

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Bishop v. Miller No. COPP 2012-CFP-056	Summary of Facts and Finding of Sufficient Evidence to Show a Violation of Montana's Campaign Practices Act
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On April 19, 2012, Kelly Bishop filed a complaint with the Commissioner of Political Practices (COPP) alleging that a 2012 Candidate for Governor, Kendall (Ken) Miller, had failed to properly maintain campaign records or properly report his campaign contributions or expenditures.¹ Ms. Bishop's complaint has been addressed by initial (June 1, 2012) and amended (June 20, 2012) Decisions issued by Commissioner Murry. On March 13, 2014 this Commissioner issued a Notice of Reopening of the Complaint with intent to reissue a new Decision. This is that new Decision, replacing those earlier Decisions of June 1 and June 20, 2012.

¹ Ms. Bishop had unique knowledge of Candidate Miller's campaign activity as she was a former Candidate Miller campaign "insider", having served as chief fundraiser for the 2012 Miller for Governor campaign.

INTRODUCTION

Campaign finance rules are simple in concept. A candidate is supposed to designate a single repository (campaign bank account) in which all campaign contributions are to be deposited and from which all campaign expenses are to be paid. A single person (the campaign treasurer) is appointed to handle the campaign transactions which are then disclosed to the public through reports filed with the COPP.

The transparency sought in this approach can be frustrated, sometimes intentionally, when 3rd party entities engage in unreported and undisclosed candidate campaign activity.² The transparency can also be frustrated when a candidate engages in campaign transactions (expenditures or contributions) that avoid the designated repository or the control of a treasurer.³ This Matter falls into the latter type of conduct – candidate campaign practice activity that falls outside of normal procedure and discipline leading to mishandling of campaign finance reports and frustration of transparency, the purpose of the campaign finance rules.

I. Campaign Treasurer

Ms. Bishop's complaint raised fundamental questions about how the Miller for Governor campaign was handling and reporting campaign contributions and expenditures. The Commissioner will first examine the "handling" portion

² *Bonogofsky v. Kennedy*, COPP 2010-CFP-015; *Washburn v. Murray*, COPP 2010-CFP-019; *Ward v. Miller*, COPP 2010-CFP-021; *Clark v. Bannan*, COPP 2010-CFP-023; *Bonogofsky v. Boniek*, COPP-2010-CFP-027; *Bonogofsky v. Wittich*, COPP-2010-CFP-031; *Madin v. Sales*, COPP-2010-CFP-029; *Bonogofsky v. Prouse*, COPP-2010-CFP-033, and *Bonogofsky v. Wagman*, COPP-2010-CFP-035.

³ *Connell v. Boulanger*, COPP-2014-CFP-036.

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of this allegation.

Campaign contributions and expenditures are to be “handled” by one person, the campaign treasurer. Each candidate for public office in Montana, including Candidate Miller, is required to “appoint one campaign treasurer” (§13-37-201, MCA).⁴ In turn, “[n]o contribution received or expenditure made by a candidate or political committee shall be deposited or expended except by the appointed campaign treasurer or duly authorized deputy treasurer through the designated ... repository.” 44.10.501 ARM.

Finding of Fact No. 1: In 2012 Ken Miller was a candidate for Republican Party nomination for election as Governor of the State of Montana. Ken Miller did not win the 2012 Republican primary election, losing to Candidate Rick Hill. (Secretary of State (SOS) Website)

Finding of Fact No. 2: Ken Miller filed the required candidate declaration forms with the Montana Secretary of State’s office. (SOS Website).

Finding of Fact No. 3: On July 30, 2010 Ken Miller filed the required statement of candidacy form (Form C-1) with the COPP. The C-1 form listed Patsy Guenthner as Treasurer and Vickie Miller as deputy treasurer.⁵ The C-1 form was signed by Ken Miller. (COPP records).

Finding of Fact No. 4: The campaign repository for candidate Miller’s campaign account was listed on the C-1 form as Altana Federal Credit Union in Laurel, Montana (COPP records).

The Bishop complaint was filed on April 19, 2012 by a Miller campaign insider

⁴ Campaigns are allowed to, and often do, appoint a deputy treasurer who actually handles the accounting of a campaign. Candidate Miller did appoint a deputy treasurer, Vickie Miller, but she also was bypassed by the Candidate.

⁵ Vickie Miller is not Peggy Miller, the wife of Candidate Miller.