

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Yellowstone County Democratic Central Committee v. Yellowstone County Republican Women No. COPP 2018-CFP-038	FINDING OF SUFFICIENT FACTS SUPPORT A CAMPAIGN FINANCE VIOLATION
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On August 24, 2018, the Yellowstone County Democratic Central Committee (YCDCC) filed a campaign practices complaint against the Yellowstone County Republican Women (YCRW). The complaint alleged that YCRW failed to file committee finance reports disclosing their contribution and expenditure activity for election year 2018 as required.

SUBSTANTIVE ISSUES ADDRESSED

The complete and timely filing of campaign finance reports.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: The Yellowstone County Democratic Central Committee (YCDCC) filed an amended C-2 Statement of Organization as a political party committee for election year 2018 on March 11, 2018. (Commissioner's Records.)

Finding of Fact No. 2: The Yellowstone County Republican Women (YCRW) filed an original C-2 Statement of Organization as a Political Party committee on May 1, 2015. An amended version was filed for election year 2016 on September 29, 2016. (Commissioner's Records.)

Finding of Fact No. 3: During election year 2016, registered Political Party committees contributing to state district candidates had C-6 committee financial reports due to COPP¹ on or before May 3 (beginning of committee activity through April 28), May 26 (April 29-May 21), June 27 (May 22-June 22), October 4 (June 23-September 29), October 27 (September 30-October 22), and November 28 (October 23-November 23) of 2016. (Commissioner's Records.)

Finding of Fact No. 4: YCRW did not file a committee financial report on or before May 3, 2016. (Commissioner's Records.)

Finding of Fact No. 5: YCRW did not file a committee financial report on or before May 26, 2016. Subsequent records indicate a reported expenditure on May 19, 2016, the earliest date of reportable activity. (Commissioner's Records.)

Finding of Fact No. 6: YCRW did not file a committee financial report on or before June 27, 2016. (Commissioner's Records.)

Finding of Fact No. 7: YCRW did not file a committee financial report on or before October 4, 2016. (Commissioner's Records.)

Finding of Fact No. 8: On October 22, 2016, YCRW filed a C-7E Committee Finance report² covering expenditures made by the committee between the dates of June 1, 2016 and October 22, 2016. Included within this report were nine direct financial contributions (described as "CAMPAIGN CONTRIBUTION") made by the committee to state district candidates for election in Montana (see Table 1). YCRW did not file any subsequent financial reports detailing contributions received during this time. (Commissioner's Records.)

Finding of Fact No. 9: YCRW did not file a committee financial report on or before November 28, 2016. (Commissioner's Records.)

Finding of Fact No. 10: On May 15, 2017, a COPP Compliance Specialist emailed YCRW Treasurer Pamala Anderson and Deputy Treasurer Kim Hauptman reminding them that, as of that date, COPP had not received any C-6 committee financial reports from YCRW for election year 2016, and that they needed to file a report

¹ The calendar for State District reports was used because all candidate contributions reported by YCRW were made to State District candidates. No evidence could be found that the committee made contributions to or Independent Expenditures in support of any 2016 Statewide candidates.

² The C-7E discloses only expenditure activity and cannot show contributions received by the filing committee.

detailing all 2016 committee activity as soon as possible. (Commissioner's Records.)

Finding of Fact No. 11: On January 29, 2018, YCRW filed a C-6 committee finance report dated January 1, 2016 through December 31, 2016. This report showed the committee as receiving \$6,560.97 in monetary contributions, in addition to 63 in-kind contributions of unidentified goods or services. The full mailing address was not provided for 20 committee or individual contributions of \$35.00 or more, and occupation and employer information was not provided for 50 individual contributors of \$35.00 or more. All candidate contribution information originally provided via C-7E on October 22, 2016 appeared on this report (see FOF No. 8 and Table 1). (Commissioner's Records.)

Finding of Fact No. 12: On August 28, 2018, YCRW filed an amended version of their 2016 report. This version of the report added as an expenditure one previously unreported campaign contribution made by the committee. (Commissioner's Records.)

Finding of Fact No. 13: On September 10, 2018, YCRW filed a second amended version of their 2016 report. This report did not appear to change any contribution or expenditure information and did not correct any of the previously described errors (see FOF No. 11). On September 13, 2018, a COPP inspection report was sent via email to Treasurer Brenda Dugas and Deputy Treasurer Pam Anderson³ requesting the committee provide the full mailing address, occupation, and employer information for each individual contributor of \$35.00 or more, and that the committee itemize and describe all in-kind goods or services received. (Commissioner's Records.)

Finding of Fact No. 14: YCRW filed an amended C-2 Statement of Organization for election year 2017 on August 30, 2017. Political party committees that did not become involved in the 2017 municipal elections (through either contribution or expenditure activity) had a 2017 year-end financial report due on or before January 31, 2018. (Commissioner's Records.)

Finding of Fact No. 15: YRWC did not file a 2017 committee financial report on or before January 31, 2018. (Commissioner's Records.)

³ Listings from most-recent version of their C-2 Statement of Organization, filed in CERS on September 11, 2018.

Finding of Fact No. 16: On February 20, 2018, YCRW filed a C-6 committee financial report dated January 1, 2017 through December 31, 2017. This report showed the committee as receiving zero contributions and making zero expenditures. (Commissioner's Records.)

Finding of Fact No. 17: On July 8, 2018, YCRW filed an amended version of their 2017 year-end report showing the committee received \$5,164.55 in monetary contributions, in addition to 15 in-kind contributions of unidentified goods or services. Occupation and employer information was not provided for 31 individual contributors of \$35.00 or more. This version of the report also showed the committee as making 24 separate expenditures, totaling \$1,462.95. Of these 24 expenditures, four did not provide all required detail (*see* Table 3). (Commissioner's Records.)

Finding of Fact No. 18: On July 30, 2018, a COPP Compliance Specialist sent YCRW an inspection report detailing the July 8, 2018 version of their 2017 year-end report. (Commissioner's Records.)

Finding of Fact No. 19: On September 10, 2018, YCRW filed a second amended version of their 2017 year-end report. This report did not appear to change any contribution or expenditure information and did not correct any of the previously described errors (*see* FOF No. 17). On September 13, a COPP inspection report was emailed to Treasurer Dugas and Deputy Treasurer Anderson requesting the committee provide occupation and employer information for all contributors of \$35.00 or more, that the committee itemize and describe all in-kind goods or services received, and that YCRW provide quantity and description detail for all reported expenditures. (Commissioner's Records.)

Finding of Fact No. 20: A September 18, 2018 review of the C-5 campaign financial reports filed by 2017 municipal candidates in Billings, MT revealed five financial contributions reported by candidates as being received from YCRW, with the earliest contribution being October 10, 2017 (*see* Table 2). None of these five contributions was reported on any of YCRW's 2017 year-end finance report(s). Committees that participated in the 2017 municipal elections by making a reportable expenditure had financial reports due on or before October 26 (September 29-

October 21) and November 27 (October 22-November 22) of 2017.⁴ (Commissioner's Records.)

Finding of Fact No. 21: YCRW filed an amended C-2 Statement of Organization for election year 2018 on January 29, 2018. During election year 2018, registered political party committees contributing to state district candidates had C-6 committee financial reports due⁵ on or before May 7 (beginning of year activity through May 1), May 29 (May 2-May 24), and June 25 (May 25-June 20) of 2018. (Commissioner's Records.)

Finding of Fact No. 22: YCRW did not file a committee financial report on or before May 7, 2018. (Commissioner's Records.)

Finding of Fact No. 23: YCRW did not file a committee financial report on or before May 29, 2018. (Commissioner's Records.)

Finding of Fact No. 24: YCRW did not file a committee financial report on or before June 25, 2018. (Commissioner's Records.)

Finding of Fact No. 25: On September 10, 2018, YCRW filed a C-6 committee financial report dated January 1, 2018 through September 10, 2018 showing the committee received \$6,201.02 in monetary contributions during this time, including from three mass-collection fundraiser events that did not contain all required reporting detail. The full mailing address was not provided for three individual contributions of \$35.00 or more, and occupation and employer was not provided for 42 individual contributors of \$35.00 or more. The report also showed the committee as making 45 expenditures, totaling \$10,563.13, of which 13 did not include the required level of reporting detail (see Table 5). Included within the reported expenditures were 19 direct financial contributions made by the committee, totaling \$3,800.00, to County and State District candidates for election in Montana (see Tables 3, 5). (Commissioner's Records.)

Finding of Fact No. 26: On September 14, 2018, a COPP Inspection Report was emailed to Treasurer Dugas and Deputy Treasurer Anderson requesting the committee use the individual contributors tab rather than the fundraisers tab to report all contributions of \$35.00 or more, provide the address, occupation, and employer

⁴ Because the first contribution was not until October 10, YCRW would have only been required to file the October 26 and November 27 reports.

⁵ The calendar for State District reports was used because candidate contributions reported were made to State District candidates. No evidence could be found that the committee made contributions to or Independent Expenditures in support of any 2018 Statewide candidates.

information for all contributors of \$35.00 or more, provide all required information to describe committee fundraiser or mass-collection events, and provide quantity and description detail for all reported expenditures. (Commissioner's Records.)

DISCUSSION

The complaint alleges YCRW failed to file campaign finance reports. The Commissioner examines the both the failure to file timely reports due from a political committee and the information provided in the campaign finance reports that ultimately were filed for election years 2016, 2017, and 2018.

1. Failure to file timely campaign finance reports – 2016

Political committees “that receive contributions or make expenditures to support or oppose a particular state district candidate or issue” are required to file reports of all contributions and expenditures under a specific schedule set by statute. Mont. Code Ann. §§ 13-37-225, 226(2). To assist candidates and committees in following the law, every election cycle COPP also calculates and publishes the reporting calendars applicable to each type of race set out in § 13-37-226.⁶

The Commissioner's records establish that YCRW failed to file required campaign finance reports on May 26, June 27, and October 4, 2016 (FOF Nos. 5-7). On October 22, 2016, YCRW submitted a C-7E expenditure report containing nine direct contributions from the committee to 2016 state district candidates (see Table 1), all dated July 12, 2016.

⁶ See <http://politicalpractices.mt.gov/calendars>.

Table 1: Campaign Contributions to State District candidates in Montana as reported by YCRW on a C-7E financial report for the dates of June 1, 2016 through October 22, 2016, filed on October 22, 2016.

Entity	Date	Purpose	Amount	Type of Candidate
Crowe, Kerri	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Hunter, Benjamin	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Huston, Donna	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Patelis, Jimmy	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Roberts, Don	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Rosendale, Adam	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Saunders, Robert	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Usher, Barry	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District
Webb, Peggy	07/12/2016	CAMPAIGN CONTRIBUTION	\$500.00	State District

YCRW did not file another campaign finance report disclosing 2016 election activity until January 29, 2018 (FOF No. 11).

As noted above, COPP calculates and publishes a calendar with the required reporting deadlines each cycle. In 2016 committees contributing to State District candidates had C-6 financial reports due on or before October 4, October 27, and November 28 of 2016 (FOF No. 3). As all reported 2016 expenditures by YCRW were campaign contributions to State District candidates, they would have been required to file on those dates.

Sufficiency Finding No. 1: YCRW failed to properly and timely file five 2016 campaign finance reports. A 2016 campaign finance report covering all YCRW contributions and expenditures was not filed until January 29, 2018, 14 months *after* the 2016 election.

YCRW failed to file financial reports on or before October 4 and November 28, 2016. Additionally, YCRW failed to properly report on or before October 27

because they filed C-7E (on October 22) instead of a C-6. C-7E forms only report committee expenditures in the direct run-up to election day and cannot disclose any contributions received by a committee. While YCRW finally did file a C-6 committee financial report disclosing all committee contribution and expenditure activity for the entirety of 2016 on January 29, 2018, this report was filed over a year after the end of the election cycle being detailed in the report. The Commissioner finds YCRW failed to file, timely file, and properly file five 2016 campaign finance reports, a Montana campaign finance violation.

2. Failure to file timely campaign finance reports – 2017

In 2017, Mont. Code Ann. §13-37-226(4)(e) allowed the Commissioner to set a due date for year-end reports for committees, and, on off-election years (*e.g.*, years where there are no Statewide/State District elections taking place), that date is usually set for January 31 of the following year. For election year 2017, for example, committees that did not become directly involved in school or municipal elections had year-end C-6 finance reports due on or before January 31, 2018, with the reporting date recorded on the COPP website.

YCRW did not file its 2017 year-end report on or before January 31, 2018 (FOF No. 15). YCRW did, however, file a 2017 campaign finance report on February 20, 2018 (FOF No. 16), 20 days late; this late report did not include any activity by the committee. Then, on July 8, 2018, YCRW filed an amended version its 2017 year-end report disclosing contribution and expenditure activity during the 2017 election year (FOF No. 17). The

Commissioner considers July 8, 2018 as the date YCRW filed a 2017 year-end report, approximately four months late.

Because YCRW made direct financial contributions to 2017 candidates seeking municipal elected office in Billings (see Table 2), the committee was subject to the reporting deadlines laid out by subsection (4)(a), Mont. Code Ann. § 13-37-226, with reports due “on the 90th, 35th, and 12th days preceding the date of an election[.]” Election day was November 7, 2017⁷ and the first contribution made was reported as happening on October 10, therefore, YCRW was required to file financial reports detailing their municipal candidate contributions on October 26 and November 27, 2017. The YCRW did not file reports on either of these dates (FOF No. 20).

Table 2: Contributions received from YCRW as reported by 2017 municipal candidates in Billings (Yellowstone Co.) on C-5 financial reports, but not included on any 2017 year-end financial report filed by YCRW.

Candidate Name	Office Sought	Date of Contribution	Amount of Contribution
Essmann, Jeff	Mayor	10/10/2017	\$500.00
Gravgaard, Roger	City Council, Ward 2	10/13/2017	\$200.00
Brown, Darin	City Council, Ward 5	10/12/2017	\$200.00
Blackard, George	City Council, Ward 4	*	\$200.00
Brown, Nadja	City Council, Ward 3	*	\$200.00

*Entered under the individual contributors tab, so no date was given

Sufficiency Finding No. 2: YCRW failed to properly and timely file 2017 campaign finance reports. A 2017 campaign finance report covering all YCRW contributions and expenditures was not filed until July 8, 2018, approximately 8 months *after* the 2017 election.

YCRW failed to file at all required campaign financial reports on two occasions during the 2017 election cycle and failed to properly report contributions and expenditures when it did file a campaign finance report on February 20, 2018.

⁷ Yellowstone County election website <http://www.co.yellowstone.mt.gov/elections/>

The Commissioner finds YCRW failed to file, timely file, and properly file three 2017 campaign finance reports, a Montana campaign finance violation.

3. *Failure to file timely campaign finance reports – 2018*

In 2018, committees contributing to State District candidates for election in Montana had C-6 financial reports due on or before May 7, May 29, and June 25 of 2018 (FOF No. 21). Mont. Code Ann. § 13-37-226(2). As YCRW began making contributions to state district candidates for election in March of 2018 (see Table 3), it was required to file on each of the above dates, but it failed to file C-6 financial reports on any of them (FOF Nos. 22-24). YCRW did file a C-6 financial report disclosing all contribution and expenditure activity for election year 2018 through September 10, on September 10, 2018 (FOF No. 25).

Table 3: Campaign contributions to State District and County candidates as reported by YCRW on its C-6 committee finance report for the dates of January 1, 2018 through September 10, 2018, filed on September 10, 2018.

Entity	Date	Purpose	Amount	Type of Candidate
Eggart, Quentin	03/29/2018	Campaign Contribution HD50	\$200.00	State District
Fleming, Frank	03/29/2018	Campaign Contribution HD51	\$200.00	State District
Garcia, Rodney	06/15/2018	Campaign Contribution HD 52	\$200.00	State District
Johnson, Denise	03/29/2018	Campaign Contribution HD48	\$200.00	State District
Jones, Donald	06/15/2018	Campaign Contribution County Commissioner	\$200.00	County
Kary, Doug	03/29/2018	Campaign Contribution HD 22	\$200.00	State District
Lenz, Dennis	03/29/2018	Campaign Contribution HD53	\$200.00	State District
McGilvray, Tom	03/29/2018	Campaign Contribution HD24	\$200.00	State District
Mercer, Bill	06/15/2018	Campaign Contribution HD46	\$200.00	State District
Moore, Terry	03/29/2018	Campaign Contribution HD54	\$200.00	State District

Mortensen, Dale	03/29/2018	Campaign Contribution HD44	\$200.00	State District
Nygaard, Colin*	08/28/2018	HD49	\$200.00	State District
Ricci, Vince	03/29/2018	Campaign Contribution HD55	\$200.00	State District
Smith, Cary	03/29/2018	Campaign Contribution HD27	\$200.00	State District
Usher, Barry	03/29/2018	Campaign Contribution HD40	\$200.00	State District
Vinton, Sue	03/29/2018	Campaign Contribution HD56	\$200.00	State District
Webb, Peggy	03/29/2018	Campaign contribution HD43	\$200.00	State District
Zaugg, Colton	03/29/2018	Campaign Contribution HD47	\$200.00	State District
Zolnikov, Daniel	03/29/2018	Campaign Contribution HD45	\$200.00	State District

*Due to the date the contribution was made, this activity would not be required to be included on a filed financial report until October 6, 2018.

Sufficiency Finding No. 3: YCRW failed to properly and timely file 2018 campaign finance reports on three occasions.

The Commissioner finds the YCRW failed to file, timely file, and properly file three required 2018 campaign finance reports, Montana campaign finance violations.

4. *Failure to provide required information on campaign finance reports – 2016, 2017, and 2018*

While YCRW did report contribution and expenditure activity for election year 2016 on January 29, 2018, this report did not contain all information as required. YCRW's subsequent filing of amended versions of its 2016 campaign finance reports on August 28 and September 10, 2018 contained the same reporting errors. Specifically, YCRW did not fully conform to the requirements of Mont. Code Ann. § 13-37-229(1) and 44.11.403(1), ARM (FOF No. 11) by:

1. Failing to itemize or describe in-kind goods or services received as contributions on 63 occasions;
2. Failing to provide the full mailing address for the individual or committee who contributed \$35.00 or more on 20 occasions; and

3. Failing to provide the occupation and employer information for individual contributors of \$35.00 or more on 50 occasions

YRCW's 2017 year-end report, filed on July 8, 2018, also did not fully conform to the requirements of Mont. Code Ann. § 13-37-229(1) and 44.11.403(1), ARM (FOF No. 17) by:

1. Improperly reporting individual contributions of \$35.00 or more received at fundraiser events in the fundraisers tab;
2. Failing to itemize or describe in-kind goods or services received as contributions on 15 occasions; and
3. Failure to provide the occupation and employer information for individual contributors of \$35.00 or more on 31 occasions

Within YCRW's 2018 campaign finance report, filed on September 10, 2018, the committee did not fully conform to the requirements of Mont. Code Ann. § 13-37-229(1) and 44.11.403(1), ARM (FOF No. 25) by:

1. Failing to sufficiently describe three mass collection fundraiser events;
2. Failing to provide address information on three individual contributions; and
3. Failure to provide the occupation and employer information for individual contributors of \$35.00 or more on 42 occasions

Sufficiency Finding No. 4: There are sufficient facts to show that YCRW's 2016, 2017, and 2018 campaign finance reports failed properly report contribution activity on at least 227 occasions.

The Commissioner finds YCRW failed to properly report individual, in-kind, and fundraiser committee contributions in its 2016, 2017, and 2018 campaign finance reports, Montana campaign finance violations.

Further, YCRW did not provide the detail required when reporting expenses on several occasions on its 2017 and 2018 campaign finance reports (FOF Nos. 17, 25) (*see* Tables 4 and 5).

Table 3: Expenditures as reported by YCRW on its July 8, 2017 election year 2017 year-end C-6 committee finance report that did not contain all required reporting detail.

Entity	Date	Purpose	Amount
Anderson, Pam K	07/08/2017	Supplies for event for YCRCC	\$131.23
Anderson, Pam K	02/23/2017	Fun Raiser- Social	\$94.85
Ask, Pamela	06/23/2017	LRDD- Cake Raffle- 116 @ \$30 and 100 @ \$20	\$245.00
Purinton, Pam	07/16/2017	LRDD supplies/items	\$191.42

Table 5: Expenditures as reported by YCRW on its September 10, 2018 election year 2018 C-6 committee finance report that did not contain all required reporting detail.

Entity	Date	Purpose	Amount
Anderson, Pamala K	08/09/2018	reimbursement for Luncheon supplies	\$393.32
Dugas, Brenda	08/17/2018	Reimburse for supplies	\$193.26
Haider, karyn	07/11/2018	summer luncheon meal	\$816.00
HAUPTMAN, KIM K	02/10/2018	SUPPLIES	\$300.79
Lamar Outdoor Advertising	05/03/2018	Billboard	\$1,333.33
Lamar Outdoor Advertising	05/14/2018	Billboard	\$333.33
Purinton, Pam	03/12/2018	Supplies	\$172.14
Purinton, Pam	07/19/2018	Reimburse for supplies Summer Luncheon	\$47.95
Rituals Spa	04/11/2018	Purchase for raffle	\$100.00
Schepple, Barbara	03/12/2018	Supplies	\$105.49
The Elks	04/11/2018	Meals	\$110.00
The Elks	05/10/2018	guest meals	\$65.00
Trenka, Judy	05/31/2018	Supplies for Women's Expo booth	\$90.00

The expenses described in Tables 4 and 5 require additional detail. Mont. Code Ann. § 13-37-229; 44.11.402, .403, ARM. Such generic expenditure descriptions are more akin to a list or category than a description and do not provide the “purpose, quantity, subject matter” of the expense which are the details required to be reported by 44.11.502(7), ARM. Nor does the listing meet Montana’s statutory requirement of detail required for expenditures to consultants, or other persons who perform services for or on behalf of a candidate; the law requires that such expenditures “must be itemized and described in sufficient detail to disclose the specific services

performed by the entity to which payment or reimbursement was made.” Mont. Code Ann. § 13-37-229(2)(b).

Sufficiency Finding No. 5: There are sufficient facts to show that the YCRW’s 2017 and 2018 campaign finance reports failed to disclose sufficient detail describing committee expenditures

The Commissioner finds the YCRW failed to properly report committee expenditures in its 2017 and 2018 campaign finance reports, Montana campaign finance violations.

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 YCRW 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 YCRW. 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, 229. *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 26th day of September 2018.



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