

Sheriff Fined for Illegal Schuette Campaign Ad

Sheriff Livingston County Sheriff Mike Murphy has paid a \$100 civil fine to the state for appearing in uniform in a campaign television ad for Republican gubernatorial candidate Bill Schuette.

In addition, he has reimbursed the county \$100 for his use of a county sheriff's department vehicle in the ad.

The sheriff signed a conciliation agreement with the Michigan Department of State Campaign Finance Division that says there may be reason to believe that he violated Michigan campaign finance law "by improperly using Livingston County resources to make a contribution to the Bill Schuette for Governor campaign."

The conciliation agreement follows a complaint filed Sept. 5, 2018, by Judy Daubenmier, chair of the Livingston County Democratic Party, after Murphy and a department vehicle appeared in an ad that aired last July and August on behalf of Schuette.

Daubenmier said she was pleased with the agreement, which includes a provision that the agreement is enforceable for four years from the date it was signed, March 8.

"It sounds like a small matter, but the principle is a big one – public resources may not be used for political purposes. It's a shame that a Republican officeholder had to be reminded that all of us pay for county resources and that they belong to the public, rather than being the exclusive property of one political party," she said.

"I hope there is not a repeat of this type of violation by any other elected official."

The commercial, paid for by Bill Schuette for Governor, featured Schuette speaking to the camera while Murphy stood in the background talking to an unidentified person in front of the sheriff's department vehicle. Later, Schuette is shown speaking to Murphy in front of the

county vehicle. The full commercial is available here:

<https://www.youtube.com/watch?v=JbksIJsKiyY>

Murphy had filed a response to the complaint which claimed he was merely exercising his First Amendment rights of free speech by appearing in the television commercial. He maintained that the vehicle was only parked during the commercial.

“By standing and speaking with Bill Schuette while being filmed for a commercial the Sheriff provided only the incidental use of public resources, if any,” said a response to the complaint filed by Murphy’s attorney, Mattis D. Nordfjord.

In response to a series of questions from the Department of State, however, Murphy said the event was staged and set up in advance. The Schuette campaign called the sheriff and asked him to come to Wixom Christian School, 620 N. Wixom Rd., Wixom, in late August 2017. He was told where to park his vehicle and was asked to stand outside his vehicle while the crew shot footage with him in the background.

“At no point was Sheriff Murphy’s vehicle taken out of service to participate in the commercial. In his professional capacity, Sheriff Murphy is able to utilize Sheriff’s Office vehicles on a day-to-day basis,” the response said.

It also said that Murphy, whose hourly wage and fringe benefits amount to \$81.23, spent about one hour on the commercial. He was not paid and no other county employees were involved.

The department rejected Murphy’s argument that his appearance fell into an exception to the campaign finance law that allows for the “occasional, incidental use of public resources to communicate with a constituent or media” on a ballot question.

The commercial was not “incidental,” the department told Murphy. “The commercial was staged and intentionally featured Sheriff Murphy in his full uniform in addition to a Livingston County Sheriff’s vehicle parked to be specifically used for the commercial. The commercial did not happen ‘by chance’ and the vehicle’s usage was not a ‘minor consequence’ of the commercial. Therefore, the Department concludes that this was not an incidental use, and therefore the exemption does not apply,” the department wrote Murphy in February.

The department offered the conciliation agreement to correct the violation, make taxpayers “whole,” and deter the sheriff from any further violation.

Its other options were referring the case to the Michigan Attorney General for prosecution of a campaign finance criminal violation and conducting an administrative hearing to endorse the civil penalty of up to \$1,000 for each violation.

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