



350 S MAIN STREET, SUITE 300  
ANN ARBOR, MI 48104-2131  
TELEPHONE: (734) 623-7075  
FACSIMILE: (844) 670-6009  
<http://www.dickinsonwright.com>

ROBERT L AVERS  
[RAvers@dickinsonwright.com](mailto:RAvers@dickinsonwright.com)  
(734) 623-1672

Digitally signed  
by Kathryn Ross  
Date: 2020.04.03  
12:06:06 -04'00'

April 2, 2020

Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination &  
Legal Administration  
Federal Election Commission  
Attn: Christal Dennis, Paralegal  
999 E Street, NW  
Washington, DC 20463  
**VIA EMAIL:** [CELA@fec.gov](mailto:CELA@fec.gov)

**Re: MUR 7716 – Response to Complaint from Better Future Michigan and Victoria Sachs**

Dear Mr. Jordan,

We represent Victoria Sachs and Better Future Michigan, a non-profit social welfare organization formed under Section 501(c)(4) of the Internal Revenue Code dedicated to educating and informing Michiganders on important policy issues. We write in response to the complaint dated February 21, 2020, and designated MUR 7716 (“Complaint”), filed against our clients, among others, by the Chairwoman of the Michigan Democratic Party (“Complainant”).

The Complaint provides no evidence or proof that Respondents violated the Bipartisan Campaign Reform Act of 2002, as amended (the “BCRA”), and relies completely on conjecture and innuendo. The Complainant’s gross misunderstanding of the BCRA, upon which this baseless Complaint relies, results in a total waste of the Commission’s time and taxpayer resources. This Complaint is nothing more than a political maneuver aimed to divert attention from substantive issues affecting Michigan voters. Accordingly, Victoria Sachs and Better Future Michigan respectfully request that the Commission dismiss the Complaint for the reasons further stated below.

**I. Factual Background**

Victoria Sachs (“Ms. Sachs”) worked as an employee of John James for Senate, Inc. (“the Committee”). Following the November 2018 election, Ms. Sachs assisted the Committee in shutting down campaign operations. In early 2019, the Committee retained Ms. Sachs as an independent contractor from January to May 3, 2019, to serve as an advisor to Mr. James as he analyzed his options for the future. Ms. Sachs consulted with Mr. James to help him evaluate whether he should run again and, if so, for what office.

April 2, 2020  
Page 2

Ms. Sachs' independent contractor relationship with the Committee terminated on May 3, 2019; at that time, Mr. James had not decided whether he would again run for office. The May 3, 2019 payment from the James campaign to Ms. Sachs referenced in the Complaint was a payment made in arrears for services rendered prior to that date—not through May 31, 2020, as Complainant asserts.<sup>1</sup> Moreover, Ms. Sachs was not privy to strategic planning for Mr. James' 2020 Senate campaign because her relationship with the James campaign terminated before 2020 campaign strategy was developed.

On June 6, 2019, John James filed a Statement of Candidacy with the FEC for U.S. Senate.

Better Future Michigan was incorporated on June 12, 2019. Ms. Sachs has served as Executive Director of Better Future Michigan since its founding.

To date, Better Future Michigan has not produced or disseminated a single express advocacy advertisement. Better Future Michigan has, however, produced and disseminated three (3) issue advocacy advertisements: “Eliminate”, “Falling in Line”, and “Radical Washington Liberals.”<sup>2</sup> We encourage the Commission to watch these advertisements to see they do not constitute express advocacy.

## **II. Victoria Sachs is Not an Agent of John James for Senate, Inc.**

Complainant alleges Mr. James illegally established Better Future Michigan in violation of 52 U.S.C. § 30125(e)(1)(A) through his former employee and contractor, Ms. Sachs. Complainant's allegations, however, lack merit because Ms. Sachs never acted as an agent of John James or the Committee as it relates to Better Future Michigan, and also because neither John James nor his agents played any role whatsoever in the establishment of Better Future Michigan or any of its subsequent activities. Complainant's claims therefore lack merit, and the complaint should be dismissed accordingly.

52 U.S.C. § 30125(e)(1) prohibits federal candidates and their “agents” from establishing, financing, maintaining or controlling an entity which engages in federal election activity and is not subject to federal contribution limits. 52 U.S.C. § 30125(e)(1)(A) prohibits federal candidates and their agents from soliciting or spending funds outside of federal contribution limits. Meanwhile, Commission regulations define an “agent” of a federal candidate or officeholder as “any person who has actual authority, either express or implied...[t]o solicit, receive, direct, transfer, or spend funds in connection with any election.”<sup>3</sup> Complainant offers no evidence that an agency relationship exists between the Committee and Ms. Sachs, but rather invites the Commission down the speculation-

---

<sup>1</sup> Compl. at 3.

<sup>2</sup> “Eliminate”, Facebook (July 30, 2019), <https://www.facebook.com/BetterFutureMichigan/videos/3110393848985658/>.  
“Falling in Line”, Facebook (Dec. 11, 2019), <https://www.youtube.com/watch?v=pfAv5r4trHE&feature=youtu.be>.  
“Radical Washington Liberals”, Facebook (Dec. 16, 2019), <https://www.facebook.com/BetterFutureMichigan/videos/213820236408004/>.

<sup>3</sup> 11 C.F.R. § 300.2(b)(3).

April 2, 2020  
Page 3

ridden path that “[i]t is nearly impossible to believe . . . Ms Sachs . . . formed [Better Future Michigan] on her own accord.”

The Commission should reject Complainant’s invitation to look past the relevant and controlling terms under BCRA, as well as its thinly veiled request to find a violation based on mere loose association between Ms. Sachs and a former employer. That is not the legal standard, and the term “agency” is a legal term of art not subject to a “we know it when we see it” standard. To that end, and despite Complainant’s apparent attempt to loosen the meaning of “agent” to fit their current purpose, “apparent authority” was intentionally omitted from the definition of agency in this context.<sup>4</sup> Further, the Commission has explicitly stated “actual authority” is applicable to employees and volunteers—but not former employees such as Ms. Sachs.<sup>5</sup>

### III. Conclusion

Ms. Sachs’ relationship with the James campaign terminated before he chose to run for office. She had no actual authority to solicit, receive, direct, transfer, or spend funds in connection with any election from Mr. James or anyone else. Ms. Sachs has not acted as an agent of James or the Committee in any fashion since terminating her relationship with the Committee in May 2019. Likewise, neither John James, the Committee, nor their agents played any role whatsoever in the establishment of Better Future Michigan or any of its subsequent activities.

Is it really impossible to believe that Ms. Sachs established on her own accord an organization dedicated to educating and informing Michigan voters on important policy issues? Of course not. Ms. Sachs is a lifelong Michigan resident who has been active in state politics for many years, and the choice to establish Better Future Michigan was hers and hers alone. Complainant’s presupposition that Mr. James is dictating the career course of Ms. Sachs is as offensive and insulting as it is incorrect.

The entire Complaint lacks substance and candor, and relies solely on speculation and innuendo. Based upon the foregoing, Better Future Michigan and Ms. Sachs respectfully ask the Commission to dismiss the Complaint and close the file.

Respectfully submitted,



Robert Avers  
Jessica Brouckaert  
*Counsel to Victoria Sachs & Better Future Michigan*

---

<sup>4</sup> Definitions of “Agent” for BCRA Regulations on Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures, 71 Fed. Reg. 20, 4975 (Jan. 31, 2006), [https://transition.fec.gov/law/cfr/ej\\_compilation/2006/2006-1.pdf](https://transition.fec.gov/law/cfr/ej_compilation/2006/2006-1.pdf).

<sup>5</sup> *Id.* at 4980.