



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

May 6, 2015

Daniel C. Devine, Jr.
4511 Lakeview Court
Bloomfield Hills, Michigan 48301

Dear Mr. Devine:

The Department of State (Department) has concluded its review of the complaint filed by you against Leo Savoie, 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. Savoie's candidate committee received a corporate contribution from Hubbell, Roth & Clark, Inc. (HRC) in contravention of the Act.

The MCFA prohibits a corporation from making a contribution to a committee other than a ballot question committee. MCL 169.254. A knowing violation of this section is a felony, punishable by a fine of not more than \$5,000 or imprisonment. MCL 169.254(4). Additionally, Michigan Administrative Rule 169.35 prohibits the treasurer of a committee, other than a ballot question committee, from accepting a contribution written on a check from a corporate account. A person who violates this provision may be subject to a civil fine of up to \$1,000.00 per violation plus triple the amount of each improper contribution. MCL 169.215(11), (15).

Consistent with *Citizens United v FEC*¹ and *Mich Chamber v Land*,² the Department recognizes that a corporation may contribute to a political action committee, called an "independent expenditure committee," that does not coordinate the expenditure of its funds with a candidate. However, section 54 still prohibits a corporation from contributing to a candidate committee.

You filed your complaint on August 18, 2014. Mr. Savoie filed his answer in mid-September, 2014, and you filed a rebuttal statement on October 6, 2014.

As evidence, you provided a copy of a portion of Mr. Savoie's 2014 July Quarterly campaign statement, which disclosed a \$2,500.00 "other receipt" on May 9, 2014 from HRC.

In his answer, Mr. Savoie explained that on March 3, 2014 he wrote a check from his campaign committee for \$2,500.00 as a sponsorship for the Michigan Angels Hickory Sticks golf outing.

¹ 558 US 310 (2010).

² 725 F Supp 2d 665 (2010)

He further explained that after purchasing the sponsorship, Mr. Savoie discovered it conflicted with a township golf charity event and he would not be able to attend the Hickory Sticks golf outing. Tom Biehl, a principal at HRC then offered to purchase the sponsorship from Mr. Savoie. A check was written from HRC to Leo Savoie personally, not his campaign committee. Mr. Savoie stated that he then deposited the check into his candidate committee account as a reimbursement for the committee's payment for the sponsorship for the Michigan Angels Hickory Sticks golf outing. Mr. Savoie also stated that he then contacted the Oakland County Clerk for instructions as to how to report the deposit and Heather in the Clerk's office advised him to report the deposit as an "other receipt" and categorize it as a reimbursement.

Mr. Savoie asserts that he did not solicit or accept a corporate contribution and only received a reimbursement of a legitimate charitable expense and deposited and reported it based on advice received from the Oakland County Clerk's office.

Mr. Savoie provided a copy of the check from his committee to the Michigan Angels Hickory Stick Open golf outing dated March 3, 2014, a receipt from the Michigan Angels Hickory Stick Open golf outing dated March 21, 2014, a copy of the check from HRC to Leo Savoie (which contains the notation "REIMB GOLF 051914" – which appears to correspond with the date of the outing) dated May 5, 2014, a copy of a deposit slip for his candidate committee's bank account in the amount of \$2,500.00 dated May 15, 2014, and a copy of his committee's 2014 July Quarterly campaign statement which discloses a contribution to Angel's Place³ for a golf sponsorship on March 15, 2014 in the amount of \$2,500.00 and an "other receipt" from HRC for "Sponsor Re" on May 9, 2014 in the amount of \$2,500.00.

Additionally, Mr. Savoie provided a sworn affidavit from Thomas Biehl which states that "at no time has HRC made a political contribution of Two Thousand Five Hundred (\$2,500.00) Dollars to Mr. Savoie [,]" and that Mr. Biehl "did cause a check to be written to Mr. Savoie for Two Thousand Five Hundred (\$2,500.00) Dollars to reimburse him for an expenditure of Two Thousand Five Hundred (\$2,500.00) Dollars that he had previously made so as to secure a sponsorship for HRC in the Michigan Angels Golf Outing."

The Department also received a letter from HRC which supports Mr. Savoie's recitation of events leading up to the HRC check being deposited into Mr. Savoie's campaign committee account and included a letter from Michigan Angels Hickory Stick Open to HRC thanking HRC for its participation.

The Department also received a letter from Janet Roncelli, Bloomfield Township Clerk, in which she states that prior to filing his 2014 July Quarterly campaign statement, Mr. Savoie sought her advice as to how to disclose the reimbursement on his statement, and Ms. Roncelli directed him to contact the Oakland County Clerk.

³ The Department notes that the committee filed an amended 2014 July Quarterly statement on October 23, 2014 which more accurately discloses that the expenditure was made to Michigan Angels Hickory Stick Open.

A candidate is required to report two types of receipts on his campaign finance statements – contributions⁴ and itemized other receipts. Section 54 of the Act prohibits a corporation from making *a contribution* to a candidate committee. Other receipts are defined by the Department's Candidate Committee Manual as monies received by the committee that are not contributions, or monies that are not used to influence or assist the nomination or election of the candidate.

Mr. Savoie's committee made a payment of \$2,500.00 for sponsorship of the Michigan Angels Hickory Stick Open which supports Angels Place, among other charities. The \$2,500.00 was the entry fee required for each fivesome to participate in the outing. Mr. Savoie then discovered he would not be able to participate in the open due to its conflict with the Bloomfield Township Fire Department Charities golf outing. Upon learning that Mr. Savoie had purchased a sponsorship and spot in the Michigan Angels Hickory Stick Open which he could not use, HRC offered to purchase the sponsorship instead and send its own fivesome to participate. The benefits received for the \$2,500.00 were then conferred upon HRC, rather than Mr. Savoie.

Based on these particular facts and circumstances, the \$2,500.00 paid by HRC to Mr. Savoie was properly categorized as an "other receipt" because it was a reimbursement⁵ and not a contribution as defined by the Act. The \$2,500.00 from HRC was a payment to Mr. Savoie, which he deposited in the committee account, to reimburse the money the committee spent for a golf outing that Mr. Savoie was unable to attend; it was not monies given to the committee intended to influence Mr. Savoie's nomination or election.

The Department also notes that Mr. Savoie sought guidance from the proper filing official, apprised that filing official of the events surrounding the \$2,500.00 from HRC, and then relied on the guidance given by the proper filing official that this was, indeed, an "other receipt" and he deposited and reported it as such.

The Department is satisfied that the \$2,500.00 from HRC was to purchase a golf sponsorship and its benefits, and not to further the nomination or election of Mr. Savoie. Because the \$2,500.00 was not a contribution, as that term is defined by the Act, to Mr. Savoie's committee, your complaint is dismissed.

Finally, the Department notes that the only allegation in your complaint and rebuttal statement that is properly before this Department is the allegation of a MCFA violation. Please note that if

⁴ For purposes of the MCFA, "contribution" is a term of art that is generally defined, in pertinent part, to include anything of ascertainable monetary value that is used to influence or assist the nomination or election of a candidate. MCL 169.204(1).

⁵ The definition of "reimburse" includes "[t]o pay back or compensate for money spent, or losses or damages incurred." The American Heritage Dictionary of the English Language 1097 (New College Ed. 1976).

Daniel C. Devine, Jr.
May 6, 2015
Page 4

you believe any other criminal activity has occurred, it should be reported to your local law enforcement or prosecutor.

Sincerely,

A handwritten signature in cursive script that reads "Lori A. Bourbonais".

Lori A. Bourbonais
Bureau of Elections
Michigan Secretary of State

c: Leo Savoie