

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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April 10, 2015

Danette Warren
Lewis & Clark County Republican Women PAC
8473 Green Meadow Drive
Helena, MT 59602
dannie1234@msn.com

COPP-2015-AO-004

Re: Political Party Committee Membership Luncheon

Dear Ms. Warren;

I write in response to a joint request for an advisory opinion received by the Commissioner on January 7, 2015. Ms. Danette Warren is the appointed Treasurer of the LCCRW, and regularly files LCCRW's campaign finance reports with the COPP. Ms. Karen Musgrave is a Program Assistant with the COPP who is tasked with inspecting some of the campaign finance reports and disclosures that are filed with the COPP, including the LCCRW's campaign finance reports. A concern arose regarding the interpretation and application of statute and regulations regarding monthly luncheons that are held by the LCCRW.

QUESTION PRESENTED

Once an individual attends 3 monthly non-fundraising luncheons held by a political committee, is the political committee required to report the \$39.00 received from an individual as a contribution to the political committee itself?¹

ADVISORY OPINION

The Commissioner is limited to issuing advisory opinions that address an ethics, lobbying or campaign practice issue within its jurisdiction, Mont. Admin. R. 44.10.201. The COPP used the LCCRW's 2013 and 2014 campaign finance reports and disclosures publically on file with the COPP to establish the basis of facts and examples used in this opinion. Also, the COPP accessed

¹ Once a person makes contributions to a committee or candidate which exceed the \$35 aggregate threshold, the candidate or committee must report and disclose the contribution(s) in greater detail, as required by Mont. Code Ann. § 13-37-229(2) and Mont. Admin. R. 44.10.521 and 523.

the Lewis and Clark County Republicans website for a list of regularly scheduled events². The consideration of the question in this matter is limited to the information which could be ascertained from those reports and the website. With that qualification in mind, the Commissioner issues the following Advisory Opinion:

SHORT ANSWER

NO. The \$13 monthly cost of attending the non-fundraising luncheon is not a contribution to the political committee itself, rather it is the amount an individual pays to reimburse the cost of their meal. It is therefore not a contribution and does not count as a part of the \$35 disclosure threshold.

DISCUSSION

The Lewis and Clark County Republican Women (LCCRW) committee is organized as a Political Party Committee by virtue of registration as a committee with the Office of the Commissioner of Political Practices (COPP). It is an unincorporated membership organization, which is organized to “promote Republican ideals”, Statement of Organization, Form C-2, dated December 16, 2013.

First, there is no Constitutional issue on the reporting and disclosure of contributions and expenditures. “This Court has explained that disclosure is a less restrictive alternative to more comprehensive regulations...” *Citizens United v. Federal Election Commission*, 588 U.S. 310, 369; 130 S. Ct. 876, 915, 175 L. Ed. 2d 753, 801. Here, the LCCRW has embraced its reporting and disclosure responsibilities, and is registered and regularly reports its contributions and expenditures to the people of Montana through the COPP.

Fundraising Event

Montana statute defines a contribution as “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election”, Mont. Code Ann. § 13-1-101(7)(a). A political committee is required to report and disclose “the full name, mailing address, occupation and employer, if any, of each person who has made aggregate contributions...of \$35 or more to ... political committee, including the purchase of tickets and other items for events, such as dinners, luncheons, rallies, and similar **fundraising** events”, Mont. Code Ann. § 13-37-229(2). The corresponding regulation further explains a contribution as “the purchase of tickets or admissions to...**fund raising** events, including, but not limited to dinners, luncheons, cocktail parties, and rallies held to support or oppose a candidate, issue or political committee”, Mont. Admin. R. 44.10.321(1)(b).

The distinction is in the nature of the event that is being held. Statewide political parties such as the Montana Republican State Central Committee holds an annual Lincoln Regan fundraising dinner, with tickets priced at \$50 to raise funds for the party. Similarly, the Montana Democratic State Central Committee holds an annual Mansfield Metcalf fundraising

² <http://lewisandclarkcountyrepublicans.com/index.php?pr=Events> (last accessed 4/9/2015).

dinner, with tickets priced at \$50 to raise funds for the party. Both political parties are obligated to accurately report the entire price of the ticket to their fundraising event as a contribution to the party, Mont. Code Ann. § 13-37-229(2). Local political party committees also hold events, which include dinners, to raise funds for their local organization.

If at some point in time the LCCRW decided to hold a fundraiser for the committee as a part of the membership meeting, the entire cost of the ticket or dinner would be reportable as a contribution to the committee, *see Baker, et al. v. Anderson*, COPP-2014-CFP-017 (tickets priced at \$30). If the LCCRW decided to hold a membership meeting as a fundraiser for a particular candidate or issue, then costs of the event paid by the committee would be limited to the contribution amount allowed by the party to the particular candidate, *see Clark v. Datsopoulos, MacDonald & Lind P.C.*, COPP-2014-CFP-033A. Any excess cost would be paid by, and any contribution to the candidate would then be reported and disclosed by the candidate.

The event that the LCCRW holds is an ongoing monthly event that is not a fundraising event, rather it is a membership luncheon. Tickets can be purchased to attend the luncheon from LCCRW in the amount of \$13.00, the LCCRW then makes a payment to the restaurant equaling roughly \$13 per attendee (COPP Campaign Finance Reports 2013 and 2014). The luncheons being held by the LCCRW provide the members an opportunity to gather, connect, and discuss topics that the members share an interest in which fosters a spirit of fellowship.

In this specific instance, the membership luncheon held by LCCRW is distinguishable from a fundraising event held to raise contributions for the committee. The LCCRW committee receives the cost of each meal from the member, and then LCCRW pays the restaurant for the meal. This is merely a pass-through the committee's bank account of the costs of the member's lunch³. The scenario is no different from monthly luncheons of other political committees who meet to discuss topics of interest, where the individual in attendance picks up their own tab. As such, it is not a contribution of funds to the committee, and not reportable to the COPP as a contribution to LCCRW.

Aggregate Contributions

Contributions in Montana are also aggregated by the individual donor, Mont. Code Ann. § 13-37-229(2) and Mont. Admin. R. 44.10.521 and 523. When individual aggregate contribution(s) to a committee candidate reaches \$35, the candidate or committee must report and disclose all of the individual's contributions. When a fundraising event is held by a candidate or committee every ticket sold is reportable as a contribution to the committee or candidate. Every contribution a committee or candidate who "passes the hat" at an event is attributed to the person's contribution limit and the candidate or committee's aggregate reporting obligation, *Matter of Ron Tussing*, Commissioner Unsworth, dated Feb 28, 2007. The

³ Because LCCRW deposits the member's lunch cost in their committee account, they are required to report and disclose the money's pass-through in their campaign finance reports to the COPP.

source of the contribution, no matter how small, must be known on each and every contribution to a candidate or committee in order for them to be able to fully comply with Montana's Campaign Finance and Practice laws, *see Citizens United, id.*

As a political committee group, the LCCRW have various fundraising techniques, such as book, pin and jewelry sales, raffles, and scholarship income (COPP Campaign Finance Reports). The LCCRW is responsible for keeping track of each individual who purchases a book, piece of jewelry, or raffle ticket, and must disclose the contributors' information on the committee's campaign finance reports once the contributor exceeds \$35 in aggregate contributions to the committee. The amount of the contribution is not offset by the cost of the item purchased because it is being sold to raise funds to support the political committee, Mont. Code Ann. § 13-37-229(2) and Mont. Admin. R. 44.10.521 and 523.

LIMITATIONS ON ADVISORY OPINION

This letter is an advisory opinion based on the specific written facts and questions as presented above. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules. This advisory opinion is not a waiver of any power or authority the Commissioner of Political Practices has to investigate and prosecute alleged violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the matters discussed above.

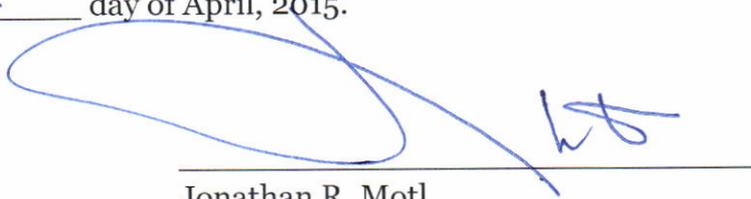
Sincerely,



Jaime MacNaughton
Attorney for the
Commissioner of Political Practices

I agree with this Advisory Opinion and afford it the full weight of the Commissioner's authority.

DATED 10th day of April, 2015.



Jonathan R. Motl
Commissioner of Political Practices