

Campaign Finance Complaint Form
Michigan Department of State

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	Daytime Telephone Number	
JOHN REILLY 248 693-4792		
Mailing Address		
2273 W. PREDMORE		
City	State	Zip
OAKLAND	MI	48363

Section 2. Alleged Violator		
Name		
FAITHFUL CONSERVATIVES FOR MICHIGAN		
Mailing Address		
2145 COMMONS PARKWAY		
City	State	Zip
OKEMOS	MI	48864

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

Section(s) of the MCFA violated:

169.224 , 169.225

Explain how those sections were violated:

SEE ATTACHMENT

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

SEE ATTACHMENT

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

John Reilly

Date

7/23/18

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:

- PRELIMINARY STATEMENT*
- ANALYSIS*
- ARGUMENT*
- CONCLUSION*

X

Signature of Complainant

John Reilly

Date

7/23/18

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

PRELIMINARY STATEMENT

1. Michigan campaign finance law serves to protect the public interest. Michigan law requires disclosure of campaign finances because it is a compelling public interest that voters are informed who is paying for political statements on candidates during an election period. It also establishes limits on contributions to campaigns and political action committees to curtail the influence of moneyed interests. The First Amendment, however, provides broad freedom to citizens and associations of citizens to discuss the issues of the day, and to do so anonymously.
2. To draw a clear line between what is protected speech under the Constitution and what is regulated electioneering, the Supreme Court has held that the definition of electioneering narrowly applies to express advocacy for the election or defeat of a candidate.
3. “Faithful Conservatives for Michigan,” a misleadingly-named dark money group, has repeated 15 year old false accusations of criminal misconduct against Rep. Gary Glenn, spending hundreds of thousands of dollars to deliver this message to voters of the 31st Senate district. The messages are personal attacks against Rep. Glenn directed toward voters within the prospective Senate district, whose only conceivable purpose is to alter the outcome of the race. As such, it is electioneering, not issue discussion, notably because the issues it purports to be discussing are non-existent. For example, there is no pending legislation pertaining to Michigan's penal code regarding bribery.
4. Faithful Conservatives has reported none of these activities to the Michigan Department of State, or indeed, filed any campaign finance reports of any kind.
5. Based on the facts stated below, no reasonable person could conclude that these serve any purpose related to issue discussion, or any purpose, other than to alienate voters in the August 7 primary election against Rep. Glenn. As this statement will show, they are, beyond a reasonable doubt, sleazy personal attacks intended to affect the outcome of the upcoming election, and therefore subject to Michigan's campaign finance disclosure law. Faithful Conservatives for

Michigan should be sanctioned for any and all violations of Michigan campaign finance law in association with these electioneering communications posing in bad faith as a “faithful conservative” issue advocacy group for the purpose of “social welfare.”

PARTIES

6. Gary Glenn is a State Representative, Chairman of the House Energy Policy Committee, and candidate for State Senate in Michigan's 31st District.
7. Kevin Daley is a retired State Representative and competing candidate for the same State Senate seat.
8. Citizens for Energizing Michigan's Economy (“CEME”) is a Michigan corporation registered at 2145 Commons Parkway, Okemos, MI 48864, state ID 800943773, formed in December 2013. Its resident agent is Eric Doster.
9. Faithful Conservatives for Michigan is a Michigan corporation that also is registered at 2145 Commons Parkway, Okemos, MI 48864, state ID 802153701, formed in January 2018. Its resident agent is also Eric Doster.
10. CMS Energy, d/b/a Consumers Energy, is a utility company headquartered in Jackson, Michigan, with a monopoly over a majority of electricity customers in Michigan (6.6 million people, about 2/3 the state population).

STATEMENT OF FACTS

11. Throughout his term of office as Representative of the 98th State House district, Gary Glenn has been an outspoken critic of Michigan's monopoly energy market, arguing that electric utilities should not have a legislatively guaranteed 90%+ market share, and encouraging freedom and competition in Michigan's electricity market, such as we have for gas. He has often suggested that utilities earn excessive profits at the electricity rates they charge, and introduced multiple bills to address these concerns. Consumers Energy has opposed all of these bills.
12. Gary Glenn has established a reputation as among the strongest conservatives in the State

House, receiving, for example, the top rating from the American Conservative Union in all three years he was rated.

13. Gary Glenn announced his candidacy for State Senate in the 31st district on October 13, 2017.
14. Kevin Daley announced his candidacy for the same Senate seat on or about February 12, 2017.
15. Gary Glenn and Kevin Daley are both Republicans, competing for the party's nomination in the August 7, 2018 primary election.
16. In February of 2014, Mlive.com reported that CEME was “a group backed by Consumers Energy,” noting that the organization's treasurer was a Consumers Energy retiree and that Consumers Energy spokesman Dan Bishop stated that “Consumers Energy used shareholder dollars to support the group.”¹ CEME's President is Howard Edelson, former director of Government Affairs for Consumers Energy and Democrat Gov. Jennifer Granholm's re-election campaign manager. (Ibid.)
17. From 2014 to 2017, financial documents submitted to the Michigan Public Service Commission show that Consumers has contributed \$43.5 million, including \$20 million in 2017, to CEME.²
18. A Consumers Energy spokesman, Katie Carey, confirmed that \$2,500 was contributed to Daley in April from the PAC CMS Energy Corp. Employees for Better Government. (Ibid.)
19. Given the opportunity, Consumers Energy did not deny they were funding Faithful Conservatives for Michigan, saying simply “we don't disclose our 501(c)(4) contributions.”³
20. The Energy and Policy Institute reported in June: “CEME, a 501c4 organization, reports in its annual filings with the Internal Revenue Service for the years 2014, 2015, and 2016 that is has received only \$8.5 million in revenue. Consumers Energy contributed a total of \$23.5 during those years, which suggests that at least \$15 million has not been reported to the IRS by the

1 https://www.mlive.com/lansing-news/index.ssf/2014/02/michigan_consumers_energy_elec.html

2 <http://www.crainsdetroit.com/article/20180525/news/661826/consumers-energy-confirms-affiliated-pac-donated-to-rep-gary-glenns>

3 <http://mcfm.org/node/6901/it-will-send-a-message-some-of-the-first-state-senate-ads-of-2018-are-funded-by-secret-donors>

501c4 organization, and needs to be explained.”⁴

21. In January 2018 (all dates henceforth are 2018 unless otherwise noted), Faithful Conservatives for Michigan was incorporated at the same address and with the same resident agent as CEME. Its Articles of Incorporation, which are almost identical except in organization name to the Articles for CEME, read in part: “The purpose or purposes for which the corporation is formed are [...] 5. To engage in any other activities that are consistent with Section 501(c)(4) of the Code, except that the Corporation shall not expressly advocate the election or defeat of any clearly identified candidate for public office or ballot question.” [emphasis added]⁵
22. On February 9, CEME submitted an Agreement Form for Non-candidate/Issue Advertisements to the Saginaw/Bay City/Midland radio station, WSGW-AM, for a \$7,200 ad buy to air April 17 through May 7.⁶ The network is heard in the 31st district, which consists of neighboring Bay, Tuscola, and Lapeer counties.
23. On April 13, the group issued a request for cancellation of the ad buy. The request included this note: “URGENT CANCELLATION – DO NOT DOUBLE BOOK! PLEASE CONFIRM ONLINE OR BY EMAIL AT: TYLER.LARRABEE@KATZRADIOGROUP.COM WITHIN 24 HOURS. THANK YOU!” (Ibid. and see Exhibit 1.)
24. On April 23, Faithful Conservatives for Michigan – a group registered by the same agent at the same address as CEME, submitted to WSGW-AM a non-candidate political ad buy through the same buyer, Tyler Larrabee, to start immediately – the next day, April 24, through next 7 days. The group has since filed additional forms for ongoing advertising through the present day. (Ibid.)
25. On or about June 8, a Faithful Conservatives mailing landed in mailboxes across the 31st

4 <https://www.energyandpolicy.org/consumers-energy-contributed-43-million-dollars-to-citizens-for-energizing-michigans-economy/>

5 Available at <https://cofs.lara.state.mi.us/corpweb/CorpSearch/CorpSearch.aspx>

6 <https://publicfiles.fcc.gov/am-profile/wsgw/political-files/2018/non-candidate-issue-ads/7f9c8c9a-4049-5c11-0530-0b1d64f49180/>

district, depicting the Holy Bible and quoting: “You shall not take a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous.” On the other side, it quoted Michigan's anti-bribery statute, and on both sides urged recipients to call the Capitol switchboard and “tell them to protect the State Penal Code to Prevent Bribery.” [sic] (See Exhibit 2.)

26. On or about June 25, a Faithful Conservatives mailing landed in mailboxes across the 31st district, blaring that “Former Idaho Lobbyist Gary Glenn Was Accused of Pay-to-Play Political Tactics.” (See Exhibit 3.)
27. Beginning on or about July 10 and continuing currently, Faithful Conservatives of Michigan ran a television ad at saturation-level coverage across multiple TV networks in the 31st district area. A resident reported that the ads were so prevalent that “I turned on the TV at 6:00pm, and the ad ran so many times I had to turn off the TV at 6:30.”
28. The TV ad opens with an image of the state Capitol at night, overlaid with an video of a snake in a swamp and the text “LANSING SWAMP.” “There's a snake in the swamp in Michigan politics. Political corruption is worse than you know.” Dissolving to an image of Rep. Glenn's profile beneath a swamp foreground, it continues: “Take Representative Gary Glenn. Before moving to Michigan, Glenn was a lobbyist in Idaho.” (Text overlay: “Gary Glenn, Former Idaho Lobbyist”) A snake cuts across the frame, followed by two quotes appearing on-screen, one from the Associated Press: “Senate leader accuses advocate of offering bribe.” [sic] and another from the Idaho Statesman: “Sen. Risch offered money to vote for term limits.” The narrator continues: “The news reported Gary Glenn was accused of offering money for a vote. Pay-to-play politics has no place in Michigan. [Camera pans from swamp to state Capitol.] But that's what happens – [a snake emerges and strikes the camera] – deep in the swamp. Call your legislator today. Tell them no more pay to play.” As it closes, the ad depicts Rep. Glenn's likeness and the text: “CALL YOUR LEGISLATOR” followed by the Capitol switchboard phone number and the text “NO MORE PAY TO PLAY / PROTECT THE STATE PENAL

CODE” “PAID FOR BY FAITHFUL CONSERVATIVES FOR MICHIGAN.”⁷

29. Beginning on or about June 3, Faithful Conservatives deployed mail, radio, and television ads praising Kevin Daley for being a farmer, and urging recipients, listeners, and viewers to contact their lawmakers and urge they support Senate Bills 652 through 654. (See Exhibit 4.)
30. On May 22, the House passed SB 652-654. The Senate voted to concur with the House amendments and present the bill to the governor on June 12, and Governor Rick Snyder signed the bills into law on June 28.
31. On information and belief, as of July 12, Faithful Conservatives continued to run ads supporting legislation that was signed into law two weeks earlier. In the period following the legislation's passage into law, the ads therefore served no purpose but to promote Kevin Daley.
32. On July 17, 2018, U.S. Senator Jim Risch issued the following statement (Exhibit 5):
33. [Begin quote] I have been informed that my name has been used in an election campaign wherein Michigan representative Gary Glenn is seeking a state senate seat.
34. I have not authorized anyone to use my name or to describe very old events, or to use very old quotes from me which apparently have been taken very much out of context.
35. I have known Gary Glenn for many years and since both of us are steadfast conservatives we have fought many battles together, and on only one very rare occasion been on opposite sides.
36. I have not followed Gary's political career or public service in Michigan, however having known him for so long I would be surprised to hear that his public service record was anything but outstanding. The Gary Glenn I have known would be a dedicated, hardworking, unflinching advocate for his constituents.
37. Good luck Gary, I wish you well. [End quote]

ANALYSIS

FAITHFUL CONSERVATIVES' MESSAGES SERVE NO PLAUSIBLE LEGISLATIVE

⁷ <http://facebook.com/FaithfulConservativesforMichigan/videos/10156707867079155/>

OR LOBBYING PURPOSE.

38. Of the 2,277 House and 1,072 Senate bills introduced thus far into the 2017-2018 term, not one “threatens,” or would affect in any way at all, MCL 750.117 cited in the mailing in Exhibit 2.

There is no political discussion surrounding Michigan's anti-bribery law; there exist no efforts to alter it. It is irrational for a political organization to spend donors' money to lobby on an issue in which there is no public interest, no legislative activity, and no opposition.

39. There is no plausible purpose for the emphasized praising of Kevin Daley in several ads for Senate Bills 652-654 (See Exhibit 4), who had nothing to do with the legislation. Kevin Daley, a retired lawmaker, is one of thousands of Michigan farmers, any one of whom could have illustrated the issue just the same. In every instance, Kevin Daley is irrelevant to the subject; his name is simply thrown in and highlighted:

- “Family farms like **Kevin Daley's** are successful because children can still choose to become farmers like their parents.”
- “Farmers like **Kevin Daley** value fiscal responsibility and hard work.”
- “Support kids growing up to be responsible farmers like **Kevin Daley.**”
- “What do our students want to be when they grow up? Some want to be farmers like **Kevin Daley.**”
- “Michigan depends on generational farms like **Kevin Daley's.**”
- “Family farms depend on kids growing up and becoming responsible, hard-working farmers like **Kevin Daley.**”

40. In all instances, the fact that there exists a farmer named Kevin Daley is irrelevant to the point.

What, then, was the purpose of praising Kevin Daley for being a farmer? The only plausible purpose was the promotion of his candidacy.

41. Senate Bills 652-654, which would create a new environmental permit appeal panel, had so

little to do with agriculture that it was referred to neither chamber's Agriculture committee.

42. Senate Bills 652-654 were relatively non-controversial, and received little media coverage.

They passed both chambers with near-unanimous Republican support and no support from Democrats; it was a partisan package. A sensible organization supporting it would have targeted mailings supporting the bills to the districts of the *least* conservative representatives, whose votes might be in play. And surely, any sane organization would have ceased spending money promoting the bills once they were sent to the governor on June 12, or at least once signed into law on June 28. Even if promoting SB 652-654 was good-faith lobbying before it was signed into law, it certainly was not *after* the Legislature was out of the picture and the bills had become law.

43. In both of these cases, Faithful Conservatives for Michigan's behavior was totally insensible from the perspective of an issue advocacy group, but completely logical for a group electioneering for Kevin Daley against Gary Glenn.

FAITHFUL CONSERVATIVES FOR MICHIGAN IS A DARK MONEY ORGANIZATION.

44. On information and belief: Other than its incorporating attorney, Faithful Conservatives for Michigan has no public members and no staff. Its Facebook page contains no posts,⁸ no photos⁹, and its “about” page is blank.¹⁰ It has no website. Its corporate registration in Michigan names no officers. It conducts no public events and does not disclose the identity of its staff to anyone. Its existence is defined by attacking Gary Glenn and promoting Kevin Daley.

THE “URGENT CANCELLATION – DO NOT DOUBLE BOOK!” REQUEST PROVES

⁸ <https://www.facebook.com/pg/FaithfulConservativesforMichigan/> archived at <http://web.archive.org/web/20180713170001/https://www.facebook.com/FaithfulConservativesforMichigan/>

⁹ <https://www.facebook.com/pg/FaithfulConservativesforMichigan/photos/> Archived at <http://web.archive.org/web/20180713170155/https://www.facebook.com/FaithfulConservativesforMichigan/photos/>

¹⁰ <https://www.facebook.com/pg/FaithfulConservativesforMichigan/about> archive at <http://web.archive.org/web/20180713170329/https://www.facebook.com/FaithfulConservativesforMichigan/about/>

COORDINATION BETWEEN FAITHFUL CONSERVATIVES AND CEME.

45. On its face, the cancellation of CEME's ad buy and subsequent replacement Faithful Conservatives ad buy suggests coordination. Same station, same agent, same corporate address, same ad buyer. The only difference between the canceling party and the next party to book ads was the name of the campaign it represented.
46. The “Do not double book” remark in the CEME cancellation notice establishes coordination between the two groups. A cancellation could only risk “double booking” if there was a second ad, but CEME submitted only one ad buy. The second ad therefore could only refer to Faithful Conservatives' ad.
47. The cancellation request was submitted April 13 and the Faithful Conservatives request was submitted April 23: ten days later, and six days after the April 17 date CEME's ads were scheduled to air. What risk of double-booking could there have been? The only plausible explanation is that *the station had both the planned CEME ads and the Faithful Conservatives ads on hand, because only then would double-booking be possible.* (Can't air an ad if you don't have it.) CEME had to have known that WSGW possessed a Faithful Conservatives ad to have any concern of double-booking. Therefore, CEME referenced the upcoming Faithful Consumers ad in its cancellation request, which proves coordination.
48. The decision to swap out an ad paid for by CEME with an ad paid for by Faithful Conservatives was obviously made because CEME had known links to Consumers Energy whereas Faithful Conservatives was newly established and named to lead voters to believe it was a grassroots conservative organization, rather than a front for Consumers Energy.

FAITHFUL CONSERVATIVES FOR MICHIGAN IS CONNECTED TO CONSUMERS ENERGY VIA CEME.

49. In light of the above analysis, one can only conclude that Faithful Conservatives for Michigan, acting in coordination with a known front group for Consumers Energy, engaging in

electioneering in a race of great interest to Consumers Energy, and having no other ostensible purpose for existence, is funded by and acts on behalf of Consumers Energy.

FAITHFUL CONSERVATIVES' NAME INTENDS TO MISLEAD VOTERS.

50. Having established that Faithful Conservatives for Michigan exists to defeat Gary Glenn in the interest of Consumers Energy, its name is an obvious fraud intended to portray the group as a grassroots conservative movement.

FAITHFUL CONSERVATIVES AD FALSELY ATTRIBUTES HEARSAY AS FACT TO SMEAR GARY GLENN, NOT TO ADVOCATE IN DEFENSE OF LEGISLATION.

51. The ad shown in Exhibit 3 cites the Lewiston Morning Tribune with what appears to be a quotation: “The caller identified himself as Gary Glenn...The message was clear. If I was willing to change my position... I'd receive a large financial reward.” Following the quote, the ad states “VOICEMAIL LEFT FOR... JIM RISCH.” Obviously, the quote is from Risch himself, not a voicemail left for him nor a statement of fact made by a newspaper. By misattributing the senator's quotation as a voicemail, it attempts to pass off hearsay as fact. This would serve no purpose in an ad supporting Michigan's anti-bribery law, but makes perfect sense as a smear on Gary Glenn.

THE FACT PATTERN THOROUGHLY CONTRADICTS THE NOTION THAT FAITHFUL CONSERVATIVES IS ENGAGED IN LOBBYING.

52. In order to believe that Faithful Conservatives of Michigan is lobbying in good faith, one must accept all of the following implausible notions:
- Their issues of interest are creating a new environmental rules committee and preventing a change to Michigan's anti-bribery law that nobody anticipates.
 - They chose to advocate on these issues by targeting only voters in Michigan's 31st Senate district.

- They just happened to place ads on a radio station where another political organization with the same address, same agent, and same ad buyer, had just pulled them and said “URGENT CANCELLATION – DO NOT DOUBLE-BOOK!”
- The unrelated organization, CEME – which happens to be registered at the same address as Faithful Conservatives for Michigan, with the same agent and ad buyer – specifically requested WSGW-AM take care not to “double-book” their ads, having submitted only one ad, for no apparent reason.
- They advocate for creating a new environmental rules committee by noting that Kevin Daley is a farmer.
- They continue to spend donor money running ads supporting their legislation weeks after the legislation has been signed into law.
- They spend enormous amounts of money to advocate against changing a law that nobody has proposed changing.
- They find a 15-year-old accusation in an Idaho newspaper as grounds for lobbying on the issue in Michigan today.
- Their misstatement of facts to smear Gary Glenn was accidental.

53. Faithful Conservatives for Michigan will undoubtedly claim that they are entitled to lobby on any issue they choose, sensible or not, and criticize any politician in the process, sensible or not. This is only true if the lobbying is done in good faith. It is impossible to believe this is the case, because:

THE FACT PATTERN IS COMPLETELY CONSISTENT WITH ELECTIONEERING.

54. Unlike the ludicrous things one must believe to view Faithful Conservatives' behavior as issue advocacy or “social welfare,” that Consumers Energy would engage in a campaign of this nature with intent to defeat Gary Glenn at the polls makes *perfect* sense:

- Gary Glenn has threatened Consumers Energy's monopoly, called for their rates to be lowered, and forthrightly accused them of manipulating both the legislative process and executive branch implementation of Michigan's new energy law.
- Consumers Energy uses every legal tool at its disposal for its benefit; in this case, that means defeating Gary Glenn at the polls.
- They fund a dark-money group to run district-specific targeted attacks on Gary Glenn and to support his opponent, using language to create the bare minimum appearance of issue-lobbying activity.
- They realize the dark-money group is already linked to them, so they switch mid-stream to use a new vehicle deceptively named to mislead those voters most likely to support Gary Glenn.
- Because they have no actual interest in SB 652-654, they don't even notice that the bills were signed into law and continue mailings intended to promote Kevin Daley.
- They find “opposition research” material against Gary Glenn in an Idaho newspaper from 15 years ago.
- They stop just short of defamation by saying Gary Glenn was simply “accused” of soliciting a bribe, and in their lust to defeat Gary Glenn, passed off hearsay as stated fact.

FAITHFUL CONSERVATIVES FOR MICHIGAN VIOLATES ITS ARTICLES OF INCORPORATION BY ITS ACTIONS.

55. All of the above actions taken by Faithful Conservatives for Michigan were bad-faith efforts intended to mislead voters to defeat Gary Glenn at the polls.
56. Article II of its Articles of Incorporation state, in part: “The purpose or purposes for which the corporation is formed are [...] 5. To engage in any other activities that are consistent with

Section 501(c)(4) of the Code, except that the Corporation shall not expressly advocate the election or defeat of any clearly identified candidate for public office or ballot question.”

[emphasis added]

57. This is an extraordinary statement. A 501(c)(4) organization is permitted by law to spend up to half of its expenditures electioneering. Many organizations choose to abstain from all electioneering, which minimizes the risk of being accused of exceeding the 50% limit. Yet Faithful Conservatives' Articles of Incorporation state they will engage in no electioneering.
58. Despite this disclaimer, every communication from the organization supports the contention that its *entire existence* is to defeat Gary Glenn at the polls.

OUTSIDE OBSERVERS PERCEIVE THE ELECTIONEERING FOR WHAT IT IS.

59. “Gary Glenn is facing a really nasty campaign paid for by the utilities, Consumers in particular, questioning his conservatism and running against him in a Senate race – Faithful Conservatives for Michigan, whatever that is.” – WJR Radio host Frank Beckmann
60. “Two other organizations have been promoting Republican state Senate candidates. Faithful Conservatives for Michigan has spent an estimated \$103,000, and Citizens for Energizing Michigan’s Economy has spent an estimated \$58,000.” – Michigan Campaign Finance Network¹¹
61. “Reporters and activists have been piecing together information on a couple of political organizations funded by Consumer's Energy. Those organizations have been targeting politicians who support opening up the energy market in Michigan.” – “Watchdog: Consumers Energy spends millions in dark money to defeat legislators, limit competition,” Michigan Radio, 6/12/18¹²

ARGUMENT

11 <http://mcfn.org/node/6899/with-six-months-remaining-before-election-day-dark-money-has-exceeded-1-million>

12 <http://michiganradio.org/post/watchdog-consumers-energy-spends-millions-dark-money-defeat-legislators-limit-competition>

**SPREADING ACCUSATIONS OF CRIMINAL MISCONDUCT AGAINST A
CANDIDATE TO VOTERS WITHIN THE DISTRICT IS EXPRESS ADVOCACY.**

62. Terms like “Vote for,” “elect,” “defeat,” etc. are definitive examples of express advocacy because they so clearly indicate their intent, not because they are “magic words” to which express advocacy is restricted: it is restricted to *that which is unambiguous and undeniably advocacy*.
63. “The distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest.” (*Buckley v. Valeo*).
64. Faithful Conservatives of Michigan acts in bad faith by spreading long-discredited allegations against Gary Glenn of felonious misconduct. It is not advocating in defense of Michigan's anti-bribery law; it is *utilizing* our anti-bribery law as a vehicle to convey a personal and political attack on Representative Glenn.
65. The bad faith nature of the attacks is undeniable.

**HIGH COURTS HAVE HELD 501(c)4 ORGANIZATIONS TO LOWER BURDENS OF
PROOF OF ELECTIONEERING.**

66. The famous *Citizens United v. FEC* case, decided in 2010, addressed the question of whether a 501(c)4 social welfare organization, Citizens United, was permitted to engage in political speech as an independent expenditure-only political action committee (a.k.a. a “Super PAC”). However, while the Supreme Court addressed the question of whether, *given* that an organization was a Super PAC, could it spend money on advocacy without hesitation, both the District Court and the Supreme Court *took for granted the FEC's determination that Citizens United, a 501(c)4 organization, was electioneering in the act of controversy*. Citizens United

had produced a documentary on Hillary Clinton, and purchased advertising to promote the film. The FEC contended, and the District Court accepted, that airing the ad for the documentary constituted campaign activity, not issue promotion, much less non-political promotion of a movie. This assumption was never challenged by the Supreme Court, and the case was decided on the merits of the communications being regarded as electioneering.

67. It is at least arguable that promoting any movie product is inherently an act of commerce no matter what the subject, and because it contained no “express advocacy” opposing Hillary Clinton's candidacy for U.S. Senate, it is protected by the First Amendment. Yet the commercials promoting the “anti-Hillary” movie were found by the Federal Elections Commission to be electioneering, and the U.S. District Court and Supreme Court agreed.
68. If an ad promoting a movie impugning the character of a candidate for the U.S. Senate is regarded by the Federal Elections Commission as electioneering, the Michigan Bureau of Elections should certainly agree that these political ads – which, unlike ads promoting a movie, cannot possibly be interpreted to serve a commercial purpose – similarly are electioneering communications.

FAITHFUL CONSERVATIVES IS A COMMITTEE UNDER THE MCFA.

69. “ ‘Committee’ means a person who 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,....., 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 Sect. 3 (4)
70. This definition fits the organization perfectly.

THIS IS A TEXTBOOK EXAMPLE OF BLATANT ELECTIONEERING BEING DONE UNDER THE COLOR OF ISSUE ADVOCACY.

71. The proof is (1) the complete lack of real-world existence of the group; (2) the complete lack of

connection between the group and the issues it claims to advocate for; (3) the complete lack of connection between the issues it claims to advocate for and the candidates it promotes and attacks; (4) the perfect connection between the group's backers and its political targets; (5) the smear tactics used that have no place in issue advocacy.

CONCLUSION

72. Michigan election law should not, and does not, protect those acting in bad faith. This is a blatant, unlawful effort to utilize non-profit law to fund a political assassination.

73. The U.S. Constitution, federal law, and state law all err strongly in favor of protecting private speech for non-electioneering purposes. It requires a high burden of proof to demonstrate that speech is electioneering. In this case, the evidence is overwhelming. It merits a thorough investigation as to:

1. Who is the operating officer of the organization?
2. Did CEME transfer money to Faithful Conservatives when it pulled its radio ads?
3. How is Faithful Conservatives linked to Consumers Energy?
4. How much Consumers Energy money has been spent by Faithful Conservatives electioneering in general and in this race in particular?

74. Rep. Tom Barrett said it best when he alleged utilities wanted “to get a scalp” and “hang it on the wall.”

75. “If you aren’t willing to go with what they want, then they are willing to spend what it takes to defeat you,” Barrett said. He continued, “It will send a message to people: ‘Look what happened to Tom Barrett.’”¹³

76. In this case, the factual support that ads for “Faithful Conservatives for Michigan” are indeed electioneering communications is undeniable beyond any reasonable doubt, and all available evidence strongly suggests that Consumers Energy funded this dark money organization for its

¹³ Michigan Campaign Finance Network. <http://mcfn.org/node/6901/it-will-send-a-message-some-of-the-first-state-senate-ads-of-2018-are-funded-by-secret-donors>

own political purposes, and a search would demonstrate that the organization is indeed a front group formed for tax benefits as well as electioneering purposes.

77. The Michigan Bureau of Elections should conduct an investigation and further refer the matter to the Attorney General of Michigan and the Internal Revenue Service.

EXHIBIT 1. FCC filing with cancellation notice for CEME

REVISED		
Apr 13, 18		
CONT#	31740467 Mod# 1 Ver# 3 (Last = Orig CF)	DDS CONT# 0
REP	KATZ RADIO	C/P/E: CEME / ISSU / 1586
TO	WSGW-AM (Saginaw-Bay City-Midland, MI)	
FM	BRENDA DEATON	
OFF	DALLAS	SALESPERSON FAX#
AGY	PERA MEDIA STRATEGIES	
ADDR	10512 REDMOND ROAD	PH #
	AUSTIN, TX 78739	
BYR	KRISTIN BLACK	
ADV	CITIZENS FOR ENERGIZING MICHIGAN'S ECONO	
PDT	Issue	
FLT	Apr 16, 18 - May 13, 18	

* REP ORDER COMMENT *

** 4/13/2018 12:49:00 PM: URGENT CANCELLATION - DO NOT DOUBLE BOOK! - PLEASE CONFIRM ONLINE OR BY EMAIL AT: TYLER.LARRABEE@KATZRADIOGROUP.COM WITHIN 24 HOURS. THANK YOU!

* STATION ORDER COMMENT *

** 4/13/2018 1:58:00 PM: CONFIRMED BY JESSICA MENTER

MC	LN	DAYS	TIME	LEN	EFFECTIVE DATES	# OF Day	NPD	RATE	TOT SPTS
		<u>FLIGHT 1</u>							
C	1.1	.T.....	6A - 10A	60	04/17/2018 - 04/17/2018	1D	3	\$60.00	
C	1.2	.T.....	10A - 3P	60	04/17/2018 - 04/17/2018	1D	2	\$60.00	
C	1.3	.T.....	3P - 7P	60	04/17/2018 - 04/17/2018	1D	3	\$60.00	
					** FLIGHT TOTALS **		0	\$0.00	

EXHIBIT 2. Faithful Conservatives of Michigan mailer foreshadowing impending attacks

Paid for by Faithful Conservatives for Michigan
2145 Commons Parkway
Okemos, MI 48864

*****ECRL0T**R002
FIRST CLASS PERMIT NO. 3877
CARGO, MI 48723-9621

PERMIT STD
U.S. Postage
PAID
Faithful
Conservatives
for Michigan

The Bible warns us against bribery:

"You shall not take a bribe, for a bribe blinds the eyes of the wise and twists the words of the righteous."

**To protect us against corruption,
Michigan State Penal Code 750.117
prohibits the bribery of a public officer.**

**Call your legislator at (517) 373-0135 and tell them
to protect the State Penal Code to Prevent Bribery.**



Michigan Penal Code, Section 17 states:

Bribery of public officer—Any person who shall corruptly give, offer or promise to any public officer, agent, servant or employee, after the election or appointment of such public officer, agent, servant or employee and either before or after such public officer, agent, servant or employee shall have been qualified or shall take his seat, any gift, gratuity, money, property or other valuable thing, the intent or purpose of which is to influence the act, vote, opinion, decision or judgment of such public officer, agent, servant or employee, or his action on any matter, question, cause or proceeding, which may be pending or may by law be brought before him in his public capacity, or the purpose and intent of which is to influence any act or omission relating to any public duty of such officer, agent, servant or employee, shall be guilty of a felony.

**Michigan is America's most corrupt state, receiving
an "F" grade from the Center of Public Integrity.
—Fox Business, 3/3/2016***

**Call your legislator at (517) 373-0135 and tell them
to protect the State Penal Code to Prevent Bribery.**

* Fox Business, www.foxbusiness.com/markets/americas-most-corrupt-states

EXHIBIT 3. Attack ad from Faithful Conservatives for Michigan

Paid for by Faithful Conservatives for Michigan
2145 Commons Parkway
Okemos, MI 48864

PSRT STD
U.S. Postage
PAID
Faithful
Conservatives
for Michigan

Former Idaho Lobbyist Gary Glenn Was Accused of Pay-to-Play Political Tactics.

Lewiston Morning Tribune:
"The caller identified himself as Gary Glenn... The message was clear. If I was
willing to change my position... I would receive a large financial reward."

—VOICEMAIL LEFT FOR FORMER IDAHO STATE
SENATOR AND CURRENT U.S. SENATOR JIM RISC-H
(Source: Lewiston Morning Tribune, 1/26/92)



Call your legislator at (517) 373-0135. Tell them to protect
the State Penal Code and end pay-to-play politics.

*****AUTOMATED DIGIT 48755
PT1 T24 P1
2372
PSRT
CAR MI 48 710

EXHIBIT 4. Faithful Conservatives for Michigan ads promoting Kevin Daley



Farmers like **KEVIN DALEY** value fiscal responsibility and hard work.

Support kids growing up to be responsible farmers like Kevin Daley.

Call your legislator at (517) 373-0135. TELL THEM TO SUPPORT SENATE BILL 652-654.

Paid for by Faithful Conservatives for Michigan
2145 Commons Parkway
Chemos, MI 48864

REPORT STD
U.S. Funding
PAID
FOR CURRENT RESIDENT
OF MI 48864

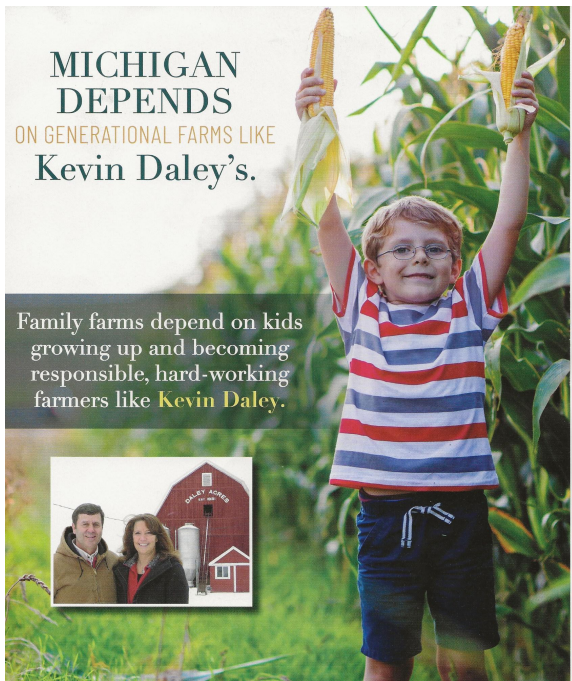


Family farms like Kevin Daley's are successful because
children can still choose to become farmers like their parents.

Call your legislator at (517) 373-0135. TELL THEM TO SUPPORT SENATE BILL 652-654.

**MICHIGAN
DEPENDS**
ON GENERATIONAL FARMS LIKE
Kevin Daley's.

Family farms depend on kids
growing up and becoming
responsible, hard-working
farmers like **Kevin Daley**.



Call your legislator at (517) 373-0135 and tell them to
SUPPORT OUR KIDS BECOMING FARMERS AND SENATE BILL 652-654.

What do our students want
to be when they grow up?

SOME WANT TO BE FARMERS LIKE
KEVIN DALEY.



Call your legislator at (517) 373-0135 and tell them to
SUPPORT OUR KIDS BECOMING FARMERS AND SENATE BILL 652-654.

REPORT STD
U.S. Funding
PAID
FOR CURRENT RESIDENT
OF MI 48864

Paid for by Faithful Conservatives for Michigan
2145 Commons Parkway
Chemos, MI 48864

EXHIBIT 5. Statement from U.S. Senator Jim Risch

July 17, 2018

To whom it may concern,

I have been informed that my name has been used in an election campaign wherein Michigan representative Gary Glenn is seeking a state senate seat.

I have not authorized anyone to use my name or to describe very old events, or to use very old quotes from me which have apparently been taken very much out of context.

I have known Gary Glenn for many years and since both of us are steadfast conservatives we have fought many battles together, and on only very rare occasion been on opposite sides.

I have not followed Gary's political career or public service in Michigan, however having known him for so long I would be very surprised to hear that his public service record was anything but outstanding. The Gary Glenn I have known would be a dedicated, hardworking, unflinching advocate for his constituents.

Good luck Gary, I wish you well.

Jim Risch