



# FACT

FOUNDATION FOR  
ACCOUNTABILITY  
AND CIVIC TRUST

July 6, 2022

Michigan Department of State  
Bureau of Elections  
Richard H. Austin Building, 1st Floor  
430 W. Allegan  
Lansing, Michigan 48918

Email: [elections@michigan.gov](mailto:elections@michigan.gov)

Re: Campaign Finance Complaint against **Road to Michigan's Future**

To the Michigan Department of State:

The Foundation for Accountability and Civic Trust (FACT) is a nonprofit organization dedicated to promoting accountability, ethics, and transparency in government and civic arenas. We achieve this mission by hanging a lantern over public officials who put their own interest over the interests of the public good. We submit this complaint, pursuant to the Michigan Campaign Finance Act section 169.215, to request the Department of State immediately investigate and take appropriate enforcement action against Road to Michigan's Future, P.O. Box 12248, Lansing, MI 48901.

Road to Michigan's Future is a 501(c)(4) organization that is not registered as a ballot question committee. However, under the precedent the Department set forth in a 2021 complaint decision, Road to Michigan's Future's activity in 2020 demonstrates it should have registered as a committee and filed the required reports.<sup>1</sup>

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<sup>1</sup> *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021) (attached as Exhibit A).

**From July 2020 to October 2021, Road to Michigan's Future raised and contributed \$865,000 to a ballot question committee, Keep Michigan Safe.<sup>2</sup>** Both Road to Michigan's Future and Keep Michigan Safe were newly formed organizations in 2020 and formed within months of one another. The subsequent interaction between the two entities unfolded as follows: approximately six and one-half months after it formed on January 15, 2020, and prior to which it had no assets, Road to Michigan's Future made a \$750,000 contribution to Keep Michigan Safe.<sup>3</sup> Keep Michigan Safe was formed on July 3, 2020, and received the contribution on July 31, 2020.<sup>4</sup> This was Keep Michigan Safe's primary funding throughout the next year and three months, until its cash on hand was low. Then Road to Michigan's Future replenished Keep Michigan Safe's funds by making another \$115,000 contribution in October 2021, which Keep Michigan Safe paid out to its vendors almost in its entirety over the next six weeks.<sup>5</sup> Ultimately, **Road to Michigan's Future's contributions comprised 86.4% of Keep Michigan Safe's funding.**

Additionally, the organizations have other ties to one another. In its 2020 tax filings, Road to Michigan's Future listed its phone number as the phone number of Heather Ricketts, who was also the treasurer of Michigan Governor Gretchen Whitmer's campaign in 2020.<sup>6</sup> The campaign

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<sup>2</sup> Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

<sup>3</sup> Road To Michigan's Future, Articles Of Incorporation, Department Of Licensing And Regulatory Affairs, accessed Jan. 15, 2020, available at: <https://cofs.lara.state.mi.us/CorpWeb/CorpSearch/CorpSearchViewPDF.aspx>; Craig Mauger, *Pro-Whitmer Nonprofit Beats Pro-Snyder Groups By Raising \$6.5M In One Year*, The Detroit News, Jan. 17, 2020, available at: <https://www.detroitnews.com/story/news/politics/2022/01/17/pro-gretchen-whitmer-nonprofit-beats-pro-snyder-groups-raising-6-million-2020-tax-filing/6554927001/>; Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

<sup>4</sup> Keep Michigan Safe, Committee Statement Of Organization, Department Of State, filed July 3, 2020, available at: <https://cfrsearch.nictusa.com/committees/519829>; Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

<sup>5</sup> Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi); Keep Michigan Safe, Michigan Campaign Finance Expenditure Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

<sup>6</sup> Craig Mauger, *Pro-Whitmer Nonprofit Beats Pro-Snyder Groups By Raising \$6.5M In One Year*, The Detroit News, Jan. 17, 2020, available at: <https://www.detroitnews.com/story/news/politics/2022/01/17/pro-gretchen-whitmer-nonprofit-beats-pro-snyder-groups-raising-6-million-2020-tax-filing/6554927001/> ("The phone number listed on Road to Michigan's Future's tax filing for 2020 went to a voicemail box for Whitmer's current campaign treasurer, Heather Ricketts. She works as an independent contractor for Road to Michigan's Future, said Maeve Coyle, spokeswoman for Whitmer's campaign.").

stated Ricketts was an “independent contractor” for Road to Michigan’s Future and “the Governor has helped with fundraising” for Road to Michigan’s Future.<sup>7</sup> Keep Michigan Safe also paid Ricketts for “consulting” or as a “compliance contractor.”<sup>8</sup>

The following facts all strongly demonstrate a level of coordination showing the entities were not independent of each other: (1) both organizations were newly formed in 2020 and formed within months of one another; (2) the large disparity between Road to Michigan’s Future’s assets (\$0) at the end of 2019 and the amount it contributed (\$750,000) to Keep Michigan Safe in July 2020; (3) Road to Michigan’s Future was Keep Michigan Safe’s first contributor immediately after Keep Michigan Safe was formed in July 2020; (4) Road to Michigan’s Future was Keep Michigan Safe’s primary source of funding; (5) Road to Michigan’s Future replenished Keep Michigan Safe’s cash on hand with another large contribution when Keep Michigan Safe needed to pay its vendors; and (6) the organizations’ common contractor.

It is not a violation for an organization to make contributions to a ballot question committee.<sup>9</sup> However it is “a violation of the Act for an organization to raise money on behalf of the ballot question committee in order to shield the organization’s donors from the reporting requirements of the Act.”<sup>10</sup> The facts of this case demonstrate that this is precisely what occurred here, and they exceed the facts in a 2021 Department decision that found organizations “were soliciting or receiving funds for the purpose of collecting contributions with the intent of financially supporting the ballot question committee.” Thus, we request the Department investigate and find there is reason to believe that a violation of the MCFA occurred.<sup>11</sup>

## **I. Law.**

Under Michigan law, a “committee” is defined as an organization:

“that receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or

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<sup>7</sup> *Id.*

<sup>8</sup> Keep Michigan Safe, Michigan Campaign Finance Expenditure Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

<sup>9</sup> *Id.* (citing MCL 169.203(4)).

<sup>10</sup> *Id.* (citing MCL 169.203(4)).

<sup>11</sup> MCL 169.15(10).

more in a calendar year or expenditures made total \$500.00 or more in a calendar year.”<sup>12</sup>

The statute further specifies that an organization does not meet the definition of a committee solely because it makes an expenditure to a ballot question committee or an independent expenditure committee.<sup>13</sup> However, the organization does meet the definition of a committee if it “solicits or receives contributions for the purpose of making an expenditure to that ballot question committee or independent expenditure committee.”<sup>14</sup>

Whether or not an organization meets the definition of a committee is consequential because a committee is required to report and publicly disclose information. An organization must file a statement of organization within ten days of formation and thereafter file statements disclosing the organization’s contributions and expenditures.<sup>15</sup> If an organization fails to file the required statements, civil or criminal penalties are imposed.<sup>16</sup>

To determine whether an organization has “solicited or received contributions for the purpose of making an expenditure to a ballot question committee” and thus has become a committee itself, the Department examines facts showing the two organizations are not independent of one another.<sup>17</sup> For instance, prior to October 2021, some specific facts the Department considered when it found a corporation has become a committee are: (1) the corporation and ballot question committee formed within a short period of time; (2) the organizations had the same officers; (3) the percentage of the ballot question committee’s total

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<sup>12</sup> MCL 169.203(4).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*; *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021); *LaBrant v. Unlock Michigan*, MI Campaign Finance Complaint filed Sept. 17, 2020 (decision filed April 9, 2021).

<sup>15</sup> MCL 169.224.

<sup>16</sup> *See, e.g.*, MCL 169.234.

<sup>17</sup> *Id.*; *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021) (explaining evidence the corporation raised significant funds, contributed the funds to a ballot question committee within the calendar year the funds were raised, and the ballot question committee immediately paid vendors supported a finding the corporation was a committee and must register with the Department); *LaBrant v. Unlock Michigan*, MI Campaign Finance Complaint filed Sept. 17, 2020 (decision filed April 9, 2021) (explaining evidence the corporation and ballot question committee are controlled by the same individuals and functioning as the same entity support a finding the corporation is a committee and must register with the Department).

funding that was from the corporation; and (4) the flow of money between the corporation and ballot question committee demonstrated a relationship between the two groups.<sup>18</sup>

Then in an October 27, 2021 decision, the Michigan Department of State considered the case of *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Finance Complaint filed May 25, 2021 (decision filed Oct. 27, 2021) (2021 Complaint). This case involved two 501(c)(4) organizations, Michigan Citizens for Fiscal Responsibility (MCFR) and Michigan! My Michigan! (MMM), which were not registered as committees themselves but had made contributions to a ballot question committee, Unlock Michigan (Unlock).<sup>19</sup>

The Department had two pieces of evidence which led to their ruling: (1) the organizations' 2019 form 990 showing their assets at the end of the year and (2) the amount of contributions they gave as disclosed by Unlock in 2020.<sup>20</sup> MCFR had \$715,137 in assets at the end of calendar year 2019 and contributed approximately \$1,780,000 to Unlock from June to October 2020.<sup>21</sup> MMM had \$172,452 in assets at the end of calendar year 2019 and contributed approximately \$550,000 to Unlock from June to October 2022.<sup>22</sup>

There was no evidence of the date or amount of contributions received by MCFR and MMM throughout 2020 or the total amount of their assets at any particular point during the year.<sup>23</sup> Both MCFR and MMM filed affidavits stating that they neither "solicited or received contributions for the purpose of making an expenditure to Unlock Michigan or any other ballot question committee."<sup>24</sup>

After comparing MCFR and MMM's assets at the beginning of 2020 and the contributions each made to the ballot question committee during the year, the Department found

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<sup>18</sup> *LaBrant v. Unlock Michigan*, MI Campaign Finance Complaint filed Sept. 17, 2020 (decision filed April 9, 2021); *Turnaround Detroit v. Detroit Forward*, MI Campaign Finance Complaint (decision filed April 9, 2014), available at: [https://www.michigan.gov/-/media/Project/Websites/sos/14delrio/Turnaround\\_Detroit\\_V\\_Detroit\\_Forward\\_and\\_MCEF\\_pt\\_2.pdf?rev=0e1efb6028ff45389da6de8c305aa677](https://www.michigan.gov/-/media/Project/Websites/sos/14delrio/Turnaround_Detroit_V_Detroit_Forward_and_MCEF_pt_2.pdf?rev=0e1efb6028ff45389da6de8c305aa677) (considering that the corporation contributed over 33% of the ballot question committee's total funding during the entire Detroit mayoral election cycle).

<sup>19</sup> *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

that the assets MCFR and MMM each contributed to the ballot question committee during 2020 “far exceeds the assets controlled by the organizations” at the beginning of the year.<sup>25</sup> Additionally, MCFR and MMM made contributions to the ballot question committee “within days of similarly sized payments” from the ballot question committee to its vendor, which demonstrated coordination “to some extent.”<sup>26</sup> The Department found there “may be reason to believe” that MCFR and MMM should have registered as committees themselves and filed the required statements.<sup>27</sup> The decision stated:

“As previously stated, it is not a violation of the Act for a group to raise funds in its normal course of conduct and make contributions to a ballot question committee or to coordinate with that ballot question committee. It is, however, a violation of the Act for an organization to raise money on behalf of the ballot question committee in order to shield the organization’s donors from the reporting requirements of the Act. The fundraising necessary to allow MCFR to contribute \$1,780,000 to Unlock and MMM to contribute \$550,000 to Unlock from June to October 2020 is substantial. Although it may be possible that each entity raised those funds in the first half of 2020 independently of each entity’s support for Unlock, to assume that the aggressive fundraising activity necessary for each organization to raise the sums that were then transferred to Unlock was completely independent strains credulity. The disparity between each organization’s assets going into 2020, the amount that each organization contributed to Unlock, and the timing of those contributions demonstrate a level of coordination showing the entities were not independent of each other.

In particular, the number of payments that MCFR and/or MMM made to Unlock days before Unlock made similarly sized payments to NPM suggests that MCFR and MMM were soliciting or receiving funds for the purpose of collecting contributions with the intent of financially supporting Unlock. Such fundraising for the purpose of supporting a ballot question committee, as is evidenced in the instant case, makes MCFR and MMM themselves ballot question committees responsible for registration and for filing appropriate campaign statements under the MCFA, but neither organization, to date, has registered as a committee nor filed those campaign statements as required by sections 24 and 33 of the Act.

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

Given the coordination between Unlock, the proximity of contributions made to Unlock and the expenditures made by Unlock, and the fact that neither MCFR nor MMM would have been able to make such contributions to Unlock without soliciting/receiving additional funds during 2020, there is reason to believe that MCFR and MMM may have solicited/received funds for the purpose of making contributions to Unlock.”<sup>28</sup>

Therefore, in addition to the factors established by the Department prior to the 2021 Complaint, one factual scenario where the Department found an organization “solicits or receives contributions for the purpose of making an expenditure to that ballot question committee” and is thus a ballot question committee itself is when: (1) the organization solicited funds prior to or simultaneously with making contributions to a ballot question committee, and (2) the amount or timing of either contributions from the organization or payments the ballot question committee makes to its vendors indicate coordination.

## II. Analysis

### **Issue Presented: Whether Road to Michigan’s Future Is A Committee Thereby Mandating Registration Obligations With the Department.**

Road to Michigan’s Future is a social welfare organization formed pursuant to Section 501(c)(4) of the Internal Revenue Code (like MCFR and MMM in the 2021 complaint).<sup>29</sup> Road to Michigan’s Future was incorporated on January 15, 2020, and thus at the end of 2019 it had no assets.<sup>30</sup> Seven months later on July 31, 2020, Road to Michigan’s Future contributed \$750,000 to a ballot question committee, Keep Michigan Safe.<sup>31</sup> As in the 2021 Complaint, the fundraising necessary to allow Road to Michigan’s Future to raise and contribute \$750,000 to Keep Michigan Safe only seven months after it was created is “substantial.”<sup>32</sup> Clearly, in the words of the Department itself in the 2021 Complaint, the assets Road to Michigan’s Future contributed to

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<sup>28</sup> *Id.*

<sup>29</sup> Road To Michigan’s Future, Articles Of Incorporation, Department Of Licensing And Regulatory Affairs, accessed Jan.15, 2020, available at: <https://cofs.lara.state.mi.us/CorpWeb/CorpSearch/CorpSearchViewPDF.aspx>; Craig Mauger, *Pro-Whitmer Nonprofit Beats Pro-Snyder Groups By Raising \$6.5M In One Year*, The Detroit News, Jan. 17, 2020, available at: <https://www.detroitnews.com/story/news/politics/2022/01/17/pro-gretchen-whitmer-nonprofit-beats-pro-snyder-groups-raising-6-million-2020-tax-filing/6554927001/>.

<sup>30</sup> *Id.*

<sup>31</sup> Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi)

<sup>32</sup> *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021).

the ballot question committee during 2020 “far exceeds the assets controlled by the organizations” at the beginning of the year when it was not even formed and was at zero.<sup>33</sup>

In fact, this case is more egregious than the 2021 Complaint because Road to Michigan’s Future had to fundraise significantly more than either of the organizations in nearly the same time period. In the 2021 Complaint, the organizations were in existence at the beginning of 2020, began 2020 with more assets (MCFR \$715,137 and MMM \$172,452), but contributed less through July 31 (MCFR \$695,000 and MMM \$0). Road to Michigan’s Future had less than seven months to fundraise \$750,000 beginning from no assets.

Because Road to Michigan’s Future does not publicly disclose its donations and expenditures, the total assets controlled by this entity or the timing of the contributions it received during 2020 are not publicly known. Likewise, in the 2021 Complaint, the Department did not have this information for MCFR and MMM prior to their donations to Unlock. The Department found this information was unnecessary and presumed the funds were raised for the purpose of financing Unlock in the 2021 Complaint. The same standard certainly must apply here. Moreover, given the greater amount Road to Michigan’s Future had to fundraise before making a large contribution in July 2021 (as compared to MCFR \$0 and MMM \$0 because they each had assets at the beginning of the year that were greater than the contributions they made during this time period), it is clear that Road to Michigan’s Future’s fundraising was for the purpose of financing Keep Michigan Safe.

Additionally, Road to Michigan’s Future’s contributions were also “substantial” to Keep Michigan Safe. Keep Michigan Safe formed on July 3, 2020, and within that month Road to Michigan’s Future funded the new ballot question committee and was its first and primary contributor.<sup>34</sup> From July 2020 to October 2021 **Road to Michigan’s Future contributed \$865,000 to Keep Michigan Safe—comprising 86.4% of Keep Michigan Safe’s total fundraising during this period.**<sup>35</sup>

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<sup>33</sup> *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021).

<sup>34</sup> Keep Michigan Safe, Committee Statement Of Organization, Department Of State, filed July 3, 2020, available at: <https://cfrsearch.nictusa.com/committees/519829>; Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

<sup>35</sup> Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

For instance, in 2020, the next largest contributions Keep Michigan Safe received were two contributions of \$1,000 from Richard Whitmer and Rita Rosenberg, and all other contributions were under \$500.



As its primary funder, Road to Michigan's Future replenished Keep Michigan Safe when it needed in 2021, as viewed in the following chart:

Selected transactions reported by Road to Michigan's Future<sup>36</sup>

Date	Contributing Organization or Vendor	Amount Contributed to Keep Michigan Safe	Amount Paid by Keep Michigan Safe	Running Balance
July 31, 2020	Road to Michigan's Future	\$750,000		\$750,000.00
August 27, 2020	2020 Ballcamp LLC		\$85,000.00	\$668,578.63
September 5, 2020	Goodman Acker		\$18,592.43	\$647,133.77
September 9, 2020	2020 Ballcamp LLC		\$115,000.00	\$530,083.77
September 23, 2020	Clark Hill		\$32,554.50	\$500,100.65
September 29, 2020	Byrum Fisk		\$20,000.00	\$480,355.74
October 2, 2020	2020 Ballcamp LLC		\$67,000.00	\$404,709.74
October 2, 2020	Run the World		\$15,000.00	\$389,564.99
October 8, 2020	Change Media		\$32,455.39	\$358,576.03
October 13, 2020	Practical Political Consulting		\$25,000.00	\$335,044.56
October 27, 2020	Byrum Fisk		\$10,000.00	\$317,425.56
October 27, 2020	Clark Hill		\$17,689.00	\$299,736.56

<sup>36</sup> Keep Michigan Safe, Michigan Campaign Finance Contribution Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi); Keep Michigan Safe, Michigan Campaign Finance Expenditure Search, Department Of State, accessed July 1, 2022, available at: [https://miboecfr.nictusa.com/cgi-bin/cfr/contrib\\_anls\\_res.cgi](https://miboecfr.nictusa.com/cgi-bin/cfr/contrib_anls_res.cgi).

November 19, 2020	Goodman Acker		\$35,103.34	\$264,480.66
November 27, 2020	Clark Hill		\$11,741.50	\$255,127.16
December 1, 2020	Byrum Fisk		\$10,000.00	\$245,980.16
January 26, 2021	Byrum Fisk		\$10,000.00	\$231,320.86
March 1, 2021	Byrum Fisk		\$10,000.00	\$201,969.08
March 17, 2021	Danielle Villela		\$10,000.00	\$183,447.75
March 26, 2021	Practical Political Consulting		\$18,134.63	\$153,663.62
April 16, 2021	Practical Political Consulting		\$31,976.62	\$93,111.19
May 12, 2021	Goodman Acker		\$38,025.93	\$33,615.17
May 24, 2021	Practical Political Consulting		\$20,227.37	\$14,390.30
October 6, 2021	Road to Michigan's Future	\$115,000		\$125,833.01
October 13, 2021	Byrum Fisk		\$1,250.00	\$124,666.51
October 13, 2021	Goodman Acker		\$31,772.22	\$92,894.29
October 15, 2021	EveryAction		\$25,600.00	\$67,339.29
October 21, 2021	Run the World		\$5,500.00	\$61,984.29
November 18, 2021	Clark Hill		\$40,000.00	\$18,768.84
December 29, 2021	Clark Hill		\$28,552.70	\$19,671.86

Road to Michigan's Future was the primary source of funds Keep Michigan Safe had to pay its vendors in 2020 and into 2021. When Keep Michigan Safe's cash on hand was low in October 2021, Road to Michigan's Future made a \$115,000 contribution, which was closely followed by Keep Michigan Safe's payments to vendors in nearly that same amount over the next six weeks. Thus, it is absolutely clear that, given the coordination and ties between the organizations, Road to Michigan's Future raised funds with the purpose of giving these funds to Keep Michigan Safe.

To make the point even more clear, applying the Department's analysis in the 2021 Complaint decision to the present situation:

“[I]t is not a violation of the Act for a group to raise funds in its normal course of conduct and make contributions to a ballot question committee or to coordinate with that ballot question committee. It is, however, a violation of the Act for an organization to raise money on behalf of the ballot question committee in order to shield the organization's donors from the reporting requirements of the Act. The fundraising necessary to allow [Road to Michigan's Future] to contribute [\$865,000] to [Keep Michigan Safe] . . . from [July 2020 to October 2021] is substantial. Although it may be possible that [this] entity raised those funds [simultaneously] independently of [the] entity's support for [Keep Michigan Safe], to assume that the aggressive fundraising activity necessary for [this] organization to raise the sums that were then transferred to [Keep Michigan Safe] was completely independent strains credulity. The disparity between [this] organization's assets going into 2020, the amount that [this] organization contributed to [Keep Michigan Safe], and the timing of those contributions demonstrate a level of coordination showing the entities were not independent of each other.

In particular, the number of payments that [Road to Michigan's Future] made to [Keep Michigan Safe] days before [Keep Michigan Safe] made similarly sized payments to [its vendors] suggests that [Road to Michigan's Future] [was] soliciting or receiving funds for the purpose of collecting contributions with the intent of financially supporting [Keep Michigan Safe]. Such fundraising for the purpose of supporting a ballot question committee, as is evidenced in the instant case, makes [Road to Michigan's Future] [itself a] ballot question committee[] responsible for registration and for filing appropriate campaign statements under the MCFA, but [this] organization, to date, has [not] registered as a committee nor filed those campaign statements as required by sections 24 and 33 of the Act.

Given the coordination between [Keep Michigan Safe], the proximity of contributions made to [Keep Michigan Safe] and the expenditures made by [Keep Michigan Safe], and the fact that [Road to Michigan's Future] would [not] have been able to make such contributions to [Keep Michigan Safe] without soliciting/receiving additional funds during 2020, there is reason to believe that [Road to Michigan's Future] may have solicited/received funds for the purpose of making contributions to [Keep Michigan Safe].<sup>37</sup>

While the analysis of the 2021 Complaint alone meets the standard, there is additional evidence demonstrating the coordination and ties between the organizations. Both organizations were formed in 2020 within months of one another and soon Road to Michigan's Future became the primary funder of Keep Michigan Safe. These new organizations also had a common "contractor," Heather Ricketts.<sup>38</sup> Ricketts was clearly a representative of Road to Michigan's Future because her phone number was used as the organization's phone number on its tax filings, and she was a contractor for both Road to Michigan's Future and Keep Michigan Safe.<sup>39</sup> Yet, when applying the standards set forth in the 2021 Complaint alone, the evidence in this case far exceeds the "reason to believe" standard that Road to Michigan's Future "may have taken actions that qualify [it] as a ballot question committee" and thus has violated Michigan Campaign Finance Act sections 24 and 34.<sup>40</sup>

### III. Conclusion & Request for Action.

The facts support a finding that Road to Michigan's Future solicited contributions for the sole purpose of making expenditures to a ballot question committee. We respectfully request the Department of State immediately investigate the apparent violations set forth in this Complaint and find reason to believe that Road to Michigan's Future has violated the Michigan Campaign

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<sup>37</sup> *Id*; *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021).

<sup>38</sup> Ricketts was the campaign treasurer for Governor Whitmer's campaign, Whitmer was also fundraising for Road to Michigan's Future, and it was Whitmer's campaign that stated Ricketts was an "independent contractor" for Road to Michigan's Future. Craig Mauger, *Pro-Whitmer Nonprofit Beats Pro-Snyder Groups By Raising \$6.5M In One Year*, The Detroit News, Jan. 17, 2020, available at: <https://www.detroitnews.com/story/news/politics/2022/01/17/pro-gretchen-whitmer-nonprofit-beats-pro-snyder-groups-raising-6-million-2020-tax-filing/6554927001/>.

<sup>39</sup> Craig Mauger, *Pro-Whitmer Nonprofit Beats Pro-Snyder Groups By Raising \$6.5M In One Year*, The Detroit News, Jan. 17, 2020, available at: <https://www.detroitnews.com/story/news/politics/2022/01/17/pro-gretchen-whitmer-nonprofit-beats-pro-snyder-groups-raising-6-million-2020-tax-filing/6554927001/>.

<sup>40</sup> *LaBrant v. Michigan Citizens for Fiscal Responsibility, Michigan! My Michigan!*, MI Campaign Finance Complaint filed May, 25, 2021 (decision filed Oct. 27, 2021).

Finance Act. It is clear, given the facts in this case and the precedent set forth by the 2021 Complaint, that Road to Michigan's Future must file as a committee, including filing all outstanding statements and reports, paying any late filing fees, and any applicable civil or criminal penalties.

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.

Respectfully submitted,

The Foundation for Accountability and Civic Trust



By: Kendra Arnold  
Executive Director  
Foundation For Accountability and Civic Trust  
1717 K Street NW, Suite 900, Washington, D.C., 20006

Exhibit A



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

October 27, 2021

Brian D. Shekell  
Clark Hill  
500 Woodward Ave., Suite 3500  
Detroit, MI 48226

Dear Mr. Shekell:

The Department of State (Department) has finished its initial investigation of the campaign finance complaint filed against your clients Michigan Citizens for Fiscal Responsibility (MCFR) and Michigan! My Michigan! (MMM), as well as against Unlock Michigan (Unlock), by Robert LaBrant alleging violations of the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the current disposition of the complaint against your clients.

The complaint alleged that MCFR and MMM solicited or received donations for the purpose of making expenditures to Unlock. Unlock is a ballot question committee regulated by the MCFA. In support of these claims, Mr. LaBrant stated that MCFR and MMM together contributed over \$2.3 million in funding to Unlock from June to October 2020, "nearly 86%" of Unlock's total funding during that period. The complaint also showed that MCFR and/or MMM frequently provided large amounts of funding to Unlock within days of Unlock making a large payment to the outside signature-gathering firm National Petition Management (NPM).

MCFR and MMM also jointly responded to the complaint.<sup>1</sup> In their response, MCFR and MMM claimed that neither organization "solicited or received contributions for the purpose of making an expenditure to Unlock Michigan or any other ballot question committee." MCFR and MMM included a September 9, 2020 affidavit from Heather Lombardini stating that "MCFR ha[d] not

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<sup>1</sup> MCFR and MMM also alleged that the instant complaint should be dismissed as a successive complaint. However, as indicated in the Department's April 9, 2021 dismissal to Mr. LaBrant, the prior complaint asked the Department only to investigate whether 5 contributions were violative of the Act. Because the instant complaint raises allegations not previously addressed in the first complaint, and adds an additional party, the Department does not treat this as a successive complaint.

solicited or received contributions for the purpose of making an expenditure to Unlock Michigan or any other ballot question committee.”<sup>2</sup>

Mr. LaBrant provided a rebuttal statement. In his rebuttal, Mr. LaBrant cited the failure of MCFR or MMM to provide financial statements or other information showing that the organizations did not violate the MCFA as evidence that the organizations had in fact violated the Act.

On October 8, 2021, the Department requested that MCFR and MMM provide the Department with IRS Form 990s for calendar year 2019 and 2020. The Department also requested that each organization provide the date and amount of each donation received in excess of \$500 or expenditure made in excess of \$500 between January 1, 2020 and the present, as well as the total value of assets controlled by each organization after each of those donations and expenditures. MCFR and MMM each provided a Form 990 for calendar year 2019 but declined to provide a Form 990 for calendar year 2020 and declined to provide the requested information about expenditures, contributions, and assets.

In Michigan, a committee is an organization which “receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate, the qualification, passage, or defeat of a ballot question, or the qualification of a new political party, if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year.” MCL 169.203(4). The MCFA requires committees to file certain campaign statements detailing contributions and expenditures. See, e.g., MCL 169.234. Failure to file these required statements can result in civil and criminal penalties. *Id.* An organization making an expenditure to a ballot question committee is not a committee under the MCFA and is not subject to the reporting requirements of the MCFA, however, unless that organization “solicits or receives contributions for the purpose of making an expenditure to that ballot question committee.” MCL 169.203(4). Upon meeting the definition of committee, the organization is obligated to file a statement of organization with the appropriate filing official within 10 days of the committee’s formation, MCL 169.224, and is also required to file various campaign statements detailing the organization’s contributions and expenditures.

As discussed below, the Department finds that there may be reason to believe that MCFR and MMM violated the MCFA. Both MCFR and MMM may have taken actions that qualify each organization as ballot question committees under the MCFA. At the end of calendar year 2019, MCFR had \$715,137 in assets, and MMM had \$172,452 in assets. From June to October 2020, MCFR contributed approximately \$1,780,000 to Unlock, while MMM contributed

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<sup>2</sup> For the reasons more fully set forth below, despite these statements presented in the affidavit, they are not enough to overcome the other evidence submitted.

approximately \$550,000. In each case, the contributions by each organization to Unlock during 2020 far exceeds the assets controlled by each entity at the start of 2020. Moreover, the contributions by MCFR and/or MMM to Unlock were often made within days of similarly sized payments by Unlock to NPM, as set out in the following chart:

<b>Date</b>	<b>Contributing Organization</b>	<b>Amount Contributed to Unlock</b>	<b>Amount Paid by Unlock to NPM</b>
June 9, 2020	MCFR	\$10,000	-
June 18, 2020	MCFR	\$150,000	-
June 24, 2020	MCFR	\$400,000	-
June 25, 2020	-	-	\$300,000
July 20, 2020	MCFR	\$100,000	-
July 21, 2020	-	-	\$100,276.21
July 31, 2020	MCFR	\$35,000	\$100,000
August 3, 2020	-	-	\$44,784.85
August 6, 2020	MCFR	\$150,000	-
August 6, 2020	MMM	\$100,000	\$228,212
August 14, 2020	MCFR	\$25,000	-
August 20, 2020	MMM	\$100,000	-
August 21, 2020	MCFR	\$110,000	-
August 21, 2020	MMM	\$100,000	\$330,000
August 27, 2020	MCFR	\$700,000	-
August 28, 2020	-	-	\$166,248.86
August 31, 2020	-	-	\$160,317.68
September 11, 2020	-	-	\$183,298.30
September 18, 2020	-	-	\$150,000
October 1, 2020	MCFR	\$100,000	-
October 1, 2020	MMM	\$150,000	-
October 5, 2020	-	-	\$218,203.96
October 21, 2020	MMM	\$100,000	-

Given that contributions by MCFR and MMM to Unlock were closely followed by expenditures Unlock made to NPM totaling an almost identical value, it is clear that MCFR and MMM coordinated to some extent with Unlock. Accounting for the assets controlled by each organization at the end of calendar year 2019, between January 1, 2020, and October 1, 2020, MCFR solicited/received at least \$1,064,863 in contributions, while between January 1, 2020, and October 21, 2020, MMM solicited/received at least \$377,548.

As previously stated, it is not a violation of the Act for a group to raise funds in its normal course of conduct and make contributions to a ballot question committee or to coordinate with that ballot question committee. It is, however, a violation of the Act for an organization to raise



money on behalf of the ballot question committee in order to shield the organization's donors from the reporting requirements of the Act. The fundraising necessary to allow MCFR to contribute \$1,780,000 to Unlock and MMM to contribute \$550,000 to Unlock from June to October 2020 is substantial. Although it may be possible that each entity raised those funds in the first half of 2020 independently of each entity's support for Unlock, to assume that the aggressive fundraising activity necessary for each organization to raise the sums that were then transferred to Unlock was completely independent strains credulity. The disparity between each organization's assets going into 2020, the amount that each organization contributed to Unlock, and the timing of those contributions demonstrate a level of coordination showing the entities were not independent of each other.

In particular, the number of payments that MCFR and/or MMM made to Unlock days before Unlock made similarly sized payments to NPM suggests that MCFR and MMM were soliciting or receiving funds for the purpose of collecting contributions with the intent of financially supporting Unlock. Such fundraising for the purpose of supporting a ballot question committee, as is evidenced in the instant case, makes MCFR and MMM themselves ballot question committees responsible for registration and for filing appropriate campaign statements under the MCFA, but neither organization, to date, has registered as a committee nor filed those campaign statements as required by sections 24 and 33 of the Act.

Given the coordination between Unlock, the proximity of contributions made to Unlock and the expenditures made by Unlock, and the fact that neither MCFR nor MMM would have been able to make such contributions to Unlock without soliciting/receiving additional funds during 2020, there is reason to believe that MCFR and MMM may have solicited/received funds for the purpose of making contributions to Unlock.

When presented with a complaint, the Department is tasked to determine "whether or not there may be reason to believe that a violation of [the MCFA] occurred."<sup>3</sup> MCL 169.15(10). Once the

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<sup>3</sup> The MCFA directs the Department to initiate the resolution process if "there may be reason to believe that a violation of [the MCFA] occurred." MCL 169.15(10). The Department notes that, under federal law, the Federal Election Commission (FEC) will initiate an investigation into a campaign finance complaint if the Commission finds that "reason to believe that a violation of [federal law] has occurred or is about to occur." 11 CFR § 111.10. The FEC will find that "reason to believe" a violation has occurred or is about to occur when "the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation." Federal Election Commission; Policy Statement; Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 51, 12545 (March 16, 2007). Because the MCFA sets a lower threshold for the Department to initiate an informal resolution process – whether there "*may be* reason to believe that a violation of [the MCFA] occurred" (emphasis added) – than federal law sets for the FEC to initiate an investigation – whether there *is* "reason to believe" – the Department's longstanding practice is to initiate the informal resolution process when the evidence available to the Department at the time that a determination is issued can reasonably support an inference that the MCFA has been violated.

Department has made this determination, the Department must employ “informal methods such as a conference [or] conciliation” to correct the potential violation or to prevent further violation. *Id.* As part of the informal resolution process, parties may furnish the Department with evidence showing that a potential violation of the MCFA has not actually occurred. It is possible that MCFR and/or MMM can provide information tending to show that its fundraising activities in 2020 were in fact independent of subsequent or concurrent donations to Unlock, and thus demonstrate that MCFR and/or MMM are not ballot question committees regulated by the MCFA. However, such information has not been made available to the Department, and the evidence available to the Department at this time suggests that “there may be reason to believe” that MCFR and MMM “solicit[ed] or receiv[ed] contributions for the purpose of making an expenditure” to Unlock, and thus that MCFR and MMM are ballot question committees under the MCFA with corresponding and unfulfilled filing obligations.

This letter serves to notify you and your clients that the Department has determined there may be reason to believe that your clients have violated the Act, and serves to notify you and your clients 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 [fracassia@michigan.gov](mailto:fracassia@michigan.gov) by 5:00 p.m. on Friday, November 5 to discuss a resolution to matter, including additional information your clients may be able to provide that may affect the Department’s determination of the scope of any violation that may have occurred.

Sincerely,



Adam Fracassi

Bureau of Elections