

Campaign Finance Complaint Form
Michigan Department of State

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 THOMAS MITCHELL		Daytime Telephone Number 586 264 0186
Mailing Address 40171 WILLIAM DR.		
City STERLING HEIGHTS	State MI	Zip 48313

Section 2. Alleged Violator

Name MICHAEL C. TAYLOR		
Mailing Address 14076 RED PINE DR.		
City STERLING HEIGHTS	State MI	Zip 48313

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

Section(s) of the MCFA violated:

SEC 47 AND 57 OF THE MCFA

Explain how those sections were violated:

THE AD HAS INCORRECT PAID FOR INFORMATION
ALL THE CANDIDATES NAMED WITH OFFICIAL CITY OWNED
PHOTO'S SHOULD HAVE PAID FOR THE AD NOT JUST TAYLOR
NOTE ALSO THE AD HAS PHOTO'S OF ALL ENCUMBRANTS
AND THIS IS MISUSE OF PUBLIC RESOURCES-ALL PHOTO'S
PAID FOR BY TAXPAYER EXPENSE

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

SEE ATTACHED
ACTUAL AD FROM THE LOCAL NEWS PAPER
PAGE 28 A DATED OCT. 25, 2017

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

Thomas Mitchell
Signature of Complainant

10-26-17

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:

X

Signature of Complainant

Date

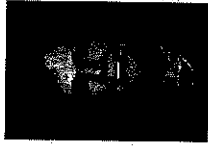
Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to \$1,000.00 and some or all of the expenses incurred by the Michigan Department of State and the alleged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

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

MAYOR MICHAEL C. TAYLOR

and the Sterling Heights City Council keep moving us forward!



Deanna Koski



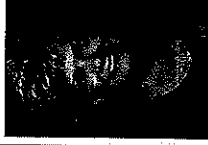
Gary Lusk



Maria Schmidt



Michael C. Taylor



Barbara Ziarko



Nate Shannon



Liz Sierawski

Although some of the names and faces have changed in recent years, Mayor Michael Taylor and the Sterling Heights City Council continue to move our city forward. Recent FBI statistics confirm that Sterling Heights is still the safest big city in Michigan. With low taxes and water rates, great services, amazing parks, a weekly farmers market, and wonderful festivals all year, it's no wonder Sterling Heights property values have increased by almost 40% in recent years. Your mayor and council are also fighting for you by standing up to the county and demanding that the Fraser Sinkhole costs not be passed on to you! You can trust this team of dedicated public servants to never let you down. This November 7, let's join together to keep moving the city of Sterling Heights in the right direction. Let's Keep Mayor Michael Taylor and bring back the entire Sterling Heights City Council!

✓ SAFEST BIG CITY IN MICHIGAN!

✓ MILLIONS IN ROAD INVESTMENTS!

✓ HIRING DOZENS OF NEW POLICE & FIRE!

✓ 30+% INCREASE IN PROPERTY VALUES!

✓ 3.7% UNEMPLOYMENT RATE!

✓ BILLIONS IN PRIVATE INVESTMENT!

✓ LOW TAXES AND WATER RATES!

✓ INVESTING IN OUR COMMUNITY!

✓ LEADERSHIP YOU CAN TRUST!

VOTE NOVEMBER 7 TO RE-ELECT MAYOR MICHAEL TAYLOR AND THE STERLING HEIGHTS CITY COUNCIL!

Paid for by: CTE Michael C. Taylor, 14005 Red Pine Dr., Sterling Heights, MI 48313

Library

from page 1A

contain different sets of movies, which can be themed around genres like romance, science fiction, crime and action, Groth said.

GoChip products can be borrowed upon request while available, as long as the patron has a library card. Patrons may borrow the GoChip devices for a week, with up to three renewals possible, as long as no one else has a reservation, Groth said.

Groth said the GoChip is ideal for library patrons who don't have traditional DVD or Blu-ray players, but who instead are interested in using their mobile platforms for streaming shows. Because tablets and phones can't accept those discs

on their own, the GoChip becomes the mediator to access that content.

"People will access that router, and they can stream from that device," he said. "It's a way to check out physical media in a portable way."

Right now, the library is only using the GoChip devices with stored movies, Groth said.

"They do offer television series, but we're not doing that right now," he said.

At an Oct. 17 Sterling Heights City Council meeting, Library Director Tammy Turgeon said the library is one of the first in the country to offer this option to patrons. She described GoChip Beams as physical devices that act as a Wi-Fi hotspot and allow movies to be viewed in many situations outside the home. She added that the li-

brary has 20 GoChip devices now and is expecting to get three more per month.

"So with the library's focus on being the go-to place for help with technology, we're always looking to try new things," she said, adding later: "This means you can watch movies in the car, on an airplane or in the park."

After Turgeon spoke, City Manager Mark Vanderpool called it "really neat technology" and thanked Turgeon for her role in getting it implemented in Sterling Heights.

Learn more about the Sterling Heights Public Library, 40255 Dodge Park Road, by visiting www.shpl.net or by calling (586) 446-2640.

Call Staff Writer Eric Czarnik at (586) 498-1058.



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Motor City
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Michigan Department of Community Health
WICH If you bet more than you can afford to lose, you've got a problem. Call 1-800-270-7117 for free, confidential help.

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Mon-Fri: 8AM-6PM
www.sterlingtireandauto.com

FALL SPECIAL

MAINTENANCE SPECIAL
\$22.95 Includes: Full Service Oil Change & Filter
Lube & Top Off All Fluids Semi Synthetic
Blend (5W30) up to 5 qts

FREE Tire Rotation FREE 27 Pt. Inspection
FREE Brake Inspection (Drums Extra)

OR **\$35.95 Full Service Synthetic Oil Change**

Shop Changes And Repairs Extra. Most Cars. Must Present Ad At The Time Of Service. Cannot Be Combined With Any Other Coupon Or Discount. With CAG Coupon. Offer Expires 11-22-17.


FALL SPECIAL!
\$500 OVER COST

ALL GOODYEAR TIRES
FREE ALIGNMENT
WITH PURCHASE OF 4 TIRES

ALL MAJOR BRANDS
Plus labor and installation. Most cars. Must present coupon when order is written. Cannot be combined with any other coupons or discounts. With CAG coupon. Offer Expires 11-22-17.


SENIOR DISCOUNTS
15% OFF

Must have. Must present coupon when order is written. Cannot be combined with any other coupons or discounts. With CAG Coupon. Offer Expires 11-22-17.



Sterling Heights
FIREFIGHTERS
LOCAL 1557

Sterling Heights
POLICE OFFICERS
ASSOCIATION



are please to endorse Mayor Michael C. Taylor and the seated city council



Left to right: Councilman Gary Lusk, Councilwoman Liz Sierawski, Councilwoman Maria Schmidt, Mayor Michael Taylor, Councilwoman Barbara Ziarko, Councilwoman Deanna Koski, Councilman Nate Shannon

Police & Fire Keep Our City Safe!

"Support Your Local Heroes"

Paid for by: the Sterling Heights Police Officers Association and Sterling Heights Firefighters Political Action Committees

PHOTO IDENTICAL TO CITY WEB SITE.



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

July 30, 2018

Michael Taylor
14076 Red Pine Drive
Sterling Heights, Michigan 48313

Dear Mr. Taylor:

The Department of State (Department) received a formal complaint filed by Thomas Mitchell against you alleging that you violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* The Department apologizes for the delay in processing this complaint. It was regrettably misfiled in our office. 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.

The MCFA prohibits a candidate committee from making a "contribution to or an independent expenditure in behalf of another candidate committee." MCL 169.244(2). A knowing violation of section 44 is a misdemeanor punishable by a fine, imprisonment, or both. MCL 169.244(5).¹

Mr. Mitchell alleges that the advertisement has the incorrect paid for by information as it should have been paid for by all the candidates in the ad and should not have been paid for only by you.²

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

¹ The Department notes that Mr. Mitchell alleges you violated section 57. For the reasons set forth in the enclosed letter, the allegations brought under section 57 are dismissed.

² While the complaint lists section 47, the allegations are properly brought under section 44. Though the complaint lists section 47, the body of the complaint and the explanation of how the MCFA was violated contains allegations properly brought under section 44.

Michael Taylor, Mayor

July 30, 2018

Page 2

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. Mitchell, 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 44(5) 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: Thomas Mitchell



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

July 30, 2018

Thomas Mitchell
40171 William Drive
Sterling Heights, Michigan 48313

Dear Mr. Mitchell:

The Department of State (Department) has concluded its review of the complaint you filed against Michael Taylor and the Sterling Heights City Council, concerning an alleged violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of your complaint.

You alleged that Mr. Taylor and the City Council used official city photographs in advertisements and campaign materials which are also available on the Sterling Heights City Council website.

The MCFA prohibits a public body or an individual acting on its behalf from "us[ing] or authoriz[ing] the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure." MCL 169.257(1). 169.206(1). While this section prohibits using public resources, specifically excluded is the use of the public resource if any candidate or committee has an equal opportunity to use it. MCL 169.257(1)(d).

Section 57 prohibits a public body or an individual acting on its behalf from using public money to make a contribution or expenditure, the definitions of which encompass "*anything of ascertainable monetary value*," to influence or assist a candidate's nomination or election. MCL 169.204(1), 206(1), 257(1).¹ The words "contribution" and "expenditure" are generally defined, in pertinent part, to include anything of ascertainable monetary value that is used to influence or assist a candidate's nomination or election. MCL 169.204(1).

¹ See *Declaratory Ruling to Kathleen Corkin Boyle*, p. 4 (Nov. 20, 2006); http://www.michigan.gov/documents/sos/Kathleen_Corkin_Boyle_Final_Response_11-20-2006_178712_7.pdf.

Thomas Mitchell

July 30, 2018

Page 2

After reviewing the evidence submitted, the Department concludes that no evidence has been offered that would show an ascertainable monetary value of the pictures taken of the Sterling Heights City County. Further, the Department notes that these are stock pictures that are publicly available for anyone to use and therefore do not rise to a violation of the MCFA.

Because the evidence does not support a reason to believe that anything of ascertainable monetary value was used with regard to the photos as they are publicly available for anyone to use, your complaint is dismissed. The Department's file in this matter has been closed and no further enforcement action will be taken.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Fracassi". The signature is stylized with a large, sweeping "A" and a cursive "Fracassi".

Adam Fracassi
Bureau of Elections
Michigan Secretary of State

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Monday, September 24, 2018 5:41 PM
To: 'mctaylor@sterling-heights.net'
Subject: Mitchell v. Taylor - Campaign Finance Complaint
Attachments: Notice of Complaint.pdf; Second Notice of Complaint.pdf

Importance: High

Mr. Taylor,

By correspondence dated July 30, 2018, the Department of State advised you of its intention to investigate a complaint filed against you. The Department also attempted to send you a notice via certified mail to your home, but it has not been accepted. Both the original notice and the second notice are attached to this email.

By this email and attachments, the Department is providing you a final opportunity to submit a written response. Please note that your failure to respond to the allegations in the complaint will leave the Department no alternative but to make its determination based solely upon the information in the complaint. The Department's enforcement powers include the possibility of entering into a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 44(5).

All materials must be received 21 business days from the date of this email. Should you have any questions, please do not hesitate to contact me.

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 373-2540



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

August 28, 2018

SECOND NOTICE

Michael Taylor
14076 Red Pine Drive
Sterling Heights, Michigan 48313

Re: *Mitchell v. Taylor*
Campaign Finance Complaint
No. 2017-11-45-47

Dear Mr. Taylor:

By correspondence dated July 30, 2018, the Department of State (Department) advised you of its intention to investigate a complaint filed against you by Thomas Mitchell concerning alleged violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 et seq. A copy of the Department's notice is enclosed with this letter.

The notice informed you that, pursuant to section 15(5) of the MCFA, MCL 169.215(5), the Department is reviewing whether you failed to comply with the requirements of the Act. The Committee was provided an opportunity to respond to these allegations within 15 business days of your receipt of the notice, but to date no response has been filed on your behalf.

By this letter, the Department is providing you a final opportunity to submit a written response to the enclosed notice. Your response may include any documentary evidence you wish to submit and must be received by the Department on or before **September 19, 2018**. All materials must be sent to the Bureau of Elections, Michigan Department of State, Richard H. Austin Building, 430 West Allegan Street, Lansing, Michigan 48918.

Failure to submit a written response to this second notice will leave the Department no alternative but to make its determination based solely on the documentation furnished by Mr. Mitchell.

Sincerely,

Adam Fracassi
Bureau of Elections
Michigan Department of State



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

July 30, 2018

Thomas Mitchell
40171 William Drive
Sterling Heights, Michigan 48313

Dear Mr. Mitchell:

The Department of State (Department) has concluded its review of the complaint you filed against Michael Taylor and the Sterling Heights City Council, concerning an alleged violation of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of your complaint.

You alleged that Mr. Taylor and the City Council used official city photographs in advertisements and campaign materials which are also available on the Sterling Heights City Council website.

The MCFA prohibits a public body or an individual acting on its behalf from "us[ing] or authoriz[ing] the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure." MCL 169.257(1). 169.206(1). While this section prohibits using public resources, specifically excluded is the use of the public resource if any candidate or committee has an equal opportunity to use it. MCL 169.257(1)(d).

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¹ See *Declaratory Ruling to Kathleen Corkin Boyle*, p. 4 (Nov. 20, 2006); http://www.michigan.gov/documents/sos/Kathleen_Corkin_Boyle_Final_Response_11-20-2006_178712_7.pdf.

Thomas Mitchell
July 30, 2018
Page 2

After reviewing the evidence submitted, the Department concludes that no evidence has been offered that would show an ascertainable monetary value of the pictures taken of the Sterling Heights City County. Further, the Department notes that these are stock pictures that are publicly available for anyone to use and therefore do not rise to a violation of the MCFA.

Because the evidence does not support a reason to believe that anything of ascertainable monetary value was used with regard to the photos as they are publicly available for anyone to use, your complaint is dismissed. The Department's file in this matter has been closed and no further enforcement action will be taken.

Sincerely,

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Adam Fracassi
Bureau of Elections
Michigan Secretary of State

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Monday, September 24, 2018 5:41 PM
To: 'mctaylor@sterling-heights.net'
Subject: Mitchell v. Taylor - Campaign Finance Complaint
Attachments: Notice of Complaint.pdf; Second Notice of Complaint.pdf

Importance: High

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By this email and attachments, the Department is providing you a final opportunity to submit a written response. Please note that your failure to respond to the allegations in the complaint will leave the Department no alternative but to make its determination based solely upon the information in the complaint. The Department's enforcement powers include the possibility of entering into a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 44(5).

All materials must be received 21 business days from the date of this email. Should you have any questions, please do not hesitate to contact me.

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 373-2540

**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**

ATTORNEYS AT LAW

19500 HALL ROAD
SUITE 100
CLINTON TOWNSHIP, MICHIGAN 48038

(586) 412-4900

www.khlblaw.com

WRITER'S E-MAIL: rhuth@khlblaw.com
FACSIMILE: (586) 412-4949

ROBERT W. KIRK *
ROBERT S. HUTH, JR.
CRAIG W. LANGE
RAEHEL M. BADALAMENTI
MARYANNE J. DENEWETH
MICHAEL C. TAYLOR
ROSEMARY V. DAVIS
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ELIZABETH P. ROBERTS
ROBERT T. CAROLLO, JR.
RYAN J.L. FANTUZZI **
ROBERT J. PENROD

*Also Member of Florida Bar
** Also Member of Virginia Bar

October 4, 2018

State of Michigan
Attn: Adam Fracassi
Bureau of Elections
430 W. Allegan, 1st Floor
Lansing, MI 48918

Re:

Dear Mr. Fracassi:

This office represents Michael Taylor. We are in receipt of your July 30, 2018 letter directed to Michael Taylor. Your July 30, 2018 letter states in pertinent part:

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

We note that the Michigan Department of State has no authority to issue the July 30, 2018 letter. As stated by the Michigan Department of State above, the July 30, 2018 letter concerns a complaint filed against Michael Taylor by Thomas Mitchell.

The Michigan Supreme Court has stated that "[t]he extent of the authority of the people's public agents is measured by the statute from which they derive their authority, not by their own acts and assumption of authority." *Sittler v Bd. Of Control of the Michigan College of Mining & Technology*, 333 Mich 681, 687; 53 N.W.2d 681 (1952) (internal quotations and citation omitted). As such, "[p]ublic officers have and can exercise only such powers as are conferred on them by law." *Id.* It is recognized by the Michigan Department of State itself, that the Michigan Department of State derives its powers to enforce the campaign finance law from the Michigan Campaign Finance Act, MCL 169.201 *et seq.* Interpretative Statement issued to Michael Hanley dated October 29, 1999. The Michigan Department of State is bound to enforce the Michigan

Campaign Finance Act's limitations as written. Interpretative Statement issued to Constance Cumbeys dated December 28, 1979.

Significantly, there is no provision in the Michigan Campaign Finance Act which allows the Michigan Department of State to issue the July 30, 2018 letter or initiate any proceeding against Michael Taylor in connection with the July 30, 2018 letter. The July 30, 2018 letter is in the nature of a subpoena; however, the Michigan Department of State has continually acknowledged that it has no subpoena power under the Michigan Campaign Finance Act. Interpretative Statement issued to Norman Witte dated August 26, 2002. Consequently, the Michigan Department of State lacks any authority to conduct the fishing expedition requested by the July 30, 2018 letter. Accordingly, we object to the issuance of the July 30, 2018 letter and any present or future proceedings in connection with the July 30, 2018 letter.

Nonetheless, without waiving any present or future objection to the issuance of the July 30, 2018 letter, or any resulting action taken as result of it, Mr. Taylor seeks to resolve the issue. The complaint alleges that an advertisement for Michael Taylor is an infraction of the State of Michigan Campaign Finance Act. Even if true, it was an unintentional and minor mistake. Understanding your mission of rectifying past alleged violations as well as obtaining commitments from candidates that no future violations will occur, Michael Taylor is proposing to resolve this matter with the Department of State and indicates that this type of violation will not occur in the future. The ad cost \$800.00. Mr. Taylor's name and picture are most prominent in the ad. Still, the other councilmembers are identified. We propose that the six councilmembers each issue a check for \$25.00 to the CTE of Michael Taylor to reimburse it for the cost of placing this ad. Further, Mr. Taylor understands the intricacies of the Michigan Campaign Finance Act and assures the State of Michigan that there will be no such violations in the future.

Should you wish to discuss further, please do not hesitate to contact me.

Very truly yours,

**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**



Robert S. Huth, Jr.

RSH/bml



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

October 16, 2018

Thomas Mitchell
40171 William Drive
Sterling Heights, Michigan 48313

Re: *Mitchell v. Taylor*
Campaign Finance Complaint
No. 2017-11-45-47

Dear Mr. Mitchell:

The Department of State received a response to the complaint you filed against Michael Taylor, 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: Robert Huth, Attorney for Michael Taylor

Fracassi, Adam (MDOS)

From: Michael C. Taylor <mctaylor@sterling-heights.net>
Sent: Monday, September 24, 2018 5:49 PM
To: Fracassi, Adam (MDOS)
Subject: Re: Mitchell v. Taylor - Campaign Finance Complaint

Adam -

I received notice on 7/31 that the matter was dismissed. Please call me to discuss. Thank you.

Michael Taylor
Mayor, City of Sterling Heights
(586) 333-9137

On Sep 24, 2018, at 5:41 PM, Fracassi, Adam (MDOS) <FracassiA@michigan.gov> wrote:

Mr. Taylor,

By correspondence dated July 30, 2018, the Department of State advised you of its intention to investigate a complaint filed against you. The Department also attempted to send you a notice via certified mail to your home, but it has not been accepted. Both the original notice and the second notice are attached to this email.

By this email and attachments, the Department is providing you a final opportunity to submit a written response. Please note that your failure to respond to the allegations in the complaint will leave the Department no alternative but to make its determination based solely upon the information in the complaint. The Department's enforcement powers include the possibility of entering into a conciliation agreement, conducting an administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 44(5).

All materials must be received 21 business days from the date of this email. Should you have any questions, please do not hesitate to contact me.

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 373-2540

<Notice of Complaint.pdf>

<Second Notice of Complaint.pdf>

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Tuesday, January 29, 2019 10:00 AM
To: Rob Huth
Cc: 'Suzanne Hurley'
Subject: Mitchell v. Taylor - Campaign Finance Complaint
Attachments: determination.pdf; Proposed Conciliation Agreement.pdf

Mr. Huth,

Please find attached correspondence in the campaign finance complaint filed against Mayor Michael Taylor. If you have any question, please let me know.

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 373-2540



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

January 29, 2019

Robert Huth
Attorney for Michael Taylor
Kirk, Huth, Lange & Badalamenti
19500 Hall Road, Suite 100
Clinton Township, Michigan 48038

Via email: rhuth@khlblaw.com

Dear Mr. Huth:

The Department of State (Department) has concluded its investigation into the formal complaint filed by Thomas Mitchell against your client alleging violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of the complaint.

Mr. Mitchell alleges that Mayor Michael Taylor improperly made a contribution by placing an advertisement in the newspaper expressly advocating for his and the Sterling Heights City Councilmembers' reelection. The complaint alleged that the advertisement should have been paid for by all the candidates and not just Mayor Taylor.

By response dated October 4, 2018 on behalf of Mayor Taylor, you disagreed that this was a violation, but stated that if it was a violation, this was an unintentional and minor infraction of the Act. You also indicated that Mayor Taylor sought to resolve the complaint and proposed collecting \$25 from each candidate to reimburse the costs of placing the ad. Mr. Mitchell elected not to file a rebuttal.

The MCFA prohibits a candidate committee from making a "contribution to or an independent expenditure on behalf of another candidate committee." MCL 169.244(2). A knowing violation of section 44 is a misdemeanor punishable by a fine, imprisonment, or both. MCL 169.244(5).¹

Upon review, the Department concludes that the advertisement placed by Mayor Taylor was an improper contribution to all members of the Sterling Heights City Council. First, the advertisement expressly advocates for Mayor Taylor and all of the City Council by urging voters to "Keep Mayor Michael Taylor and bring back the entire Sterling Heights City Council!" Then, at the bottom of the advertisement, the ad directs voters to "VOTE NOVEMBER 7 TO RE-ELECT MAYOR MICHAEL TAYLOR AND THE STERLING HEIGHTS CITY COUNCIL!"

¹ While the complaint lists section 47, the allegations are properly brought under section 44.

Robert Huth
Attorney for Mayor Michael Taylor
January 29, 2019
Page 2

While it contains a paid for by statement at the bottom of the advertisement, the Mayor was the only individual to pay for the ad, thus representing an improper candidate to candidate contribution.

Accordingly, the Department concludes that the evidence submitted supports the conclusion that a potential violation of the Act has occurred. 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.*

The Department recognizes your offer to resolve this by collecting \$25 from each candidate as a reimbursement. However, because the total cost to place the ad was \$800, the Department offers to resolve this informally through the execution of the enclosed conciliation agreement which requires Mayor Taylor collect \$50 from each member of the Sterling Heights City Council in reimbursement for the advertising in addition to paying a \$100 fine payable to the State of Michigan. Finally, the Mayor and all city councilmembers should file the necessary and proper reports with the Oakland County Clerk's Office.

Should your client wish to enter into the conciliation agreement, please return the original signed document to this office, along with the \$100 fine to the State of Michigan by February 15, 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 Mayor Michael Taylor 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
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 1699.244(5), plus up to \$1,000.00 for each violation of the Act.

Sincerely,



Adam Fracassi
Bureau of Elections
Michigan Department of State

Enclosures



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

March 6, 2019

Michael C. Taylor
14076 Red Pine Drive
Sterling Heights, Michigan 48313

Via Email

Dear Mr. Taylor:

Enclosed is a signed copy of the conciliation agreement entered into in response to the complaint filed by Thomas Mitchell, 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

c: Robert Huth, Jr. *via email*

Fracassi, Adam (MDOS)

From: Michael Taylor <mtaylor@khlblaw.com>
Sent: Friday, February 22, 2019 3:05 PM
To: Fracassi, Adam (MDOS)
Cc: Rob Huth
Subject: Mitchell v Taylor - Campaign Finance
Attachments: DOC022219-02222019160158.pdf

Mr. Fracassi,

Please see the attached signed conciliation agreement. Should I mail this to your address at:

430 W. Allegan St.
Lansing, MI 48918

Thanks,

Michael C. Taylor
KIRK, HUTH, LANGE
& BADALAMENTI, PLC

19500 Hall Rd., Ste. 100
Clinton Twp., MI 48038
(586) 412-4900, Ext. 123
(586) 822-3500 (cell)
mtaylor@khlblaw.com
www.KHLBlaw.com

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MDOS 5878124-1 02/28/2019
ELEC NY \$100.00

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

In the Matter of:

**Thomas Mitchell
40171 William Drive
Sterling Heights, Michigan 48313**

v.

**Michael C. Taylor
14076 Red Pine Drive
Sterling Heights, Michigan 48313**

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 Mayor Michael C. Taylor 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 §169.244 by making an improper contribution to other candidates.

Therefore, Respondent, without admitting any issue 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. Respondent further certifies that he will attempt to recover \$50 from each member of the Sterling Heights City Council in

reimbursement of the advertisement. Respondent further certifies that he will amend any reports deemed necessary by the Macomb County Clerk's Office.

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 Respondents' 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: 3/6/19

RESPONDENT



**Michael Taylor, or
authorized representative**

Date: 2-22-2019

Fracassi, Adam (MDOS)

From: Fracassi, Adam (MDOS)
Sent: Wednesday, March 6, 2019 4:59 PM
To: 'Michael Taylor'
Cc: Rob Huth
Subject: RE: Mitchell v Taylor - Campaign Finance
Attachments: Conciliation agreement letter.pdf; taylor signed ca.pdf

Mr. Taylor,

Please find attached a copy of the signed conciliation agreement and correspondence from the Department. The Department now considers this matter closed. If you have any questions, please let me know.

Thank you,
Adam

From: Michael Taylor <mtaylor@khlblaw.com>
Sent: Friday, February 22, 2019 3:05 PM
To: Fracassi, Adam (MDOS) <FracassiA@michigan.gov>
Cc: Rob Huth <rhuth@khlblaw.com>
Subject: Mitchell v Taylor - Campaign Finance

Mr. Fracassi,

Please see the attached signed conciliation agreement. Should I mail this to your address at:

430 W. Allegan St.
Lansing, MI 48918

Thanks,

Michael C. Taylor
KIRK, HUTH, LANGE
& BADALAMENTI, PLC
19500 Hall Rd., Ste. 100
Clinton Twp., MI 48038
(586) 412-4900, Ext. 123
(586) 822-3500 (cell)
mtaylor@khlblaw.com
www.KHLBlaw.com

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From: [Fracassi, Adam \(MDOS\)](#)
To: ["Michael Taylor"](#)
Cc: [Rob Huth](#)
Subject: RE: Mitchell v Taylor - Campaign Finance
Date: Friday, February 22, 2019 3:15:00 PM

Yes, please send both the original conciliation agreement and the check to that address, and put it to my attention.

Thank you,

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 335-3234

From: Michael Taylor <mtaylor@khlblaw.com>
Sent: Friday, February 22, 2019 3:05 PM
To: Fracassi, Adam (MDOS) <FracassiA@michigan.gov>
Cc: Rob Huth <rhuth@khlblaw.com>
Subject: Mitchell v Taylor - Campaign Finance

Mr. Fracassi,

Please see the attached signed conciliation agreement. Should I mail this to your address at:

430 W. Allegan St.
Lansing, MI 48918

Thanks,

Michael C. Taylor
KIRK, HUTH, LANGE
& BADALAMENTI, PLC
19500 Hall Rd., Ste. 100
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(586) 412-4900, Ext. 123
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From: [Fracassi, Adam \(MDOS\)](#)
To: ["Rob Huth"](#)
Cc: ["Suzanne Hurley"](#)
Subject: RE: Mitchell v. Taylor - Campaign Finance Complaint
Date: Friday, February 22, 2019 9:54:00 AM

Good morning, Rob –

I haven't received anything, and am wondering if you had an update on whether your client was willing to sign the conciliation agreement. Let me know when you get the chance.

Thank you,
Adam Fracassi

From: Fracassi, Adam (MDOS)
Sent: Friday, February 1, 2019 8:42 AM
To: 'Rob Huth' <rhuth@khlblaw.com>
Cc: Suzanne Hurley <shurley@khlblaw.com>
Subject: RE: Mitchell v. Taylor - Campaign Finance Complaint

Good morning, Rob –

I did have the day off (thankfully) due to the cold. I have updated the agreement. Thanks for catching that – I have updated the agreement and enclosed a new copy. Let me know if you have any other questions.

Thanks,
Adam

From: Rob Huth <rhuth@khlblaw.com>
Sent: Wednesday, January 30, 2019 8:04 AM
To: Fracassi, Adam (MDOS) <FracassiA@michigan.gov>
Cc: Suzanne Hurley <shurley@khlblaw.com>
Subject: RE: Mitchell v. Taylor - Campaign Finance Complaint

Good Morning Adam,

I think you may have the day off today. (Hopefully, you don't have to get out in the cold.)

Please consider taking another look at the proposed Conciliation Agreement . Sterling Heights is in Macomb County. Would you mind if we amended the agreement to strike "Oakland County"? If o.K. I can cross it out our wait for you to send another one.

Thank you,

Rob Huth

Rob Huth

KIRK, HUTH, LANGE & BADALAMENTI, PLC

19500 Hall Road, Suite 100
Clinton Township, MI 48038
Phone: 586.412.4900 x 105
Fax: 586.412.4949
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www.KHLBlaw.com

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From: Fracassi, Adam (MDOS) [<mailto:FracassiA@michigan.gov>]
Sent: Tuesday, January 29, 2019 10:00 AM
To: Rob Huth
Cc: Suzanne Hurley
Subject: Mitchell v. Taylor - Campaign Finance Complaint

Mr. Huth,

Please find attached correspondence in the campaign finance complaint filed against Mayor Michael Taylor. If you have any question, please let me know.

Adam Fracassi
Election Law Specialist
Bureau of Elections
Michigan Department of State
430 West Allegan Street
Lansing, Michigan 48918
(517) 373-2540