

September 22, 2019

New York State Board of Elections
Campaign Finance Unit
40 North Pearl Street – Suite 5
Albany, NY 12207-2729

Dear Madam:

RE: Complaint against Jeffrey Zepowitz (C10148) and Zepowitz for Town Clerk (C10147)

Please investigate the campaign finance violations of Jeffrey Zepowitz and Zepowitz for Town Clerk, especially their coordination with Barry Zepowitz and Associates' polling that the candidate and committee did not report. The relevant facts on which this complaint is made is set forth below.

- **PARTICIPANTS IN CAMPAIGN FINANCE VIOLATIONS:**
- **Jeffery Zepowitz (C10148)** was a candidate to fill a vacancy in the Amherst Town Clerk's office in 2018. **Zepowitz for Town Clerk (C10147)** was his Authorized Committee. **Jeffery Zepowitz** is an experience political operative who had worked for the New York State Assembly Republicans for many years.
- **Barry Zepowitz** is a long-time political consultant and owner of **Barry Zepowitz & Associates** an LLC filed with the New York State Division of Corporations.
- **Ross Kotecky** is the **Treasurer of Zepowitz for Town Clerk**. Kotecky serves as the Treasurer for at least eight political committees.

- **CONTRIBUTIONS EXCEEDING CAMPAIGN LIMITS:**
- In 2018, the approximate contribution limit for the Amherst Town Clerk's race was \$3,913.15. That calculation is based on the number of registered voters and application of Election Law § 14-114(1)(b). As of April 1st 2018, the Town of Amherst had 78,263 active registered voters according to the Enrollment Statistics of the State Board of Elections. New York State Election Law §14-114(1)(b) sets the contribution limit for a public office at \$.05 for each active registered voter; hence, the \$3,913.15 contribution limit.
- On October 4, 2018 Barry Zepowitz & Associates, made an in-kind contribution of \$747.11 to Zepowitz for Town Clerk. The description lists the contribution as "campaign literature". (Item # 1 attached).
- On October 27, 2018 Barry Zepowitz & Associates made a direct contribution of \$300 to Zepowitz for Town Clerk. (Item # 2 attached). This brought Barry Zepowitz & Associates aggregate contribution to Zepowitz for Town Clerk to \$1,047.11.

- On October 30, 2018, Barry Zeplowtiz & Associates made an in-kind contribution of \$3,777.40 to Zeplowitz for Town Clerk. (Item # 3 attached). This brought the aggregate contribution to \$4,824.51.
 - **CAMPAIGN FINANCE VIOLATION:**
 - **According to the campaign finance filings, contributions by Barry Zeplowitz & Associates exceeded the contribution limit to Zeplowitz for Town Clerk by approximately \$911.36.**
 - **CAMPAIGN FINANCE PENALTIES APPLICABLE:**
 - NYS Election Law §14–126(2) states that “*Any person who . . . , under circumstances evincing an intent to violate [this] law, . . . accepts a contribution in excess of the contribution limitation . . . shall be required to refund such excess amount and shall be subject to a civil penalty equal to the excess amount plus a fine of up to ten thousand dollars.*”
 - NYS Election Law § 14–126(5) states that “*Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding [the contribution limit] shall be guilty of a class A misdemeanor.*”

- **FAILURE TO FILE A 24-HOUR CAMPAIGN REPORT:**
 - **CAMPAIGN FINANCE VIOLATION:**
 - **Zeplowitz for Town Clerk failed to file the required 24-hour notice for the \$3,777.40 in-kind contribution limit from Barry Zeplowitz & Associates. The campaign was aware of the requirement after filing a 24-hour notice after receiving a loan.**
 - **CAMPAIGN FINANCE PENALTIES APPLICABLE:**
 - NYS Election Law §14–126(5) of the states that any person who fails to file a required statement is guilty of a misdemeanor.

- **WILLFULLY OBSCURING & HIDING CAMPAIGN SPENDING:**
 - The October 30, 2018 in-kind contribution for Barry Zeplowitz & Associates is described as “FOR RADIO ADS”
 - On its campaign filing reports, for October 31, 2018 and November 3, 2018, Zeplowitz for Town Clerk lists expenditures of \$150 and \$350 for “VOICEOVER FOR CAMPAIGN AD”. (Item # 4 attached).

- A live caller survey was conducted in early mid-September 2018 testing the candidacy for Jeffery Zepowitz and his eventual opponent Fran Spoth.
- This survey was not conducted by Spoth, the Amherst Democratic Committee or the Erie County Democratic Committee.
- No expenditure was reported for this survey by Zepowitz for Town Clerk, the Amherst Republican Committee or the Erie County Republican Committee.
- Live caller surveys are the main business of Barry Zepowitz & Associates.
 - **CAMPAIGN FINANCE VIOLATION:**
 - **Zepowitz for Town Clerk failed to report this expenditure for this survey.**
 - **Zepowitz for Town Clerk and Barry Zepowitz & Associates acted in concert to make expenditures exceeding the campaign contribution limit and obscure them from proper public disclosure in order to win an election.**
 - **CAMPAIGN FINANCE PENALTIES APPLICABLE:**
 - NYS Election Law §14-126(6) states that anyone who *“knowingly and willfully . . . make[s] expenditures in connection with the nomination for election or election of any candidate, or solicit[s] any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.”*

Thousands more dollars may have been spent by Barry Zepowitz & Associates on behalf of Zepowitz for Town Clerk, without it being disclosed to the public. Please investigate this situation.

Sincerely,



Jerome D. Schad, Chair
Amherst Democratic Committee

NYS BOARD OF ELECTIONS FINANCIAL DISCLOSURE REPORT

Filer ID: C10147 2018 11 DAY PRE GENERAL (E) SCHEDULE: D IN-KIND

CONTRIBUTION CODE: CORP

DATE	NAME	ADDRESS	AMOUNT	CONTRB. TYPE	DESCRIPTION	RECORD DATE
10/04/18	BARRY ZEPLOWITZ & ASSOCIATES	300 PEARL ST, STE 600 BUFFALO NY 14202	\$747.11	3	CAMPAIGN LITERATURE NOV-15-18 - AMHERST PRINTING & GRAPHICS, 61 FORESTBROOK CT, GETZVILLE, NY 14068	NOV-15-18 11:42 AM

CONTRIBUTION CODE: IND

DATE	NAME	ADDRESS	AMOUNT	CONTRB. TYPE	DESCRIPTION	RECORD DATE
10/11/18	THOMAS ANGELO	1933 MAPLE RD WILLIAMSVILLE NY 14221	\$200.00	1	DJ AND AUDIO EQUIPMENT	NOV-15-18 11:42 AM

NO. of TRANSACTIONS 2 TOTAL \$947.11

Filer ID: C10147 2018 E SCHEDULE: D



NYS BOARD OF ELECTIONS FINANCIAL DISCLOSURE REPORT

Filer ID: C10147 2018 27 DAY POST GENERAL (F) SCHEDULE: B CORPORATE

DATE	NAME	ADDRESS	CHECK NO.	AMOUNT	EXPLANATION	RECORD DATE
10/27/18	BARRY ZEPLOWITZ & ASSOCIATES	300 PEARL ST, STE 330 BUFFALO NY 14202	CHK15305	\$300.00		NOV-30-18 09:47 AM
NO. of TRANSACTIONS				1	TOTAL	\$300.00

#2

NYS BOARD OF ELECTIONS FINANCIAL DISCLOSURE REPORT

Filer ID: C10147 2018 27 DAY POST GENERAL (F) SCHEDULE: D

IN-KIND

CONTRIBUTION CODE: CORP

DATE	NAME	ADDRESS	AMOUNT	CONTRB. TYPE	DESCRIPTION	RECORD DATE
10/30/18	BARRY ZEPLOWITZ & ASSOCIATES	300 PEARL ST, STE 600 BUFFALO NY 14202	\$3,777.40	3	FOR RADIO ADS, ENTERCOM BUFFALO, 500 CORPORATE PKWY, STE 200, BUFFALO NY 14226	NOV-30-18 09:47 AM

NO. of TRANSACTIONS 1 TOTAL \$3,777.40

#3

Filer ID: C10147

2018 F

SCHEDULE: D

NYS BOARD OF ELECTIONS FINANCIAL DISCLOSURE REPORT

Filer ID: C10147 2018 27 DAY POST GENERAL (F) SCHEDULE: F EXPENDITURES/PAYMENTS

DATE	NAME	ADDRESS		CHECK NO.	AMOUNT	PURPOSE	EXPLANATION	RECORD DATE
09/25/18	LA NOVA PIZZERIA	5151 MAIN ST	WILLIAMSVILLE NY 14221	101R	\$0.00	R-DET	MEMO: \$48.23 FOR CAMPAIGN MEETING EXPENSES	NOV-30-18 09:47 AM
09/25/18	US POSTAL SERVICE	5325 SHERIDAN DR	BUFFALO NY 14221	101R	\$0.00	R-DET	MEMO: \$200.00 FOR POSTAGE	NOV-30-18 09:47 AM
09/27/18	OFFICE DEPOT/OFFICE MAX	8040 MAIN ST	WILLIAMSVILLE NY 14221	101R	\$0.00	R-DET	MEMO: \$47.84 FOR OFFICE EXPENSES	NOV-30-18 09:47 AM
09/28/18	COUNTY OF ERIE/COUNTY CLERK'S92 FRANKLIN ST OFFICE		BUFFALO NY 14202	101R	\$0.00	R-DET	MEMO: \$305.00 FOR LEGAL FILING	NOV-30-18 09:47 AM
09/28/18	COUNTY OF ERIE/COUNTY CLERK'S92 FRANKLIN ST OFFICE		BUFFALO NY 14202	101R	\$0.00	R-DET	MEMO: \$305.00 FOR LEGAL FILING	NOV-30-18 09:47 AM
10/02/18	US POSTAL SERVICE	5325 SHERIDAN DR	BUFFALO NY 14221	101R	\$0.00	R-DET	MEMO: \$50.00 FOR POSTAGE	NOV-30-18 09:47 AM
10/23/18	JEFFREY C ZEPLOWITZ	217 N LONG ST	WILLIAMSVILLE NY 14221	CHK101	\$1,006.07	REIMB	REIMBURSEMENT: \$1006.07 FOR EXPENSES	NOV-30-18 09:47 AM
10/23/18	US POSTMASTER - BUFFALO NY	4476 MAIN ST	BUFFALO NY 14226	CHK102	\$6,840.00	POSTA		NOV-30-18 09:47 AM
10/27/18	WOLTER'S BAKERY	5225 SHERIDAN DR	WILLIAMSVILLE NY 14221	CHK103	\$150.00	FUNDR	ROOM RENTAL	NOV-30-18 09:47 AM
10/27/18	US POSTAL SERVICE	5325 SHERIDAN DR	BUFFALO NY 14221	101R	\$0.00	R-DET	MEMO: \$50.00 FOR POSTAGE	NOV-30-18 09:47 AM
10/31/18	AMHERST PRINTING & GRAPHICS	4232 RIDGE LEA RD, STE 6	AMHERST NY 14226	CHK105	\$6,230.71	CMAIL		NOV-30-18 09:47 AM
10/31/18	MARY VANVORST	94 BONDCROFT DR	AMHERST NY 14226	CHK104	\$150.00	PROFL	VOICEOVER FOR CAMPAIGN AD	NOV-30-18 09:47 AM
11/03/18	MARY VANVORST	94 BONDCROFT DR	AMHERST NY 14226	CHK107	\$350.00	PROFL	VOICEOVER FOR CAMPAIGN AD	NOV-30-18 09:47 AM
11/28/18	SKYLINE DEMOGRAPHIC CONSULTANTS INC	1850 SKYLINE DR	SCHENECTADY NY 12306	CHK106	\$1,364.59	PROFL		NOV-30-18 09:47 AM

NO. of TRANSACTIONS 14 TOTAL \$16,091.37

#4