

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Rose v. Glines No. COPP 2022-CFP-030	FINDING OF SUFFICIENT FACTS TO SUPPORT A CAMPAIGN PRACTICE ACT VIOLATION
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On November 1, 2022, Timothy Rose of Alder, MT filed a campaign practices complaint against Marc Glines, of Ennis. The complaint alleged that candidate Glines failed to timely file campaign finance reports and failed to properly disclose certain campaign contributions received and expenditures made.

SUBSTANTIVE ISSUES ADDRESSED

The proper and timely filing of a candidate's campaign finance reports.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Marc Glines filed a C-1A Statement of Candidate as a candidate for election to the position of Justice of the Peace in Madison County with the COPP on March 10, 2022. On the Statement of Candidate, candidate Glines indicated that campaign activity would not exceed \$500.00. (Commissioner's Records.)

Finding of Fact No. 1A: On August 18, 2022, candidate Glines filed an amended C-1A Statement of Candidate, indicating that campaign activity would meet or exceed \$500.00. (Commissioner's Records.)

Finding of Fact No. 2: On August 19, 2022, candidate Glines filed an Initial C-5 campaign finance report, dated March 10, 2022 through August 20, 2022. This report discloses one (1) monetary

contribution made personally by candidate Glines to his campaign totaling \$500.00, as well as two (2) expenditures totaling \$120.00. (Commissioner's Records.)

Finding of Fact No. 2A: On November 9, 2022, candidate Glines filed an amended version of his March 10, 2022 through August 20, 2022 Initial C-5 campaign finance report. This amended report discloses three (3) monetary contributions made personally by candidate Glines to his campaign totaling \$1,043.45, as well as five (5) campaign expenditures totaling \$817.45. (Commissioner's Records.)

Finding of Fact No. 3: On November 3, 2022, candidate Glines filed a Periodic C-5 campaign finance report, dated August 21, 2022 through September 20, 2022. (Commissioner's Records.)

Finding of Fact No. 4: On November 3, 2022, candidate Glines filed a Periodic C-5 campaign finance report, dated September 21, 2022 through October 28, 2022. This report disclosed one (1) campaign expenditure made by candidate Glines to vendor Madisonian in the amount of \$705.50 for Purpose "two half page ads in weekly newspaper", dated November 8, 2022. (Commissioner's Records.)

Finding of Fact No. 4A: Candidate Glines placed campaign advertisements in printed editions of The Madisonian newspaper published on October 13, 2022 and October 27, 2022. (Commissioner's Records.)

Finding of Fact No. 5: Candidate Glines did not at any time file any campaign finance report/s covering the period of October 29, 2022 or later with COPP. (Commissioner's Records.)

Finding of Fact No. 6: On November 4, 2022, candidate Glines, via email, provided COPP with a formal response to this Complaint. In the response, candidate Glines states that "I have been negligent about filing on time and accurately" but indicated that all campaign contribution and expenditure activity had been disclosed on reports filed with COPP. (Commissioner's Records.)

DISCUSSION

Timely filing of reports

The complainant in this matter asserts that candidate Glines failed to timely file campaign finance reports disclosing contributions received and expenditures made by his campaign.

44.11.304(1), Administrative Rules of Montana, states that:

If a local candidate or a political committee which is specifically organized to support or oppose a particular local candidate or local issue anticipates receiving contributions in a total amount of less than \$500 and anticipates making expenditures in a total amount of less than \$500 for all elections in a campaign, the candidate or an officer of the political committee shall file an affidavit of such intent at the same time the statement of candidate or statement of organization is filed as required by 13-37-201 and 13-37-205, MCA.

As a candidate for election to the office of Justice of the Peace in Madison County, candidate Glines would be considered a local candidate (FOF No. 1). When originally filing his Statement of Candidate with COPP, candidate Glines certified that campaign activity would not meet or exceed \$500.00 (FOF No. 1). As a local candidate who certified to the COPP that campaign activity would not meet or exceed \$500.00, candidate Glines was not required to file campaign finance reports with COPP at the start of his campaign.

Applicable Administrative Rules do hold that local candidates must begin filing campaign finance reports if campaign activity meets or exceeds \$500.00.

Specifically, 44.11.304(2), ARM, states:

If a local candidate or an officer of a local political committee files an affidavit pursuant to this rule and subsequently receives contributions in a total amount or makes expenditures in a total amount in excess of \$500 for all elections in a campaign, such candidate or officer shall, within five business days of the date when such expenditures or contributions exceed \$500, file an initial report disclosing all contributions and expenditures to that date and shall file all future reports required by 13-37-226, MCA.

In this case, candidate Glines filed an amended Statement of Candidate with COPP on August 18, 2022, declaring that campaign activity would exceed \$500.00 (FOF No. 1A). The next day, candidate Glines filed an Initial C-5 campaign finance report, disclosing campaign contribution and expenditure activity for the period of March 10, 2022 through August 20, 2022 (FOF No. 2). Candidate Glines appropriately amended his C-1A Statement of Candidate when campaign activity exceeded \$500.00 and filed an Initial C-5 campaign finance report within 5 days, as required under 44.11.304(2), ARM. From that point on, candidate Glines was required to follow the candidate campaign finance reporting calendar provided under Mont. Code Ann. § 13-37-226(1)(b), with reports due September 20, October 20, and November 20, 2022.

After filing the Initial C-5 campaign finance report on August 19, candidate Glines did not file on either September 20 or October 20. Instead, candidate Glines filed the September monthly report on November 3, 2022, forty-four (44) days late; the October monthly report was filed on November 4,

2022, sixteen (16) days late (FOF Nos. 3, 4). Candidate Glines failed to file a November 20 report with COPP at any time (FOF No. 5).

Montana's campaign finance report filing requirements are mandatory: "shall file" (See §13-37-226 MCA). The filing date requirements are date certain. In Bradshaw v. Bahr, COPP 2018-CFP-008, Commissioner Mangan found candidate Bahr had filed two days late and wrote "any failure to meet a mandatory, date-certain filing date is a violation of §13-37-226, MCA". In this case, candidate Glines failed to timely file two (2) monthly C-5 campaign finance reports and failed completely to file a third.

Sufficiency Finding No. 1: Candidate Glines failed to timely file his September and October, 2022, campaign finance reports.

The Commissioner finds sufficient facts to determine candidate Glines violated Montana campaign finance law as he failed to timely file two campaign finance reports; the September, 2022, campaign finance report was filed 44 days late; and his October, 2022, campaign finance report was filed 16 days late.

Sufficiency Finding No. 2: Candidate Glines failed to file his November, 2022, campaign finance report.

The Commissioner finds sufficient facts to determine candidate Glines failed to file his November, 2022, campaign finance report, a Montana campaign finance violation. The Commissioner further order candidate Glines to file his November 20, 2022, campaign finance report within 10 days of the date of this decision.

Reporting contribution/expenditure activity

Mont. Code Ann. § 13-37-229 requires that candidates disclose all contributions received and expenditures made during each reporting period on campaign finance reports filed with COPP. The COPP investigation into this matter determined that candidate Glines failed to disclose campaign contribution and expenditure activity on the Initial C-5 report prior to his receipt of this complaint.

As originally filed on August 19, 2022, candidate Glines' Initial report disclosed his receipt of one (1) monetary contribution from himself in the amount of \$500.00 and two (2) campaign expenditures totaling \$120.00 during the period of March 10 through August 20 (FOF No. 2). On November 9, 2022, after his receipt of this complaint, candidate Glines filed an amended version of the initial report (FOF No. 2A). This amended version discloses his receipt of three (3) monetary contributions from himself in the amount of \$1,043.45 and five (5) campaign expenditures totaling \$817.45 (FOF No. 2A). COPP determines that candidate Glines failed to properly disclose two (2) monetary contributions received in the amount of \$543.45 and three (3) campaign expenditures made totaling \$697.45 on the Initial C-5 campaign finance report, in violation of Mont. Code Ann. § 13-37-229.

Additionally, 44.11.502(2), ARM states that "An obligation to pay for a campaign expenditure is incurred on the date the obligation is made, and shall be reported as a debt of the campaign until the campaign pays the obligation by making an expenditure". In this case, candidate Glines published campaign advertisements in The Madisonian Newspaper on both October 13 and 27,

2022 (FOF No. 4A). Candidate Glines did not disclose either newspaper advertisement on finance reports filed with COPP prior to this Complaint, instead reporting as a single campaign expenditure in the amount of \$705.50 (FOF No. 4). Under 44.11.502(2), ARM, candidate Glines was required to report these newspaper advertisements as debt/s owed at the time incurred (COPP notes that an obligation for newspaper ads would have been incurred by candidate Glines prior to the first advertisement's October 13 publication; if the ads were purchased separately from one another, the campaign incurred a second obligation prior to the second advertisement's October 27 publication). Candidate Glines failed to properly report debt/s totaling \$705.50 owed by his campaign in the time and manner required under applicable Administrative Rules.

Sufficiency Finding No. 3: Candidate Glines failed to properly and timely report candidate contributions to his campaign in the amount of \$543.45. Candidate Glines failed to properly and timely report expenditures in the amount of \$697.45. Candidate Glines failed to properly and timely report debts in the amount of \$705.50 on his campaign finance reports.

The Commissioner finds sufficient facts to determine candidate Glines failed to properly report candidate contributions in the amount of \$543.45, expenditures in the amount of \$697.45, and campaign debts totaling \$705.50, Montana campaign finance violations. The Commissioner notes candidate Glines reported the debts as an expenditure in a late filed November 3, 2022 campaign finance report and the contribution and expenditure activity on the November 9, 2022, amended initial campaign finance report. The

Commissioner additionally notes that this activity was reported after the 2022 Montana general election.

DECISION

The Commissioner has limited discretion when making the determination as to an unlawful campaign practice. First, the Commissioner “shall investigate” any alleged violation of campaign practices law. Mont. Code Ann. § 13-37-111(2)(a). The mandate to investigate is followed by a mandate to take action; where there is “sufficient evidence” of a violation the Commissioner must (“shall notify,” *see id.*, at § 13-37-124) initiate consideration for prosecution.

Second, having been charged to make a decision, the Commissioner must follow substantive law applicable to a particular campaign practice decision. This Commissioner, having been charged to investigate and decide, hereby determines that there is sufficient evidence to show that Candidate Glines violated Montana’s campaign practice laws, including, but not limited to the laws set out in the Decision. Having determined that sufficient evidence of a campaign practice violation exists, the next step is to determine whether there are circumstances or explanations that may affect prosecution of the violation and/or the amount of the fine.

The failure to fully and timely report and disclose cannot generally be excused by oversight or ignorance. Excusable neglect cannot be applied to oversight or ignorance of the law as it relates to failures to file and report. *See Matters of Vincent*, Nos. COPP-2013-CFP-006, 009 (discussing excusable

neglect principles). Likewise, the Commissioner does not normally accept that failures to file or report be excused as *de minimis*. *Id.* (discussing *de minimis* principles).

Because there is a finding of violation and a determination that *de minimis* and excusable neglect theories are not applicable to the above Sufficiency Findings, a civil fine is justified. Mont. Code Ann. § 13-37-124. The Commissioner hereby issues a “sufficient evidence” Finding and Decision justifying a civil fine or civil prosecution of Candidate Glines. Because of the nature of the violation, this matter is referred to the County Attorney of Lewis and Clark County for his consideration as to prosecution. *Id.*, at (1). Should the County Attorney waive the right to prosecute (*id.*, at (2)) or fail to prosecute within 30 days (*id.*, at (1)) this Matter returns to this Commissioner for possible prosecution.

Most of the Matters decided by a Commissioner and referred to the County Attorney are waived back to the Commissioner for his further consideration. Assuming that the Matter is waived back, this Finding and Decision does not necessarily lead to civil prosecution as the Commissioner has discretion (“may then initiate” *see id.*) in regard to a legal action. Instead, most of the Matters decided by a Commissioner are resolved by payment of a negotiated fine. In setting that fine the Commissioner will consider matters affecting mitigation, including the cooperation in correcting the issue when the matter was raised in the Complaint.

While it is expected that a fine amount can be negotiated and paid, in the event that a fine is not negotiated and the Matter resolved, the Commissioner retains statutory authority to bring a complaint in district court against any person who intentionally or negligently violates any requirement of campaign practice law, including those of Mont. Code Ann. § 13-37-226 *See id.*, at § 13-37-128. Full due process is provided to the alleged violator because the district court will consider the matter *de novo*.

DATED this 14th day of December, 2022.



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