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via electronic mail

Rebuttal Statement

I. Introduction

Library Green Conservancy's ("LGC") August 25, 2025 response (the "**Response**") does not dispute that LGC paid for the political advertisements attached to the July 30, 2025 complaint (the "**Complaint**"). The Response does not dispute that LGC paid substantial sums of money—at least \$59,000—for these advertisements. Additionally, the Response does not dispute that LGC failed to register as a ballot committee and otherwise comply with the Michigan Campaign Finance Act (the "**MCFA**" or the "**Act**"). The Response relies on a single defense to the alleged violations: that LGC's "sponsored advertisements" are not "expenditures" under the MCFA because "[t]he advertisements are devoid of the magic words of express advocacy."¹ This is simply not true. LGC's advertisements urged voters to "vote against" and "vote no" on Ann Arbor Proposals A and B. The MCFA specifically defines "vote against" as an example of the "express words of advocacy of election or defeat" that make a communication an "expenditure" under the MCFA. Other LGC communications invited voters to visit LGC's website, which—before the August 2025 election—prominently displayed the same "magic words" of express advocacy. LGC's sole defense to the violations alleged in the Complaint fails as a matter of law.

II. Argument

a. The phrases "vote against" and "vote no" are "magic words" of express advocacy under the MCFA

The Michigan Department of State (the "**Department**") "appl[ies] the express advocacy standard in determining which communications are regulated by the [MCFA]."² This is a "clear, objective" legal standard.³ Communications that do not contain "express words of advocacy"—the so-called "magic words"—are "excluded from the MCFA's reach."⁴ Communications that contain the magic words and that otherwise qualify as an "expenditure" under the Act are "regulated by the MCFA."⁵ Section 6(2)(j) of the MCFA includes a non-exhaustive list of words and phrases that constitute "express words of advocacy" under the Act."⁶ This list specifically includes the phrase "vote against":

(j) Except only for the purposes of section 47, an expenditure for a communication if the communication does not in express terms advocate the election or defeat of a clearly identified candidate so as to restrict the application of this act to communications containing express words of advocacy of election or defeat, such as "vote for", "elect", "support", "cast your ballot for", "Smith for governor", "vote against", "defeat", or "reject".⁷

¹ Response at 3.

² Letter from B. DeBano Chief of Staff, Michigan Department of State, to R. LaBrant, Michigan Chamber of Commerce (April 20, 2004) [hereinafter LaBrant Letter], available at <https://www.michigan.gov/-/media/Project/Websites/sos/02delrio/2004.pdf?rev=10a604a1e39143c6962d8ff2c5628a65>.

³ Letter from B. DeBano Chief of Staff, Michigan Department of State, to D. Murley, Michigan House of Reps (October 31, 2005) [hereinafter Murley Letter], available at https://www.michigan.gov/-/media/Project/Websites/sos/01altimore/PDF/CampFin/2005/1-2005__Interpretive_Statement.pdf?rev=226387d6bf61433fadea0782c7b42312.

⁴ Murley Letter at 2.

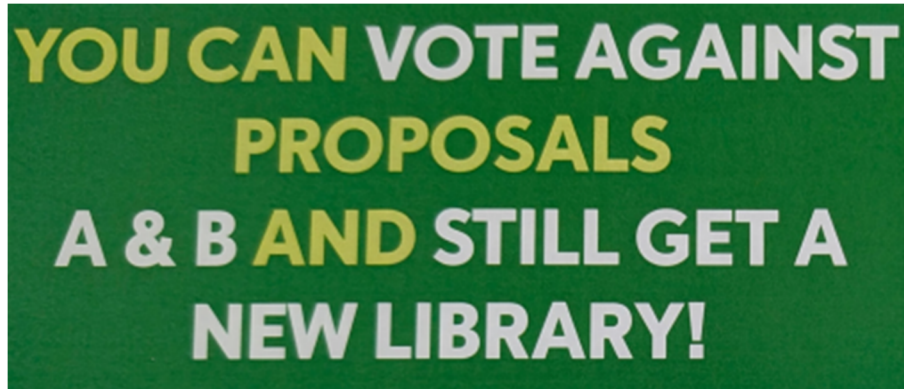
⁵ LaBrant Letter at 4.

⁶ MCL 169.206(2)(j).

⁷ MCL 169.206(2)(j). (emphasis added)

b. LGC's communications included the phrases "vote against" and "vote no"

LGC insists that it never "ask[ed] voters to . . . "defeat," [or] "reject," . . . Proposals A & B." The evidence attached to the Complaint demonstrates that this claim is false—that LGC paid for political advertisements that directly, explicitly, and unambiguously sought a specific election outcome. LGC's mailers urged Ann Arbor voters to "vote against" Proposals A and B in the August 2025 special election:



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The front of the same mailer urged voters to "vote NO on Proposals A & B":

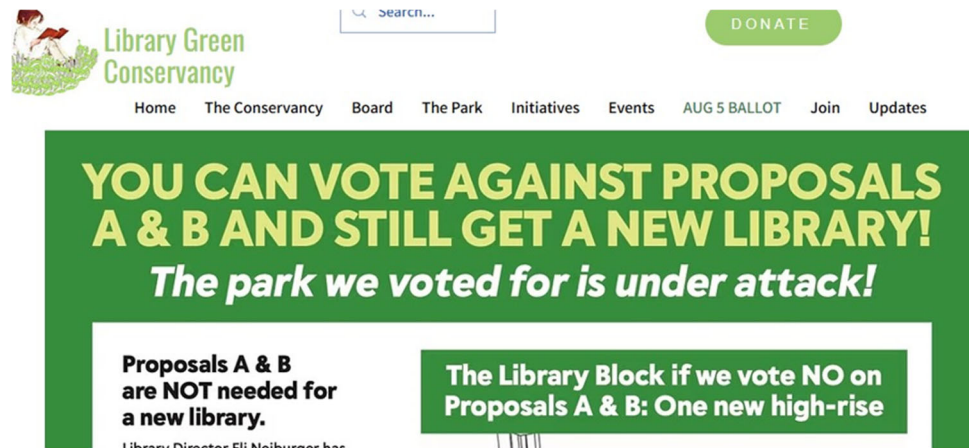


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⁸ See Complaint at Ex. F & G.

⁹ Id.

Other LGC communications presented voters with the “magic words” indirectly, by directing voters to visit LGC’s website.¹⁰ There, voters were presented with the same “vote NO” and “vote against” advocacy contained in LGC’s mailed advertisements:



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LGC’s 93-page Response does not deny that it paid for these advertisements, does not deny that the cost of these advertisements exceeded \$500 as alleged and substantiated in the Complaint, and does not offer any other substantive legal defense to its failure to form a committee and report its expenditures. LGC violated the MCFA.

c. LGC’s MCFA violations were reckless—if not intentional—and merit enforcement action

LGC argues, in the alternative, that the Department should ignore or excuse any violation of the MCFA because it “was unintentional”—that “LGC believed that they were engaging in issue advocacy and therefore, exempt from registering for such expenditures.” Assuming for the purpose of argument that this claim is true—that LGC *believed* that it was engaging in unregulated issue advocacy—this belief was unreasonable and reckless. It does not mitigate the severity of LGC’s violations. LGC is a sophisticated nonprofit entity with access to legal counsel. As documented in the exhibits attached to the Complaint, one of LGC’s attorneys—Thomas Wieder—engaged in extensive social media discussions regarding, among other topics, LGC’s compliance with Michigan campaign finance laws in advance of the August election. In these discussions, and in the face of suggestions that LGC was out of compliance, Mr. Wieder defended LGC’s conduct, opining that “Since it isn’t a political committee, it doesn’t have to report anything....”¹² After the election, Mr. Wieder continued to insist that LGC’s communications never crossed the line into express advocacy, stating that “The sole prohibition [under the MCFA] is that [LGC] may not issue ‘communications containing express words of advocacy of election or defeat....’ The LGC has been very careful to avoid violating that prohibition in its ads and mailed materials.”¹³

¹⁰ See Complaint at Ex. E and F.

¹¹ <https://web.archive.org/web/20250729030453/https://www.a2librarygreen.org/aug-5-ballot>

¹² See Complaint at Ex. K.

¹³ Anna McLean, Library Vote, ANN ARBOR OBSERVER (Aug. 25, 2025), available at <https://annarborobserver.com/library-vote-2/>.

They were not careful enough. LGC was expressly aware of the need to avoid crossing the “clear, objective” line separating unregulated issue advocacy from regulated express advocacy and then crossed the line anyway—plainly, repeatedly, and despite having access to counsel. Regardless of whether this violation was merely reckless or knowing and intentional, it merits enforcement action.

III. Conclusion

LGC paid for communications far in excess of \$500 that qualified as “expenditures” under the MCFA. It was therefore required to register as a campaign finance committee and otherwise comply with the MCFA. It failed to do so. I urge the Department to take appropriate enforcement action to enforce the MCFA and deter future similar violations.

Complainant, Andrew Ryan Robbins