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March 27, 2020

VIA E-MAIL – gccrossvt@hotmail.com

George Cross
82 Dufresne Drive
Winooski, VT 05404

Re: Elections Complaint

Dear Mr. Cross:

I am writing in response to the elections-related complaint you sent to the Attorney General's Office's on February 15, 2020. Your complaint alleges that the Greater Burlington Industrial Corporation (GBIC) spent \$100,000 for the purpose of advocating a "no" vote on a ballot question in the March 6, 2018 Burlington election. The ballot question at issue relates to the basing of F-35s at the Burlington Airport. Your complaint suggests that GBIC receives public grant money and violated state and federal law.*

Your complaint implicates the following campaign finance laws:

- "Any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, that makes expenditures of \$1,000 or more during the election cycle for the purpose of advocating a position on a public question in any election shall file a report of its expenditures 30 days before, 10 days before, and two weeks after the election with the Secretary of State." 17 V.S.A. § 2970(a).
- "'Public question' means an issue that is before the voters for a binding decision." *Id.* § 2901(15).

Although GBIC appears to have spent more than \$1,000 advocating a position on a ballot question in the 2018 election, GBIC was not required to file a report with the Secretary of State

* Your complaint also alleges that Air Force officials violated a Department of Defense Directive by coordinating with GBIC to advocate a "no" vote on the ballot question, but the complaint provides few details. This concern should be directed to the federal government.

because the ballot question at issue was not a “public question” as that term is defined by 17 V.S.A. § 2901(15).

As noted above, a “public question” is an issue before the voters for a *binding* decision. *See id.* § 2901(15). The ballot question regarding the basing of F-35s at the Burlington Airport in the March 6, 2018 Burlington election was expressly labeled an “Advisory Ballot Question.” *See* <https://www.burlingtonvt.gov/sites/default/files/Ward%202.pdf>.

Moreover, the language of the ballot question shows that Burlington voters were only asked whether to “advise” the City Council to:

- (1) *request* the cancellation of the planned basing of the F-35 at Burlington International Airport, and
- (2) *request* instead low-noise-level equipment with a proven high safety record appropriate for a densely populated area.

This ballot question did not present an issue that was before the voters for a *binding* decision. The question was merely advisory, and a “yes” or “no” vote did not obligate the City Council to take, or refrain from taking, any particular action. Accordingly, it does not appear that GBIC violated Vermont’s campaign finance laws by failing to report its expenditure of more than \$1,000 to advocate a position on an *advisory* ballot question.

We appreciate you bringing this matter to our attention because the Attorney General’s Office has a role in the enforcement of Vermont’s campaign finance laws. *See* 17 V.S.A. § 2904. As you may know, information about Vermont’s campaign finance laws is available through the Secretary of State’s website at: <https://www.sec.state.vt.us/elections.aspx>. Any further concerns you have about whether GBIC misused public grant money should be addressed to the Vermont State Auditor at: <https://auditor.vermont.gov/contact-us/fraud>. We hope the above information is helpful to you.

Sincerely,



Philip Back
Assistant Attorney General