



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

December 18, 2024

Mattis D. Nordfjord
Attorney for Jay Drick
601 N Capitol Ave
Lansing, MI 48933

Re: *Daubenmier v. Drick*
Campaign Finance Complaint No. 24-104

Dear Mr. Nordfjord:

The Department of State (Department) has finished investigating the campaign finance complaint filed against your client by Judy Daubenmier alleging that your client violated the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the disposition of that complaint.

The complaint alleged that your client used the County Commissioner meeting to advocate for his reelection and simultaneously criticized the qualifications of his opponent.

You responded to the complaint. In your response, you claimed the complaint against Chairman Drick was without merit and failed to show that the comments were outside of the scope of the exemption in MCL 169.257(1)(a). Additionally, you asserted that your client has a First Amendment right that allows him to express his views on policy issues. [OAG, No. 4647 \(September 29, 1969\)](#)

Judy Daubenmier provided a rebuttal statement. In that statement, she argued that your client's conduct was not covered by the exception because no policy issues were being discussed during Mr. Drick's "public comment."

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). If not an individual, a person who knowingly violates this section is guilty of a misdemeanor punishable by a fine up to \$20,000 or a fine equal to the amount of the improper expenditure – whichever is greater. MCL 169.257(4).

The Department has independently reviewed the video of the Livingston County Board Meeting. Chairman Drick gave two different speeches during the “public comment” period while presiding over the meeting. The first speech Chairman Drick defended the boards decisions on various policy and budget decisions. The Department has determined these comments by Chairman Drick fall within the exceptions in MCL 169.257(1)(a), thus permitting your statement. Section 57(1)(a) allows for the “expression of views by an elected or appointed public official who has policy making responsibilities” and the Department finds that your actions meet this.

However, this exception is limited to expression of views relating to your role on the Livingston County Board as it pertains to policy issues impacting Livingston County. Additionally, the Department has previously issued an interpretive statement that addresses this current situation. ([Interpretive Statement to Steven Daunt, Aug. 17, 2000](#)). This statement addressed a situation where a municipal council passed a resolution relating to the endorsement of a ballot. *Id.* The Department held that “[i]t is therefore clear that at council meetings individual council members are free to discuss their opposition to or support of a ballot question that relates to ‘municipal concerns, property and government.’” *Id.*

Additionally, Attorney General Frank Kelley issued a more recent opinion regarding the issue: “I am of the opinion that, while a commission or board may expend appropriated funds to inform the public in an objective manner on issues relevant to the function of the commission or board, it may not expend public funds to urge the electorate to support or oppose a particular candidate or ballot proposal.” [Opinion No. 5597 \(November 28, 1979\)](#). These restrictions do not infringe on a public officials freedom of speech, but ensure that public resources aren’t unfairly utilized to amplify the speech of public officials over the public.

As such, Chairman Drick’s second “public comment” from his position as chairman were directed at his opponent and criticizing their qualifications for public office and were outside the scope of the exemption in MCL 169.257(1)(a).


This letter serves to notify you and your client that the Department has determined there may be reason to believe that Chairman Drick’s second public comment may have violated the Act and to notify you and your client that the Department is beginning the informal resolution process. “If, after 90 business days, the secretary of state is unable to correct or prevent further violation by these informal methods, the secretary of state shall do either of the following:

- (a) Refer the matter to the attorney general for the enforcement of any criminal penalty provided by this act.
- (b) Commence a hearing as provided in subsection (11) for enforcement of any civil violation.”

MCL 169.215(11).

Please contact the undersigned at BOERegulatory@Michigan.gov by May 2, 2025 to discuss a resolution to matter.

Sincerely,

A handwritten signature in cursive script that reads "James Biehl". The signature is written in dark ink on a white background.

James Biehl, Regulatory Attorney
Regulatory Section
Bureau of Elections
Michigan Department of State