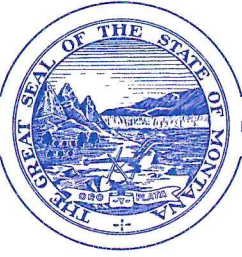


COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

CHRIS J. GALLUS  
COMMISSIONER  
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March 22, 2024

Lisa Bennett  
110 Barlow Cr. Rd.  
Red Lodge, MT 59068

John Franish  
913 Coutts Ave.  
Red Lodge, MT 59068

Subject: Complaint received March 7, 2024; Moser and Moser v. Bennett and Franish, COPP-2024-CFP-005

Lisa and John:

The enclosed complaint alleges a violation of Montana election law under Title 13, Chapter 37 of the Montana Code Annotated (MCA), particularly MCA §13-37-204, enforcement of which falls under my jurisdiction as Commissioner of Political Practices. The complaint also conforms to the requirements of 44.11.106 ARM, the administrative rule regarding election complaints. For those reasons, I have accepted it for further consideration. While presented on an Ethics complaint form, I am classifying this matter as a Campaign Finance and Practices (CFP) Complaint, as the alleged violations involve Montana election law.

Pursuant to MCA §13-37-132, I formally request a written response from you addressing the specific issues identified in this complaint.

**Please provide your response by 5:00 PM on Monday, April 1, 2024.** Any response you provide is a public record that COPP posts on our website, per MCA §13-37-132.

I will review any additional materials relevant to this complaint for any deficiencies pursuant to 44.11.106 ARM, law, and prior relevant COPP rulings, and reserve the right to dismiss the complaint upon this initial inquiry. If this occurs, I will notify you and provide a basis for the dismissal. Alternatively, as noted above, I may determine that a formal investigation is warranted. This generally involves a more extensive and time-consuming process, during which you may contact us for a status update.

If an investigation is conducted, a decision will be issued which includes a summary of facts and determines if those facts are sufficient or insufficient to support a violation. This decision will also determine if prosecution is justified. Upon completion of this investigation a copy of the decision will be sent to you and posted on COPP's website.

If I determine prosecution is justified, this matter will be referred to the county attorney in the county where the violations occurred. The county attorney will then determine whether they will prosecute the matter or refer it back to me. If returned to me, I will either prosecute the matter in district court or negotiate a settlement pursuant to MCA § 13-37-128.

In accordance with my statutory duties, I must consider recusal in any matter that would give rise to the appearance of impropriety, results in a conflict of interest or the “appearance of a conflict of interest between public duty and private interest pursuant to Title 2, chapter 2.” MCA § 13-37-111(3) and 13-37-108(6). If I recuse myself from any such matter, I will appoint a deputy commissioner with the qualifications specified in MCA § 13-37-107 to handle this matter going forward.

Prior to my appointment as commissioner, I represented respondent Lisa Bennett in a matter pertaining to a public records request. Recusal is discretionary and I will consider my duties under the law and the details of my prior representation of Ms. Bennett to determine if recusal is necessary and appropriate. *See Powell v. Motl*, OP-14-0711, Order of the Montana Supreme Court (Nov. 6, 2014). However, based on this information, if you would like to request my recusal from this matter, please do so by the date of your response to the attached complaint and include any information you feel is pertinent to my decision. I will make a determination as to recusal after having an opportunity to review any written response you provide.

This office is now conducting a legal review, and reviewing records currently in your possession are subject to a pending investigation. While I do not anticipate that you would intentionally destroy any relevant records, due to the severity of the penalty I feel compelled to provide you with the relevant statute in this regard. See, Attached Mont. Code Ann. §45-7-207 (Tampering with or fabricating physical evidence). This Office may need to review documents connected to your residency during the prescribed period. Accordingly, Mont. Code Ann. §13-37-111 authorizes the Commissioner to inspect records, accounts, and books held by a candidate or political committee, administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers and records that are relevant or material for the purpose of conducting an investigation.

To facilitate such an investigation, please take immediate steps to retain all such records, and begin collecting and preparing records for review. This includes documents, including computer communications (e.g. email), in your possession or the possession of any of your agents, representatives, or assigns. Communications with attorneys should be retained even these records might need to be produced if attorney/client privilege is not involved. As indicated, your preservation of all such documents is essential and required pursuant to this request and subject to penalties provided in Mont. Code Ann. §45-7-207.

I appreciate your time and consideration of this important matter.

Regards,



Chris J. Gallus  
Commissioner of Political Practices