

<b>STATE OF MICHIGAN</b> 54A JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	<b>SUMMONS AND COMPLAINT</b>	<b>CASE NO.</b> 09-057336EE
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Court address: City Hall, 124 W. Michigan Avenue, Lansing, MI 48933  
 Court telephone no.: (517) 483-4426

Plaintiff's name(s), address(es), and telephone no(s).  
 INTERNATIONAL BROTHERHOOD OF  
 ELECTRICAL WORKERS, LOCAL 665

v

Defendant's name(s), address(es), and telephone no(s).  
 VIRGIL BERNERO  
 124 W. Michigan Avenue, Lansing, MI 48933-1694  
 and

Plaintiff's attorney, bar no., address, and telephone no.  
 Jeffrey S. Donahue (P48588)  
 Thomas K. Byerley (P28937)  
 White Schneider Young & Chiodini, P.C.  
 2300 Jolly Oak Road, Okemos, MI 48864  
 517-349-7744

CITY ADMINISTRATIVE ACCOUNT and  
 CHARLES L. MOORE  
 112 E. Allegan Street, 3rd Floor  
 Lansing MI 48933

**SUMMONS NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:  
 1. You are being sued.  
 2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MGR2.111(C))  
 3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued 10/26/09	This summons expires 11/25/10	Court Clerk <i>[Signature]</i>
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\*This summons is invalid unless served on or before its expiration date.  
 This document must be sealed by the seal of the court.

**COMPLAINT** *Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.*

**Family Division Cases**  
 There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.  
 An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in \_\_\_\_\_ Court.  
 The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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**General Civil Cases**  
 There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.  
 A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.  
 The action  remains  is no longer pending. The docket number and the judge assigned to the action are:

Docket no. <i>[Handwritten]</i>	Judge	Bar no.
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**VENUE**

Plaintiff(s) residence (include city, township, or village) City of Lansing, Michigan	Defendant(s) residence (include city, township, or village) City of Lansing, Michigan
Place where action arose or business conducted City of Lansing	

10/26/2009  
 Date  
 Signature of attorney/plaintiff: *[Signature]*

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

**PROOF OF SERVICE**

**SUMMONS AND COMPLAINT**  
Case No. \_\_\_\_\_

**TO PROCESS SERVER:** You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE**

**OFFICER CERTIFICATE**

OR

**AFFIDAVIT OF PROCESS SERVER**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- I served personally a copy of the summons and complaint,
- I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with \_\_\_\_\_

List all documents served with the Summons and Complaint

\_\_\_\_\_ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature \_\_\_\_\_  
 Name (type or print) \_\_\_\_\_  
 Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Date Signature: \_\_\_\_\_  
Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the summons and complaint, together with \_\_\_\_\_ Attachments

\_\_\_\_\_ on \_\_\_\_\_  
Day, date, time

\_\_\_\_\_ on behalf of \_\_\_\_\_  
Signature

STATE OF MICHIGAN

IN THE 54A DISTRICT COURT FOR THE CITY OF LANSING

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INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 665,

Plaintiff,

-vs-

Case No. 09-05733 GCF

VIRGIL BERNERO, CITY ADMINISTRATIVE  
ACCOUNT, and CHARLES L. MOORE,

Hon. \_\_\_\_\_

Defendants.

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Jeffrey S. Donahue (P48588)  
Thomas K. Byerley (P28937)  
White, Schneider, Young & Chiodini, P.C.  
Attorneys for Plaintiffs  
2300 Jolly Oak Road  
Okemos, MI 48864-4597  
517/349-7744

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There is no other pending or unresolved civil action  
arising out of the transaction or occurrence alleged  
in this Complaint.

**COMPLAINT**

NOW COMES Plaintiff, International Brotherhood of Electrical Workers, Local  
655 ("Plaintiff"), by and through its attorneys, White, Schneider, Young & Chiodini, P.C.,  
and for its Complaint against Defendants, Virgil Bernero ("Bernero"), City Administrative  
Account, and Charles L. Moore ("Moore"), states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. Plaintiff International Brotherhood of Electrical Workers, Local 655 is a labor organization located in the City of Lansing, Ingham County, Michigan.
2. Defendant Virgil Bernero is the elected Mayor of the City of Lansing, and is a resident of the City of Lansing, Ingham County, Michigan.
3. Defendant City Administrative Account was incorporated on December 16, 2005 with the Michigan Department of Labor and Economic Growth, and does business at 115 West Allegan Street, Lansing, Michigan.
4. Defendant Charles L. Moore, upon information and belief, is the Resident Agent of the City Administrative Account, doing business at 115 West Allegan Street, Lansing, Michigan.
5. Jurisdiction and venue are proper in this Court, since the amount in dispute is \$5,000.

**COUNT I - BREACH OF CONTRACT**

6. Plaintiff adopts by reference paragraphs 1 through 5 above.
7. On or about June 12, 2006, Defendant Bernero mailed a letter to Plaintiff, purportedly on behalf of the "Lansing Booster Club" and the "City Administrative Account," offering Plaintiff the opportunity to become a "member" of the Club. (A copy of the letter is attached and incorporated as Exhibit A.)
8. The June 12, 2006 letter offers the following "benefits" for members of the Booster Club. These include:
  - (a) "[Y]ou will receive briefings by me and city department directors";

(b) “You will be invited to be a part of a number of round table discussions about our city’s challenges and its future”; and

(c) “You will also be my guest at special events.”

9. Based on these representations, Plaintiff “accepted the invitation to serve as a founding member of the Lansing Booster Club,” and paid membership dues of \$5,000. (Plaintiff’s acceptance of the membership offer is attached as Exhibit B.)

10. The written materials for the Lansing Booster Club and City Administrative Account signed by Defendant Bernero did not disclose that it was a political action committee established under Section 527 of the Internal Revenue Code.

11. The written materials for the Lansing Booster Club and the City Administrative Account, signed by Defendant Bernero and overseen by Defendant Moore, did not contain any indication that the “membership” was in fact a political contribution.

12. The written materials for the Lansing Booster Club signed by Defendant Bernero and issued by Defendant Moore did not contain “an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes” as required by the Omnibus Budget Reconciliation Act of 1987.

13. The “City Administrative Account” was incorporated with the State of Michigan on December 16, 2005, listing Defendant Moore as the Resident Agent. (See attached Exhibit C.)

14. Defendants and Lansing City department directors have never offered Plaintiff any “briefings” as represented in the June 12, 2006 letter.

15. Defendants have has never invited Plaintiff to any “round table discussions” about Lansing’s challenges and its future.

16. Defendant Bernero has never invited Plaintiff to be his “guest at special events.”

17. By accepting Plaintiff’s “membership” check, Defendants created a binding written contract to provide the services offered in the June 12, 2006 letter.

18. By not performing any of the representations made in the June 12, 2006 letter (even though more than three years have passed), Defendants have materially breached the agreement as accepted by Plaintiff.

19. As a direct and proximate result of Defendants’ violation of the accepted written offer, Plaintiff has suffered economic losses without just and reasonable cause.

20. As a direct and proximate result of the Defendants’ breach of the accepted written offer, Plaintiff has been denied its benefit of the bargain under the terms of the written agreement between the parties.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- A. Enter a judgment in Plaintiff’s favor;
- B. Issue an Order directing Defendants to immediately reimburse Plaintiff the sum of \$5,000, due to Defendants’ breach;
- C. Award Plaintiff such other relief as this Court deems just and equitable under the circumstances.

**COUNT II – UNJUST ENRICHMENT**

21. Plaintiff adopts by reference paragraphs 1 through 20 above.

22. By retaining the \$5,000 "membership dues" submitted by Plaintiff, and by not performing any of the promises made in the June 12, 2006 letter, Defendants have been unjustly enriched to Plaintiff's detriment.

23. As a direct and proximate result of the Defendants' unjust enrichment, Plaintiff has suffered damages of \$5,000.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- A. Enter a judgment in Plaintiff's favor;
- B. Order Defendants to pay damages in the amount of \$5,000 to Plaintiff;
- C. Issue an Order requiring Defendants to compensate Plaintiff for additional damages incurred due to Defendants' unjust enrichment;
- D. Award Plaintiff its costs and attorney fees incurred in bringing this action; and
- E. Award Plaintiff such other relief as this Court deems just and equitable under the circumstances.

### **COUNT III- FRAUD IN THE INDUCEMENT**

24. Plaintiff adopts by reference paragraphs 1 through 23 above.

25. The representations made by Defendants in their letter of June 12, 2006 were material in gaining Plaintiff's acceptance.

26. The representations made by Defendants in their letter of June 12, 2006 were false.

27. When Defendants made the representations in the June 12, 2006 letter, they either knew that they were false or made the representations recklessly without any knowledge of their truth as a positive assertion.

28. The representations made by Defendants in their June 12, 2006 letter were made with the intention that the Plaintiff should act on it.

29. In submitting a check for "membership," Plaintiff acted in reliance of the representations made in Defendants' offer.

30. Plaintiff has suffered damages in the amount of \$5,000 by acting in reliance on the representations made by Defendants.

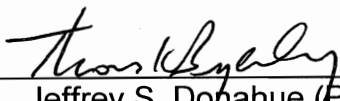
WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- A. Enter a judgment in Plaintiff's favor;
- B. Order Defendants to pay damages in the amount of \$5,000 to Plaintiff;
- C. Issue an Order requiring Defendants to compensate Plaintiff for additional damages incurred due to Defendants' fraud;
- D. Award Plaintiff its costs and attorney fees incurred in bringing this action; and
- E. Award Plaintiff such other relief as this Court deems just and equitable under the circumstances.

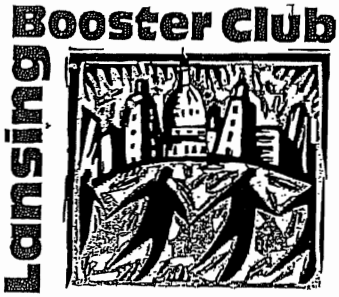
Respectfully submitted,

WHITE, SCHNEIDER, YOUNG  
& CHIODINI, P.C.  
Attorneys for Plaintiffs

Dated: October 26, 2009

By:   
Jeffrey S. Donahue (P48588)  
Thomas K. Byerley (P28937)





City Administrative Account  
3815 W. St. Joseph - Suite A-400  
Lansing, MI 48917  
517-327-9186 • Fax 517-327-9187

June 12, 2006

**E-BOARD**  
APPROVED DATE: 6-19-06  
DENIED DATE: \_\_\_\_\_  
TABLED DATE: \_\_\_\_\_  
AMOUNT: \$ 5000.00  
MEMBERSHIP APPROVAL DATE: \_\_\_\_\_

*Scott Clark - Bus. Manager*  
*Mr. Bill Patrick*

IBEW Local # 655  
5205 S. Pennsylvania  
Lansing, MI 48911

Dear Mr. Patrick,

It is my pleasure to invite you to become a member of a distinguished group of individuals dedicated to growing the Lansing area's economy and quality of life.

Because you have been a valued partner of the city of Lansing, I would like to offer you this unique opportunity to be a founding member of the Lansing Booster Club.

The Lansing Booster Club will provide a core foundation of support for public/private initiatives such as the city's recent Diversity Event. The event, sponsored by the city and supported by Lansing area businesses, successfully demonstrated our city's strengths when challenged by the recent visit of the neo-Nazi group, the National Socialist movement. The Lansing Booster Club will provide continued support for this and other strategic initiatives of my administration.

This is an exhilarating time for Lansing. I am happy to report to you that exciting new development is underway. New housing projects are moving forward. New, innovative developments downtown are gaining momentum. Lansing is beginning to leverage all the assets of our community.

As a member of the Lansing Booster Club you will receive briefings by me and city department directors. You will be invited to be a part of a number of round table discussions about our city's challenges and its future. You will also be my guest at special events.

EXHIBIT A  
Blumberg No. 6137

To succeed in moving the city forward I need you as a part of our team. Your willingness to accept this invitation today and become a founder of the Lansing Booster Club is an important first step.

Lansing Booster Club founder opportunities exist at three levels. Founders can join at the Player level for \$1000, the Coach level for \$5000 and Director level for \$10,000.

Please don't let this invitation go unanswered. To join as a Founder you must respond by July 15, 2006.

Thank you for your support of Lansing's capital city. Together we can take Lansing from good to great.

Sincerely,

A handwritten signature in black ink that reads "Virgil". The letters are stylized and cursive.

Virgil Bernero  
Mayor, City of Lansing

P.S. If for some reason you cannot join by July 15<sup>th</sup>, I would still like you to be actively involved. Please consider signing up by forwarding a partial membership when returning your Founding Member Acceptance Form. Corporate checks are welcome.

5801

6/27/06

Nicks

Lansing booster club  
Founder membership

To: Mayor Bernero

I am pleased to accept your invitation to serve as a founding member of the lansing booster club. Enclosed, please find my membership dues in the amount of:

\_\_\_ \$1000—player level

X \_\_\_ \$ 5000—Coach Level

\_\_\_ \$ 10,000—director level

X \_\_\_ my check is enclosed \_\_\_ please bill me quarterly

\_\_\_ please charge my \_\_\_ visa \_\_\_ Mastercard

Card number: \_\_\_\_\_ Expiration date: \_\_\_\_\_

Amount: \_\_\_\_\_ name as it appears on card: \_\_\_\_\_

Signature: \_\_\_\_\_

Credit card account billing address: \_\_\_\_\_

\_\_\_ I cannot accept your invitation at this time. However, I wish to support the Lansing booster club. Enclosed you will find my contribution of:

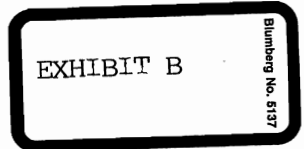
\_\_\_ \$ 500

\_\_\_ \$ 250

Please make your Personal or corporate check payable to:  
city administrative account

3815 W. st. joseph hwy., suite a-400, lansing 48917  
517-327-9186

484-3013-



**INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 665**

**5801**

City Administrative Account  
Contributions

donation-boosters club


6/27/2006

5,000.00

General Fund

Lansing Booster Club

5,000.00

 DELIWARE BUSINESS FORMS 1-800-328-4304 [www.deliwareforms.com](http://www.deliwareforms.com)



MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH  
BUREAU OF COMMERCIAL SERVICES

Date Received <b>DEC 16 2005</b>	(FOR BUREAU USE ONLY)
	<p style="text-align: center;"><b>FILED</b></p> <p style="text-align: center;"><b>DEC 19 2005</b></p> <p style="text-align: center;"><small>Administrator BUREAU OF COMMERCIAL SERVICES</small></p>
John D. Miller, Esq.	EFFECTIVE DATE:
124 West Allegan Street, Suite 1000	
Lansing, MI 48933	

\* Document will be returned to name and address you enter above.  
If left blank document will be mailed to the registered office.

792-630

**ARTICLES OF INCORPORATION**  
For use by Domestic Nonprofit Corporations  
(Please read information and instructions on last page)

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

**Article I**

The name of the corporation is: **City Administrative Account**

**Article II**

The purpose or purposes for which the corporation is organized are:

This corporation is organized and shall be administered and operated exclusively to operate as a political organization within the meaning of Section 527 of the Internal Revenue Code of 1986, as amended (I.R.C. or Code) including the following:

- (1) To collect and administer funds to pay expenses incidental to the holding of the Office of Mayor for the City of Lansing, which if incurred by Mayor Virgil Bernero, would be allowable as a deduction under Section 162 of the Code;
- (2) To receive and disburse funds in connection with these expenses;
- (3) To sponsor and organize activities in connection with the Lansing mayoral inauguration, and other acts incidental thereto;
- (4) To receive and disburse funds in connection with the inauguration;
- (5) To organize and conduct activities in connection with the Lansing mayoral transition to Lansing Mayor-Elect Virgil Bernero, and other acts incidental thereto;
- (6) To receive and disburse funds in connection with the transition;
- (7) To carry on one or more exempt functions as the primary purpose of the corporation under Section 527 of the Code; and
- (8) To collect funds and make other expenditures allowed under applicable law;
- (9) To engage in any and all lawful activities incidental to the foregoing purposes and as permitted for organizations qualifying as "political organizations" under Section 527 of the Code.

The corporation will comply with all federal, state, and local laws.

*ew*  
50 188923 *ew*

EXHIBIT C

**Article III**

1. The corporation is organized upon a non-stock, directorship basis.
2. a. The description and value of its real property assets are: (if none, insert "none")     None
- b. The description and value of its personal property assets are: (if none, insert "none")     None
- c. The corporation is to be financed under the following general plan:     Donations, fees, investments, gifts, grants, and other funds lawfully received.

**Article IV**

1. The address of the registered office is:  
115 West Allegan Street, 7th Floor, Lansing, MI 48933
2. The mailing address of the registered office if different than above:  
same as above
3. The name of the resident agent at the registered office is: Charles L. Moore

**Article V**

The name and address of the incorporators are as follows:

Name:	Residence or Business Address:
Mark R. Fox	124 West Allegan Street, Suite 1000, Lansing, Michigan 48933
John D. Miller	124 West Allegan Street, Suite 1000, Lansing, Michigan 48933

**Article VI**

Notwithstanding any other provision of these Articles, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 527 of the Code, or corresponding provisions of any subsequent federal tax laws.

**Article VII**

Upon the dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed exclusively for purposes described as permitted under the Code for organizations which are then exempt from Federal Tax under Section 527 of the Code, or corresponding provisions of any subsequent federal tax laws.

**Article VIII**

When a compromise or arrangement or a plan of reorganization of this corporation is proposed between this corporation and its creditors or any class of them, a court of equity jurisdiction within the state, on application of this corporation or of a creditor, or an application of a receiver appointed for the corporation, may order a meeting of the creditors or class of creditors to be affected by the proposed compromise or arrangement or reorganization, to be summoned in such manner as the court directs. If a majority in number representing 3/4 in value of the creditors or class of creditors to be affected by the proposed compromise or arrangement or a reorganization, agree to a compromise or arrangement or a reorganization of this corporation as a consequence of the compromise or arrangement, the compromise or arrangement and the reorganization, if sanctioned by the court to which the application has been made, shall be binding on all the creditors or class of creditors, and also on this corporation.

**Article IX**

A volunteer director or volunteer officer, as those terms are defined in the Michigan Nonprofit Corporation Act, as amended, is not personally liable to the corporation for monetary damages for breach of the director's or officer's fiduciary duty, except that liability may be imposed for activities involving the following:

- (a) A breach of the director's or officer's duty of loyalty to the corporation.
- (b) Acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law.
- (c) A violation of Section 551(1) of the Michigan Nonprofit Corporation Act, as amended.
- (d) A transaction from which the director or officer derived an improper personal benefit.
- (e) An act or omission that is grossly negligent.

**Article X**

The corporation assumes all liability to any person other than the corporation for all acts or omissions of a volunteer director, as that term is defined in the Michigan Nonprofit Corporation Act, as amended, incurred in the good faith performance of the volunteer director's duties.

**Article XI**

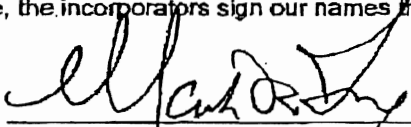
The corporation assumes the liability for all acts or omissions of a volunteer officer or other volunteer if all of the following are met:

- (a) The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.
- (b) The volunteer was acting in good faith.
- (c) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
- (d) The volunteer's conduct was not an intentional tort.
- (e) The volunteer's conduct was not a tort arising out of the ownership, maintenance or use of a motor vehicle for which tort liability may be imposed as provided in Section 3135 of the Insurance Code of 1956, Act No. 218 of the Public Acts of 1956, being Section 500.3135 of the Michigan Compiled Laws.

**Article XII**

Participation in a meeting of the Board of Directors may be by a conference telephone or a similar communication equipment by which all persons participating in the meeting may hear each other. All participants in the meeting shall be advised of the communications equipment and the names of the participants in the conference shall be divulged to all participants. Participation in a meeting using this procedure shall constitute presence in person at the meeting.

We, the incorporators sign our names this 16<sup>th</sup> day of December, 2005.

By:   
Mark R. Fox, Incorporator

By:   
John D. Miller, Incorporator