

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Keenan v. Pinocci No. COPP 2018-CFP-042A	DISMISSAL OF ALLEGED VIOLATION
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On September 13, 2018, Nancy Keenan of Helena filed a campaign practices complaint against Randy Pinocci of Sun River. The complaint alleged that candidate Pinocci had accepted a \$3,000.00 campaign loan from Mr. Tony O'Donnell, in excess of Montana's contribution limits.

SUBSTANTIVE ISSUES ADDRESSED

The substantive area of campaign finance reporting and disclosure law addressed by this Decision are campaign loans and contributions to a Montana candidate.

FINDINGS OF FACT

The foundational facts necessary for this Decision is as follows:

Finding of Fact No. 1: Randy Pinocci filed a C-1 Statement of Candidate as a candidate for Public Service Commission (PSC) District 1 with the COPP on February 8, 2018. (Commissioner's Records.)

Finding of Fact No. 2: Candidate Pinocci timely filed a C-5 campaign finance report on May 3, 2018, dated February 14 through May 1. This report detailed three personal loans made by candidate Pinocci to his campaign: a monetary loan of \$1,000.00 provided on February 20, a monetary loan of \$3,000.00 provided on April 17, and an in-kind loan of various goods/services

(described in detail by an attached addendum) worth \$6,997.50. This report did not include any campaign contributions received from Tony O'Donnell. An amended version of this report was filed on June 25, 2018. (Commissioner's Records.)

Finding of Fact No. 3: Candidate Pinocci timely filed a C-5 campaign finance report on May 24, 2018, dated May 2 through May 24, 2018. This report did not include any campaign contributions received from Tony O'Donnell. (Commissioner's Records.)

Finding of Fact No. 4: Candidate Pinocci timely filed a C-5 campaign finance report on June 25, 2018, dated May 25 through June 20, 2018. This report did not include any campaign contributions received from Tony O'Donnell. (Commissioner's Records.)

Finding of Fact No. 5: On September 17, 2018, candidate Pinocci's Treasurer Katie Wenetta emailed the COPP a copy of an \$3,000.00 Cashier's Check, dated April 5, 2018, drawn by the Pinocci campaign from a personal bank account belonging to candidate Pinocci. (Commissioner's Records.)

Finding of Fact No. 6: A hand delivered letter from candidate Pinocci dated September 25, 2018 stated "Please find the enclosed documentation from Wells Fargo verifying the funds in question are from my personal account", and that, "To be clear, I have not received any donation, of any amount, from Tony or Elaine O'Donnell". The letter attached from Wells Fargo bank stated "On April 5th, 2018, Randy had purchased a cashier's check in the amount of \$3,000.00 out of his personal account with our institution". (Commissioner's Records.)

Finding of Fact No. 7: Treasurer Wenetta hand-delivered a printout copy of candidate Pinocci's personal banking account transaction history for the dates of April 1 through April 30, 2018 on September 25, 2018. This document showed that, on April 5, candidate Pinocci made a withdrawal from his personal account in the amount of \$3,000.00. This document did not show any specific deposit in the amount of \$3,000.00, either as a transfer of his (from a savings or other personal account) or a deposit of cash or check provided from an outside source (Commissioner's Records.)

Finding of Fact No. 8: Treasurer Wenetta hand-delivered a printout copy of candidate Pinocci's personal banking account

transaction history for the dates of March 1 through March 31, 2018 on September 27, 2018. This document did not show any specific deposit in the amount of \$3,000.00, either as a transfer of his (from a savings or other personal account) or a deposit of cash or check provided from an outside source. (Commissioner's Records.)

Finding of Fact No. 9: On September 21, 2018, Tony O'Donnell emailed the COPP in response to this complaint. In the email, Mr. O'Donnell stated that "neither my wife nor myself have ever had any monetary transactions with Randy Pinocci or his campaign. I have not loaned, guaranteed, given assurances of any kind nor contributed any amount whatsoever to Mr. Pinocci or his campaign". (Commissioner's Records.)

DISCUSSION

The complaint alleges the Pinocci campaign accepted a loan in excess of Montana campaign contributions from Mr. Toney O'Donnell. The Commissioner examines the allegation.

A candidate "may not accept any contributions, including in-kind contributions, in excess of the limits in this section", Mont. Code Ann. § 13-37-216(4). The Pinocci campaign reported a \$3,000.00 loan from candidate Randy Pinocci on his May 3, 2018 campaign finance report (FOF No. 2). Filed 2018 campaign finance reports do not indicate a campaign contribution from Tony O'Donnell (FOF Nos. 2-4). Additionally, both Mr. Pinocci and Mr. O'Donnell submitted statements in response to the Complaint that Mr. O'Donnell has not provided a contribution to the Pinocci campaign (FOF Nos. 6, 9).

On April 5, 2018 candidate Pinocci secured a \$3000.00 cashier's check drawn from his personal account, paid to the order of Pinocci for PSC (FOF Nos. 5, 7). A review of a March and April 2018 bank statements show an April

5, 2018 \$3,000.00 withdrawal and do not indicate any deposit/s in the amount of \$3,000.00 into Mr. Pinocci's personal account from Tony O'Donnell or any other irregular source.

The Commissioner dismisses the allegation of the acceptance of an individual contribution in excess of campaign finance limits. The alleged violation is hereby dismissed.

FINDINGS

The Commissioner finds the Randy Pinocci campaign did not violate Montana Political Campaign Finance laws as set herein.

DECISION

The Commissioner hereby dismisses this complaint.

DATED this 28th day of September, 2018.



Jeffrey A. Mangan
Commissioner of Political Practices
Of the State of Montana
P. O. Box 202401
1209 8th Avenue
Helena, MT 59620
Phone: (406)-444-3919