



COMMISSIONER OF  
POLITICAL PRACTICES

STATE OF MONTANA

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June 2, 2022

Matthew Monforton  
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Re: *Monforton v. McMahon*, COPP-2022-ETH-NAF-005

Dear Mr. Monforton:

I write in response to the above-referenced complaint emailed to the Office of the Commissioner of Political Practices (COPP) on June 2, 2022. Although the written complaint is not yet filed with the COPP, the complaint as emailed is rejected for failing to state a potential violation of the Code of Ethics, Mont. Code Ann. § 2-2-136(1)(c).

The terms used in the Code of Ethics are specifically limited by the introductory language of “[a]s used in this part, the following definitions apply:”, Mont. Code Ann. § 2-2-102. It provides that a “public officer includes any state officer and any elected officer of a local government”, *id.* (9)(a). A “state officer includes all elected officers and directors of the executive branch of state government as defined in 2-15-102”, *id.* § (12)(emphasis added). A judicial officer is a member of the judicial branch of state government and therefore is excluded from the definition of a “public officer”. The Code of Ethics also specifically excludes the judicial branch from the definition of a “state agency”, *id.* (11)(b). The COPP must read the Code as a whole, and give meaning to all definitions, *Mont. Shooting Sports Assoc. v. State*, 2008 MT 190, ¶ 11.

Although Judge McMahon is a ‘public officer’ under the Montana Recall Act, Mont. Code Ann. § 2-16-603(1), the Code of Ethics provides for a narrower definition of public official that applies to ethical obligations and potential violations. Given the express and plain language of the Code of Ethics, the Commissioner rejects the emailed complaint.

The Commissioner, therefore, dismisses the Complaint for the failure to state a potential violation of the Code of Ethics, Mont. Code Ann. § 2-2-136(1)(c).

In general, members of the judicial branch are subject to their own code of ethics ([IN THE SUPREME COURT OF THE STATE OF MONTANA \(mt.gov\)](http://IN%20THE%20SUPREME%20COURT%20OF%20THE%20STATE%20OF%20MONTANA%20(mt.gov))), and complaints are handled by the Judicial Standards Commission ([Judicial Standards Commission \(mt.gov\)](http://Judicial%20Standards%20Commission%20(mt.gov))).

NOTICE: The Commissioner provides notice to the parties that the summary dismissal is a final agency order, and either party may seek judicial review of the Commissioner’s

determination pursuant to Montana Code Annotated, Title 2, Chapter 4, Part 7. Mont Code Ann. § 2-2-136(3). The parties are further informed that the Complaint and Dismissal are available for public inspection, Mont. Code Ann. § 2-2-136(4).

Ordered this 2<sup>nd</sup> day of June, 2022.



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cc. Judge Michael McMahon, [mcmahonformtsupremecourt@gmail.com](mailto:mcmahonformtsupremecourt@gmail.com)