

Campaign Finance Complaint Form
Michigan Department of State

RECEIVED/FILED
MICHIGAN DEPT OF STATE

2018 JUL -3 PM 1:55

ELECTIONS/GREAT SEAL

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 JOEL WILLIAMS		Daytime Telephone Number 586-995-1686
Mailing Address 12490 BRYCE RD		
City EMMETT	State MI	Zip 48022

Section 2. Alleged Violator		
Name GARY EISEN		
Mailing Address 6350 BATTLE RUN		
City ST CLAIR TWP	State MI	Zip 48079

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

Section(s) of the MCFA violated:

SECTION 47 , SECTION 944

Explain how those sections were violated:

1) SECTION 47 VIOLATED BY LACK OF IDENTIFIER

2) SECTION 944 VIOLATED BY LACK OF WORD

"FOR" WHICH IMPLIES HE IS AN INCUMBENT.

I CALLED CAMPAIGN FINANCE TO VERIFY THIS.

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

ATTACHED IS A PICTURE OF THE SIGNS

AS ADVERTISED BY THE CANDIDATE.

Section 4. Certification (Required)

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

X


Signature of Complainant

JUNE 27, 2018
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



Gary Eisen

May 17 · 🌐



Primary Aug. 7th. 81st district. Your support and help would be greatly appreciated. Thanks Gary..



91

23 Comments 15 Shares

Like

Comment

Share



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

July 13, 2018

Gary Eisen
6350 Rattle Run
Saint Clair Township, Michigan 48079

Re: *Williams v. Eisen*
Campaign Finance Complaint
No. 2018-07-025-47

Dear Mr. Robertson:

The Department of State (Department) has received a formal complaint alleging you have violated MCL 169.247 of the Michigan Campaign Finance Act (MCFA) by failing to include a complete and correct identification statement on certain campaign-related materials.

The Complaint makes two allegations: the first alleges violations of the MCFA by failing to include a complete and correct identification statement on a campaign sign; the Second alleges violations of Michigan Election Law (MEL) by failing to include language which improperly suggests you are an incumbent. Submitted with the complaint was a picture posted to your Facebook containing a sign that reads "Gary R. EISEN State Representative." The complaint and related materials have been included with this correspondence.

I. Allegations brought under the Michigan Election Law

From the outset, the Department must dismiss the second allegation brought under the MEL. The MCFA generally regulates the source, amount, and disclosure of campaign contributions and expenditures. The campaign finance complaint process, which is described more fully at MCL 169.215, is designed to address allegations relating to the receipt of prohibited contributions, unauthorized expenditures, improper disclosure, and so on. In contrast, the MEL, 1954 PA 116, MCL 168.1 *et seq.*, governs the administration of elections including the circulation and filing of petitions, voter registration, ballot counting procedures, certification of election results, and provides a list of certain election-related offenses such as forgery, perjury, and the false designation of incumbency.

The MEL provides:

Any person who advertises or uses in any campaign material, including radio, television, newspapers, circulars, cards, or stationery, the words incumbent, re-elect, re-election, or otherwise indicates, represents, or gives the impression that a candidate for public office is the incumbent, when in fact the candidate is not the incumbent, is guilty of a misdemeanor punishable as provided in section 934.

MCL 168.944. Other provisions of the MEL, specifically sections 940 and 941, MCL 168.940 and 168.941, confer upon law enforcement officers and prosecuting attorneys the authority to investigate and prosecute such criminal violations of the MEL.

The Department's investigatory powers are strictly limited to purported violations of the MCFA. MCL 169.215(5), (10). Since a portion of the complaint concerns the application and enforcement of the MEL, these portions cannot be the subject of a campaign finance complaint filed under the MCFA. See MCL 169.215(5) (“[a] person may file with the secretary of state a complaint that alleges a violation *of this act* [.]”) and MCL 169.215(10) (the secretary of state may “refer the matter to the attorney general for the enforcement of a criminal penalty provided *by this act*.”) (Emphasis added). The campaign finance complaint process simply is not designed to resolve complaints involving purported violations of the MEL.

For this reason, the Department has no alternative but to dismiss the portions of the complaint which allege a violation of MCL 168.944.

II. Allegations brought under the Campaign Finance Act

The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election include the phrase “Paid for by [name and address of the person who paid for the item].” MCL 169.247(1), R 169.36(2). A knowing violation constitutes a misdemeanor offense punishable by a fine of up to \$1,000.00, imprisonment for up to 93 days, or both. MCL 169.247(6).

The Act also 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 [.]” MCL 169.215(10). The objective of an informal resolution is “to correct the violation or prevent a further violation [.]” *Id.*

As indicated above, submitted with the complaint is a picture of one of your signs. Upon review, it appears that the paid for by statement is omitted entirely from this sign in violation of MCL 169.247. Given this, the Department is hereby advising you that MCL 169.247(1) and R 169.36(2) require you to print a complete and accurate identification statement on all campaign materials, consisting of the phrase “paid for by” followed by the full name and address of your committee.

Gary Eisen
July 13, 2018
Page 3

Note that all printed materials that refer to an election or your candidacy produced in the future must include this identification statement. For all materials currently in circulation that refer to your candidacy, the paid for by statement must be corrected/included. If this information has been included on your website or campaign flyers, please provide this office evidence demonstrating the proper paid for by statements.

Please be advised that this notice has served to remind you of your obligation under the Act to identify your printed matter and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act. A knowing violation is a misdemeanor offense and may merit referral to the Attorney General for enforcement action. MCL 169.247(6), 215(10).

The Department considers the instant action closed and resolved.

Sincerely,

A handwritten signature in dark ink, appearing to read "Adam Fracassi", is written over a faint circular official seal.

Adam Fracassi
Bureau of Elections
Michigan Department of State

c: Joel Williams