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PRESS RELEASE

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Re: Representative Roy Schmidt

Shortly before the filing deadline on May 15th, 22 year old GNC employee and part-time college student Matthew Mojak filed to run as a Democratic candidate for State Representative in the 76th House District. On May 17th, the Kent County Prosecuting Attorney's Office received a complaint regarding the candidacy of Mr. Mojak. The complaint alleges that Mr. Mojak's Affidavit of Identity contained false information and, because these false statements were made under oath, he had committed perjury. In particular, the complaint alleges that Mr. Mojak's affidavit is false because (1) he was not a Democrat, (2) he was not registered to vote in the 76th District and (3) he had not been a Kent County resident for 22 years. On May 18th, the Michigan State Police were asked to conduct an investigation.

FACTS

On Sunday, May 13th, Ryan Schmidt, son of Roy Schmidt, sent a text message to Mr. Mojak [a friend of his cousin A.J. Schmidt]. Ryan did so because his father had asked Ryan to find someone to run against him in the upcoming general election for State Representative in the 76th District. Although his father had told him that finding an opponent would help him get re-elected, Ryan was not told how or why it would be beneficial¹. Nonetheless, Ryan contacted Mr. Mojak in an effort to enlist his help. Text messages reveal that Ryan asked "*do you want to make some money?*" "*Its nothing illegal or anything u have to worry about getting in trouble for. I almost would like to meet in person, but for now the phone works. Needs to be done by Tuesday no later than 3pm.*" Subsequent text messages and conversations establish that Mr. Mojak was initially offered \$450 to run against Rep. Schmidt. He was also assured that because he was simply helping out Rep. Schmidt by placing his name on the ballot, he would not be required to fund raise or actively campaign.

¹ While Ryan was not told how Mr. Mojak's candidacy would benefit his father, it is clear that the only logical reason for his recruitment was to prevent the Democratic Party from mounting a viable write-in candidacy. Assuming Mr. Mojak had remained in the race, it would have been extremely difficult for a write-in candidate to beat him because his name would be printed on the ballot. Since Mr. Mojak had agreed to run with the understanding that he would not actively campaign, Representative Schmidt would have faced only token opposition in the General Election in the event that Mr. Mojak prevailed in the Primary Election.

After Mr. Mojak agreed to help, Ryan told him to meet at the SOS Office in the Centerpointe Mall on Tuesday morning, May 15th, between 8:30-8:45. The purpose in going to the SOS was for Mr. Mojak to change his address and voter registration to 2758 Woodpath NW ² [within the 76th District]; Mr. Mojak had been living outside the district at 1351 Logan SE. After arriving at the SOS office, Mr. Mojak was met by Rep. Schmidt; Ryan arrived shortly thereafter.

Subsequent to changing his address, Mr. Mojak was instructed to go to the post office and purchase a \$100 money order to cover the cost of his filing fee; Ryan Schmidt had given Mr. Mojak the \$100 on the evening of the 14th. After purchasing the money order at the post office in the Centerpointe Mall, Rep. Schmidt, Ryan Schmidt and Mr. Mojak went to a PNC bank in an attempt to get Mr. Mojak's signature notarized on the affidavit-Rep. Schmidt had filled in the typed portions of the affidavit on the evening of the 14th with information provided by Mr. Mojak. Because none of them had an account with PNC, however, the affidavit could not be notarized. Ultimately, they went to a Chase Bank near Breton and Burton Streets where Mr. Mojak was able to complete the affidavit.

After the document had been notarized, Mr. Mojak gave both the affidavit and money order to Rep. Schmidt with the understanding that someone would file the paperwork on his behalf. Although neither Mr. Mojak nor Ryan Schmidt are aware of what Rep. Schmidt did with the affidavit and money order, subsequent investigation revealed that Rep. Schmidt took the documents to Lansing and gave them to Phil Browne, Deputy Chief of Staff for Speaker of the House James "Jase" Bolger. Later that afternoon, shortly before the 4:00 PM filing deadline, Mr. Browne filed the aforementioned affidavit and paid the filing fee at the Kent County Clerk's Office. Within approximately ten minutes of having filed the paperwork for Mr. Mojak, Mr. Browne submitted a letter seeking to withdraw Rep. Schmidt's Democratic Affidavit of Identity filed February 14th and filed the documents required to place him on the ballot as a Republican.

On May 14th, the following text messages were exchanged between Representative Schmidt and Speaker of the House Bolger:

8:30-8:32 AM

Speaker: *"Any luck finding ur Dem in ur district? That's the last piece we need."*

Schmidt: *"I believe we do. Wii know this afternoon."*

8:50-9:07 AM

Speaker: *"Can they get the paperwork to u and u get to me so we can get it in our hands, show the GOP we're all set...then we'll file tomorrow."*

² 2758 Woodpath NW is owned by Mr. Mojak's grandmother and had been sitting vacant for approximately six months. In the two weeks prior to May 15th, Mr. Mojak and A.J. Schmidt had been working on the house with the intention of moving into the residence when they had completed the work.

Schmidt: *"For the Dem candidate. Yes!"*

Speaker: *"Exactly, for the Dem candidate...we already have the paperwork for our R candidate!"*

Schmidt: *"I know. I am so nervous at this point- just want it to go perfect!"*

Speaker: *"Me too. I don't like leaving anything to chance, thus my anxiousness to get this last piece wrapped up. All will then b perfect!"*

9:31 AM

Schmidt: *"We have our man."*

9:59 AM

Speaker: *"Name?"*

10:01 AM

Phone call from Speaker to Representative Schmidt [4.9 minutes]

10:14 AM-10:18 AM

Schmidt: *"Matthew Mojak\nHe will be at the sec. Of state with a new address this afternoon."*

Speaker: *"Have this completed, double checked, and notarized. Bring tomorrow and we'll b all set. This will block any games anyone could try to play and u will b..clear: http://michigan.gov/documents/ED104_Aff_ID_Fil_Rec_Vendor_83725_7.pdf"*
[reference to Affidavit of Identity]

Schmidt: *"OK"*

Speaker: *"Is Matthew the same as u had before? He has to b able to say he's been living at the address in the district for 30 days before filing deadline."*³

Schmidt: *"No- this new one- and he has!"* [Rep. Schmidt's response to the question suggests that Mr. Mojak was not the only person he had attempted to recruit.]

Speaker: *"Y does he need to change his address?"*

10:26 AM

³ Ironically, even if Mr. Mojak had not voluntarily withdrawn from the race, in all likelihood he would not have been permitted to remain on the ballot. In order to run for the office of State Representative, a person must be....."a registered and qualified elector of the district he or she represents by the filing deadline."- see MCL 168.161. Because Mr. Mojak had not resided at 2758 Woodpath NW for 30 days as of May 15th, he was not a "qualified elector" and, as such, was not eligible to run for State Representative in the 76th District.

Speaker: *"Plz send me the new address ASAP."*

Schmidt: *"Ok."*

11:02-11:10 AM

Schmidt: *\nJase he has not moved\nYet. Roy\n\n FWD: My old address is 1351 Logan street SE. Grand Rapids, MI 49506\nNew address is 2758 woodpath. Grand rapids, mi 49504."* [Rep.Schmidt forwarded to Speaker Bolger a text message sent from Mr. Mojak to Ryan Schmidt at 10:44 AM in which Mr. Mojak has listed his old and new address]

Speaker: *"Which address has he been living in for the last 30 days?"*

Schmidt: *"Logan street"*

Speaker: *"Sorry, I'm not familiar enough with the district. Does this mean he is ur guy, or not?"*

Schmidt: *"I am going to check his address in 20 minutes to make sure he is in my district- I will text you soon."*

12:22 PM

Schmidt: *"Not good news dang it. 1351 Logan SE is just outside the district. Keep looking correct?"*

1:08 PM

Speaker: *"Yes, please."*

Speaker: *"Bcz he hasn't been living on Woodpath, right?"*

1:31-1:33 PM

Speaker: *"Can u talk?"*

Schmidt: *"Yes I will call from home..."*

1:34

Phone call from Representative Schmidt to Speaker [1 minute 42 seconds]

Following the aforementioned exchanges, additional messages indicate that Representative Schmidt drove to Marshall and met with Speaker Bolger on the evening of May 14th.

The next day, May 15th, additional text messages and phone calls were exchanged:

6:34-6:36 AM

Speaker: *"Glad u made it home safe. Have a great morning. Plz txt me when u have Matthew's paperwork complete.... From our atty: there is no requirement for a phone # or email on an affidavit of identity. So, leave those two blank on Matthew's form."*

Schmidt: *"Me also-slept great and ready to go!\nYes I will call as soon as his form is notorized!"*

9:14 AM

Representative Schmidt sent the following text message to Phil Browne. *"Phil it's Roy-please call me"*. At **9:17 AM**, Phil Browne called Representative Schmidt [the call lasted 98 seconds].

10:09 AM

Schmidt: *"Done! Cand. Is signed-notorized-I will call Phil on the way end"*

10:15

Speaker: *"Fantastic! Drive carefully."*

11:26 AM

Phone call from Phil Browne to Representative Schmidt [87 seconds].

2:12 PM

Speaker: *"How u doing?"*

2:27-2:33 PM

Speaker: *"Phil is in the right building. All systems go!"*

Schmidt: *"Super!"*

3:59 PM [1 minute before filing deadline]

Phil Browne called Roy Schmidt [39 seconds].

Needless to say, Rep. Schmidt's decision to file as a Republican, Mr. Mojak's entrance into the race as his virtually unknown Democratic opponent and the fact that the same individual filed the paperwork for both candidates, generated a great deal of publicity. As a result, Mr. Mojak received numerous phone calls and inquiries from various news outlets. He soon realized that he had made a mistake and, after talking to his parents, Mr. Mojak withdrew his candidacy.

Prior to withdrawing, however, he spoke to both Ryan and A.J. Schmidt. After Mr. Mojak had informed them that he planned to withdraw, Rep. Schmidt told Ryan to call Mr. Mojak and increase the \$450 offer to \$1,000 if he would agree to stay on the ballot. Although Ryan offered him the \$1,000 on the 16th, Mr. Mojak ultimately withdrew on the 17th and the money was never paid.

As an aside, Ryan Schmidt indicated that his father offered to pay him the same amount he offered Mr. Mojak. According to Ryan, the possibility that both would receive \$1,000 generated a text message exchange with Mr. Mojak regarding a potential vacation and/or cruise to the Bahamas, Las Vegas or Mexico.

Both Ryan Schmidt's and Mr. Mojak's assertion that they were each offered \$1,000 is substantiated by Harold Hamilton, Rep. Schmidt's campaign treasurer. Mr. Hamilton indicated that on Wednesday the 16th, Rep. Schmidt told him to "cut" a \$2,000 check to Ryan from an account entitled "Friends of Roy Schmidt"- Rep. Schmidt's campaign account.

According to Mr. Hamilton, Rep. Schmidt picked up the check on the afternoon of the 16th. After picking up the check, Mr. Hamilton stated that Rep. Schmidt called and asked for directions to the GNC store- Mr. Mojak's place of employment. Per Mr. Mojak, Rep. Schmidt appeared at the GNC store sometime during the early evening hours of the 16th. At that time, Mr. Mojak claims that Rep. Schmidt told him that, because the media had made such a big deal of his candidacy, he understood why he wanted to withdraw. Rep. Schmidt further said that he was surprised by the media reaction but, because he had already told the media he didn't know Mr. Mojak, he asked him not to say anything. Subsequent to the meeting with Mr. Mojak, Rep. Schmidt told Mr. Hamilton to void the check.

After he withdrew, Mr. Mojak sent Ryan the following text message on May 17th: *"If I go to court for this we are going to have some serious issues. In response, Ryan told him: "I just spoke with my dad. You have nothing to worry about matt. You can't say anything, if anybody threatens you, it's a false scam at getting u worried that ur gonna get in trouble. If you want to talk to my dad, shoot him a call..."*

A.J. then sent the following text on the 18th: *"Ok so my uncle wanted me to reassure you that if you get called into county clerks then you have an attorney provided, and you made the mistake about 22"; "22" is in reference to "Resident of County for 22 years" that appears on Mr. Mojak's Affidavit of Identity. This is significant because Mr. Mojak had not been a resident of Kent County for 22 years and, by signing the notarized affidavit, he had arguably made a "false statement" in violation of MCL 168.558, 933 and 936; see attestation on attached affidavit. In response, Mr. Mojak sent A.J. the following text: "I have my own attorney. I don't want anymore connections with your uncle."*

Mr. Mojak's response generated the following exchange with A.J.: A. J. *"....., one of the best attorneys in mi, all paid for The only investigation they have to go on is the fact that you put the 22 yr thing"* Mojak *"Yea I talked to him. My parents neighbor and family friend is a criminal lawyer. I just don't want there to be any connections"* A.J. *"otherwise u or your family will have to pay, which is unneeded"* Mojak *"It's a criminal investigation by the attorney generals office. I'm not chancing anything. And we don't have to pay for it"*

The text messages between A.J., Ryan and Mr. Mojak continue with both A.J. and Ryan attempting to get Mr. Mojak to accept “free” legal representation and to remind him that he [Mr. Mojak] should claim the “22” years on the affidavit was either a “mistake” or “accidental” on his part.

CONCLUSION

After a review of the investigation conducted by the Michigan State Police as well as extensive research and consultation with the state Bureau of Elections, I can find no violation of the Michigan Election Law beyond Mr. Mojak’s attesting to the accuracy of the information on his Affidavit of Identity. Although this scheme by Rep. Schmidt and Speaker Bolger was clearly designed to undermine the election and to perpetrate a “fraud” on the electorate, it was nonetheless legal. Consequently, there is no reason for the State Police to continue their investigation. Whether anyone other than Rep. Schmidt and Speaker Bolger was involved in this plan is irrelevant in the context of a criminal investigation; it was not illegal. Incredibly, while it would be illegal to pay a boxer to take a “dive” or a basketball player to “point-shave”, it is not currently a crime in Michigan to recruit someone to run for public office, place them on the ballot at the “eleventh hour” and essentially pay them to make no effort to win.

Unfortunately, Mr. Mojak appears to be the only person who may have committed a criminal violation of the Election Law in the course of this ill-conceived and poorly executed plan. By signing the affidavit and attesting that he had been a resident of Kent County for 22 years, he arguably committed perjury. At the time he signed the affidavit on May 15th, however, Mr. Mojak had changed his voter registration to the Woodpath address. As an aside, the affidavit does not ask whether he is a Democrat, it simply asks him to declare that he is, in this case, running as a Democrat; proving whether he is or is not a Democrat would be nearly impossible. Given Mr. Mojak’s role, however, I do not intend to file criminal charges against him. While Mr. Mojak ill-advisedly agreed to participate in this misadventure, it is clear that he was duped into doing so and is the least culpable of anyone involved in this fiasco.

Although I can find no violations of the Michigan Election Law [with the possible exception of Mr. Mojak’s Affidavit of Identity], the following acts are potentially violations of the Michigan Campaign Finance Act:

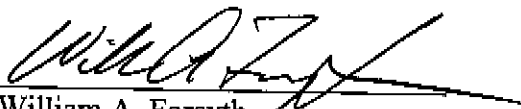
[1] On May 15th, the aforementioned letter to Kent County Director of Elections, Susan deSteiguer and Rep. Schmidt’s Republican “Affidavit of Identity and Receipt of Filing” were filed at the Kent County Clerk’s Office. According to the jurat [i.e. the certification on an affidavit declaring when, where, and before whom it was sworn] on each document, Representative Schmidt signed them on May 3rd; the notary on each document was Michelle McQuiston, secretary/receptionist for Speaker Bolger. Consequently, on May 11th, while raising funds for his re-election as a Democrat, he had already signed the paperwork necessary to withdraw as a Democrat and to file as a Republican.

[2] Although no money exchanged hands, Mr. Mojak was originally offered \$450 for agreeing to place his name on the ballot and to run against Representative Schmidt.

[3] By directing his campaign treasurer, Harold Hamilton, to write a \$2,000 check on his campaign account, "Friends of Roy Schmidt", payable to his son Ryan, it appears that Representative Schmidt attempted to improperly use campaign contributions. I think the evidence, while circumstantial, is nonetheless compelling that \$1,000 was to go to Ryan for helping "recruit" Matthew Mojak and the remaining \$1,000 was to be paid to Mr. Mojak to entice him to stay on the ballot.

The Michigan Secretary of State, however, is the agency primarily responsible for enforcement of the Michigan Campaign Finance Act. As such, I have forwarded the investigative reports and my findings to the Secretary of State to determine what, if any, violations occurred and what, if any, sanctions should be imposed.

In conclusion, I would strongly encourage the Michigan Legislature to address this type of situation. As a Republican elected official, I am embarrassed and offended by what transpired. At a minimum, the Legislature should put a time limit on when a candidate may "switch" parties prior to the filing deadline. Allowing a candidate to "recruit" a so-called opponent and to allow the last minute shenanigans that occurred in this case is a travesty and should not be permitted.



William A. Forsyth
Kent County Prosecuting Attorney