

**BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES**

In the Matter of the)
Complaint Against)
Chase Hibbard) **SUMMARY OF FACTS
 AND
 STATEMENT OF FINDINGS**

Paul Shively filed a complaint against Chase Hibbard alleging that Hibbard violated Montana Code Annotated § 13-35-227 by accepting an in-kind contribution from a corporation.

SUMMARY OF FACTS

1. Chase Hibbard was a candidate for Senate District 27 in the November, 2000 general election.

2. Hibbard is the President of Sieben Live Stock Company, a Montana corporation. Sieben Live Stock Company is a farming and ranching operation with an office located in Helena, Montana. The corporation's listed telephone number is (406) 442-1803.

3. Hibbard's campaign literature stated: "Contact Chase at (406) 442-1803 with concerns and ideas or write to Chase at P.O. Box 835, Helena, MT 59624."

4. Bonnie Ketchum is Hibbard's secretary and an employee of Sieben Live Stock Company. Her duties include answering the telephone at Sieben Live Stock Company.

5. Paul Shively is Chairman of the Lewis and Clark County Democratic Central Committee. Shively's complaint alleges that by listing a campaign contact telephone number which is also the corporate telephone number of Sieben Live Stock Company, Hibbard accepted an in-kind corporate contribution in violation of Montana Code Annotated § 13-35-227.

6. After he was notified of the complaint filed against him, Hibbard sent a written response to the Commissioner of Political Practices. Hibbard's response does not contest the allegations in the complaint. He explained that he listed the Sieben Live Stock Company telephone number on his campaign literature because he spends considerable time out of town on ranch business, and Ketchum usually knew where he was and how to reach him if necessary. Hibbard stated it did not occur to him to list any other telephone number as a contact number.

7. Hibbard has estimated the proportion of the use of the corporate telephone for campaign-related matters over the approximate nine-month period prior to the filing of the complaint. On September 22, 2000, he sent a check for \$124.20 from the Chase Hibbard Campaign Account to the Sieben Live Stock Company to reimburse the corporation for the use of the telephone for campaign purposes during the nine-month period.

8. Hibbard's response to the complaint notes that Ketchum used her vacation time when working on campaign-related activities while employed at the Sieben Live Stock Company. Ketchum has worked for the corporation for nearly 18 years. She confirmed that she always takes vacation time to engage in any campaign-related work for Hibbard while at the corporation's office.

9. After reviewing the complaint Hibbard obtained a cell phone for use on campaign-related activities. His candidate campaign finance report (C-5) for the period June 22, 2000 to October 21, 2000, disclosed a September 22, 2000 payment of \$124.20 from the campaign to the Sieben Live Stock Company for reimbursement for nine months of telephone use. The C-5 for that period also reflects a payment of \$79.99 for a cell phone. Hibbard's C-5 for the period October 22, 2000 to November 21, 2000 discloses a payment of \$41.31 for a cell phone.

STATEMENT OF FINDINGS

Montana Code Annotated § 13-35-227 prohibits a corporation from making a direct contribution in connection with a candidate. The statute also prohibits a candidate from accepting or receiving a corporate contribution. A contribution is “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election.” Montana Code Annotated § 13-1-101(6)(a)(i). An “in-kind contribution” is defined as:

the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate, . . .

Administrative Rules of Montana § 44.10.321(2).

As a candidate, Hibbard was subject to the prohibitions in the statute. He was made aware, through the filing of the complaint against him, that his use of a corporation’s telephone for campaign-related activities could be construed as the receipt of an illegal in-kind corporate contribution. He therefore estimated the value of the telephone usage during the first nine months of his candidacy and reimbursed the corporation for that amount from his campaign account. Hibbard also obtained a cell phone for campaign-related calls during the remainder of his campaign, and paid for the cell phone from his campaign account. Since Hibbard reimbursed the corporation and stopped using the corporate telephone for campaign purposes, he has not received anything of value from the corporation in connection with his candidacy. He has therefore not accepted or received an illegal corporate contribution.

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CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is insufficient evidence to justify a civil prosecution based on allegations that Chase Hibbard violated Montana campaign finance and practices laws.

Dated this _____ day of March, 2001.

Linda L. Vaughey
Commissioner