times to “VOTE NO” on the ballot millage issue.

Given that the flyer contains words of express advocacy and your admission of utilizing a county-owned vehicle to distribute the flyer, the Department concludes that the evidence demonstrates that a potential violation of section 57 has occurred as county resources were improperly used in order to campaign against the school millage.

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.*

In order to determine the appropriate resolution, please provide written answers to the Department by March 20, 2019:

- 1. Are you assigned this vehicle for full time use?**
- 2. How many miles were driven in the county vehicle to disseminate flyers?**
- 3. Identify the total amount of time spent disseminating flyers.**
- 4. Were you previously required to reimburse the county as part of any employment discipline that may have been taken against you?**

The Department will use this information to facilitate an informal resolution of Mr. Lynn’s complaint. Please be advised that if the Department is unable to resolve the matter through informal methods, the Department must refer the matter to the Attorney General for enforcement of the criminal penalty provided in MCL 169.257(4). MCL 169.215(10)(a).

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State



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

March 19, 2019

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Re: *Lynn v. Yonker*
Campaign Finance Complaint
No. 2018-11-102-57

Dear Mr. Yonker:

This letter concerns the campaign finance complaint filed against you by Frank Lynn, which alleged certain violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257.

In his complaint, Mr. Lynn alleged that you violated section 57 of the Act by utilizing your county owned vehicle to conduct campaign-related activities. In your response, you have admitted to doing so, and in supplemental questions issued by the Department, you indicated that you have been counseled by county corporate counsel and had your vehicle taken away for approximately one month.

By letter dated March 5, 2019, the Department found that the evidence provided supported a reason to believe that a violation had occurred. As stated before, upon reaching this conclusion, the Department is required 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 [.]" MCL 169.215(10). The objective of an informal resolution is "to correct the violation or prevent a further violation [.]" *Id.*

Accordingly, the Department offers to resolve this informally through execution of the enclosed conciliation agreement which requires you to pay a \$100 fine to the State of Michigan. **Should you wish to enter into this conciliation agreement, please return the original signed document to this office, along with the \$100 fine, by April 2, 2019.**

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 her office prosecute him for the crime of making an improper candidate to candidate contribution, a misdemeanor violation of MCL 169.244(5); or

Kenneth Yonker
March 19, 2019
Page 2

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.

Should you have any questions regarding this offer, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi". The signature is fluid and cursive, with the first name "Adam" and last name "Fracassi" clearly distinguishable.

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

April 18, 2019

Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316

Dear Mr. Yonker:

Enclosed is a signed copy of the conciliation agreement entered into in response to the complaint filed by Frank Lynn, 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 and the entire file on the matter will be posted on the Department's website.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

April 18, 2019

Frank Lynn
3446 Devon NE
Grand Rapids, Michigan 49546

Dear Mr. Lynn:

The Department of State has concluded its investigation of the complaint that you filed against Kenneth Yonker, 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.

The Department now considers this matter closed and resolved and the entire file on the matter will be posted on the Department's website.

Sincerely,

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

Adam Fracassi
Bureau of Elections
Michigan Department of State



MDOS 5885771-1 04/02/2019
ELEC NY \$100.00

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

In the Matter of:

**Frank Lynn
3446 Devon NE
Grand Rapids, Michigan 49546**

v.

**Kenneth Yonker
3820 100th Street SE
Caledonia, Michigan 49316**

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 Kenneth Yonker (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 county resources to conduct campaign-related activity.

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

By executing this conciliation agreement, Respondent certifies that a civil fine in the amount of \$100.00 has been paid to the State of Michigan.

Elec

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.

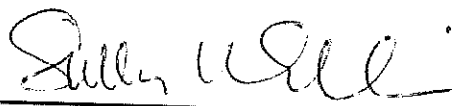
The Secretary of State and Respondent further agree that this agreement will not prevent the Secretary of State from taking action for violations of this agreement.

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.

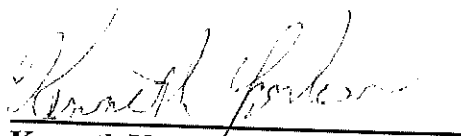
JOCELYN BENSON
SECRETARY OF STATE



Sally Williams, Director
Bureau of Elections

Date: 4/11/19

RESPONDENT



Kenneth Yonker, or
authorized representative

Date: 3-25-2019