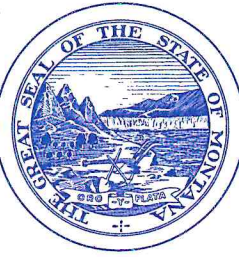


COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

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November 29, 2023

Hon. Kirsten Pabst, County Attorney  
Brian West, Chief Civil Deputy County Attorney  
Office of the Missoula County Attorney  
199 West Pine Street  
Missoula, Montana 59802

Via email: [bwest@missoulacounty.us](mailto:bwest@missoulacounty.us)

Dear County Attorney Pabst and Mr. West:

I hope you are both well. I have attached a decision and an order of noncompliance in the matter of Montana Freedom Caucus v. Representative Zooey Zephyr, COPP-2023-CFP-010. As contained in the decision, I determined there was authority under MCA §§ 13-37-111 (complaints and sufficiency findings) and 13-37-121 (report inspection and noncompliance). Each involves coordination with your office under MCA § 13-37-124, and you have independent authority pursuant to MCA § 13-37-125. I also determined that I had authority to seek corrective action by way of decision and notice prior to referring the matter to your office. My hope was that these rather simple matters would be addressed within the time provided by law, but as you can read this is not the case. Despite the decision's clear directive, and additional time COPP provided, there are still issues with respect to noncompliance. Of particular concern to me, is the fact that contribution limits have been exceeded or at least remain unexplained, MCA 13-37-216, and the Statement of Candidacy, MCA 13-37-201, was not corrected.

I feel compelled at this point to issue the attached order of noncompliance. This approach triggers an additional 10-day period for our combined review. After this 10-day period lapses, either you or I may proceed with filing a civil action in district court. MCA 13-37-121. I have copied Rep. Zephyr and those representing the campaign, and I will notify you immediately if they rectify these deficiencies. If all of the matters are not addressed within the 10-day period, I will contact you to coordinate how you would like to proceed with this matter.

Thank you for your time and consideration. I have also attached the relevant statutes for your review and convenience. If you need any additional information, please do not hesitate to contact either Shelley Hendricksen-Scott, our new chief legal counsel, or myself.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris J. Gallus".

Chris J. Gallus, Commissioner  
Montana Office of Political Practices

## Montana Code Annotated

**§ 13-37-121. Inspection of statements and reports -- issuance of orders of noncompliance.** (1) Each statement and report filed with the commissioner during an election or within 60 days after the election must be inspected within 20 days after the statement or report is filed. A statement or report concerning Title 13, chapter 37, part 6, must be inspected within 20 days after filing. Intermediate Saturdays, Sundays, and holidays must be excluded in the computation of time under this section. If a person has not satisfied the provisions of this chapter, the commissioner shall immediately notify the person of the noncompliance. Notification by the commissioner may be accomplished by written or electronic communication or by telephone. If the person fails to comply after the notification, the commissioner shall issue an order of noncompliance as provided in this section.

(2) An order of noncompliance may be issued when:

(b) it is determined that a statement or report filed with the commissioner does not conform to the requirements of this chapter or that a person has failed to file a statement or report required by law.

**13-37-124. Consultation and cooperation with county attorney.** (1) Whenever the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution under chapter 35 of this title or this chapter, the commissioner shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within 30 days after receiving notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

**13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.

(2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to \$500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

**§ 13-37-201. Campaign treasurer.** (1) Except as provided in 13-37-206, each candidate, each political committee, and each joint fundraising committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section.

**§ 13-37-229. Disclosure requirements for candidates, ballot issue committees, political party committees, and independent committees -- exceptions.**

(2) (b) Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that performs services for or on behalf of a candidate, political committee, or joint fundraising committee must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.

**§ 13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows: (iii) for a candidate for any other public office, not to exceed \$400.

### **Administrative Rules**

#### **44.11.224 DESIGNATION OF CONTRIBUTIONS FOR PRIMARY AND GENERAL ELECTIONS**

(1) Aggregate contributions for elections in a campaign are limited according to 13-37-216 and 13-37-218, MCA, and as explained by ARM 44.11.222. An "election" in a campaign is either a primary election or a general election.

(2) For purposes of applying aggregate contribution limits per election the following apply:

(a) aggregate contribution limits for each election, as set forth in 13-37-216, MCA, apply to a primary election and to a general election as defined in ARM 44.11.222;

(d) all contributions received by a candidate after the day of the primary election are designated as general election contributions and are subject to the aggregate contribution limit for the general election, except that a candidate may continue to receive contributions designated for the primary election subject to the limits after that election only for the purpose of paying primary election debts. General election contributions shall not be used to pay primary election debt;

(3) A candidate for the legislature may use the same account in a campaign depository for primary and general election contributions received without being required to segregate those funds if:

(a) the candidate maintains records concerning when a contribution is received, and for which election the contribution is designated for; and

(b) the account balance does not drop below the amount of general election contributions received until after the day of the primary election.

(4) If a candidate receives contributions designated for the general election prior to the primary, and does not proceed to the general election, the candidate must return the contributions to the donors. These funds are not "surplus campaign funds" as defined in ARM 44.11.702.

History: 13-37-114, MCA; IMP, 13-37-205, 13-37-216, MCA; NEW, 1996 MAR p. 784, Eff. 3/22/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD, from ARM 44.10.330, 2016 MAR p. 28, Eff. 1/9/16; AMD, 2022 MAR p. 253, Eff. 2/12/22.

#### **44.11.502 EXPENDITURES, REPORTING**

(5) All expenditures must be supported by a contemporaneous written agreement, invoice, billing statement, or similar documentation appropriate to the transaction that describes the services provided, the billing period identifying the specific dates on which services were provided, an itemized basis for the payments made, and other pertinent information.