

THE STATE OF MONTANA

Commissioner of Political Practices
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COMMISSIONER OF
POLITICAL PRACTICES

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Campaign Finance and Practices

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Brian Louis Kenat

Complete Mailing Address 345 Miles Avenue Billings MT 59101

Phone Numbers: Work 406-697-1503 Home 406-256-7182

Person or organization against whom complaint is brought (Respondent):

Complete Name Kendall Van Dyk (kendallvandyk@gmail.com)

Complete Mailing Address P. O. Box 441 AND 910 North 31st Street

Billings Montana 59103 Billings Montana 59103

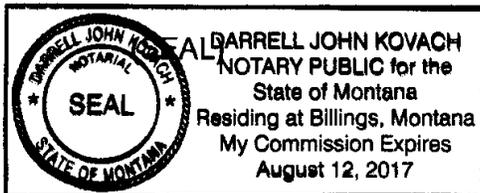
Phone Numbers: Work 406-690-1728 Home _____

Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

State of Montana, County of Yellowstone

I, Brian Louis Kenat, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.



Brian Kenat
Signature of Complainant

Subscribed and sworn to before me this 22nd day of January, 2014.

Darrell John Kovach
Notary Public

My Commission Expires: 08/12/2017

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

I have watched Montana politics closely most of my life, but was shocked at some of the findings issued by the Commissioner in recent months. When I started looking into other candidates, I was equally shocked that the Commissioner has not addressed their violations as he claims that we are a nation of laws, and Montanans have long expressed their majoritarian view for open and fair elections with maximum reporting and disclosure of money spent...

Kendall Van Dyk is a perfect example of a politician who skirts the law and the Commissioner must take action on this complaint immediately. Van Dyk has filed for re-election and will probably do the same thing in the 2014 campaign as he did in 2010 - take excess and illegal contributions.

It certainly looks like Commissioner Motl has an agenda and has focused his attention on certain candidates from 2010 - none of them from his own party. If the Commissioner is serious about making everyone comply with the law he will make this complaint a priority! This complaint needs immediate attention and a finding that Van Dyk violated the law. He should be held off the ballot in 2014 for his flagrant violations! Evidence of these violations are already in the possession of Commissioner Motl in Van Dyk's 2010 candidate file.

Attached are the details of his violations.

Complaints must be:

- signed
- notarized
- delivered in person or by certified mail.

First Complaint:

Van Dyk's finance reports show he received several **excess** contributions in violation of Montana campaign law 13-37-216:

Gregar Lind, Missoula, \$390;
Hollis Edwards, Billings, \$470
James Edmiston, Billings, \$430 (**3 months** after he
received the money, Van Dyk refunded the excess)
James Manley, Polson, \$480
John Edwards, Billings, \$470
Kelly Edwards, Billings, \$480
Russell Shay, Washington, DC, \$440

He also received excess contribution from heavy hitting Democratic player Conrad Williams of Louisiana, but returned that money the next day. Why did Van Dyk wait 3 months to return the money to Edmiston? Why didn't Van Dyk refund any of the other excess money? Why hasn't the Commissioner demanded that Van Dyk return the excess money?

Second Complaint:

Van Dyk did not accurately report the employer of contributor Bryce Bennett in violation of Montana campaign law 13-37-229(2). Van Dyk reported Bennett's occupation and employer as "Director of Winning Forward Montana." Bennett has been the Program Director of Forward Montana since 2009. Winning Forward Montana does not exist. Why would Van Dyk report an employer that doesn't exist? Is he trying to mislead the public about where his money came from?

Third Complaint:

Beyond the excess contributions in the first complaint, Van Dyk accepted excess contributions for **several months before he had a contested race**. Van Dyk started his campaign for SD 25 on June 8, 2009, and was the only Democratic candidate until March 15, 2010, when Linda Wetzel filed as a Democratic. The administrative rule 44.10.334 limits a candidate to contributions for one campaign **unless it is a contested primary**. Van Dyk did not have an opponent for the primary election until March 15, 2010, so could not legally receive contributions for the primary and the general election before that date so he was limited to a maximum contribution of \$160. Van Dyk accepted excess contributions before he had a contested primary. According to Van Dyk's May 2009 to May 23, 2010, C-5 (attached):

Glacier PAC - \$320 on 11/2/09
Aaron Browning - \$196.64 aggregate before 9/30/09
Alexander Blewett III - \$320 on 11/23/09
Amelia Jenkins - \$320 on 11/4/09

Conrad Williams \$320 aggregate by 11/4/09
Curtis Rich \$320 on 11/4/09
David Anderson \$200 on 11/4/09
David Lehnher \$160 on 9/13/09
Jeanne Williams \$320 on 11/4/09
Kai Anderson \$320 on 11/4/09
Lora Schultz \$320 aggregate by 1/8/10
Michael Gibson \$200 aggregate by 2/4/10
Patrick Murphy \$250 on 11/4/09

Fourth Complaint:

Van Dyk violated ARM 44.10.330 which states contributions received by a candidate prior to and on the day of a primary election are designated for the primary election and are subject to the aggregate contribution limits for the primary election; however, **a candidate in a contested primary** may receive contributions designated for the general election during the primary election period subject to the contribution limits for the general election. General election contributions received prior to the primary election **must be maintained in a separate account** and shall not be used until after the primary election. Van Dyk's reports do not show that he had a separate account for the general election money he received.

Van Dyk did not have an opponent for the primary election until March 15, 2010, so contributors could not have designated contributions for one election or the other. According to the decision in *Bishop v. Miller*, even if Van Dyk received designation after Wetzels entered the race, it does not cure the violation. Van Dyk's May 2009 to May 23, 2010, C-5 shows:

Glacier PAC - \$320 on 11/2/09 reported as \$160 primary and \$160 general

Aaron Browning - \$196.64 before 9/30/09 reported as \$159.98 primary and \$36.66 general

Alexander Blewett III - \$320 on 11/23/09 reported as \$160 primary and \$160 general

Amelia Jenkins - \$320 on 11/4/09 reported as \$160 primary and \$160 general

Conrad Williams \$160 on 6/21/09 to primary \$320 on 11/4/09 to general (\$160 was returned on 11/5/09)

Curtis Rich \$320 on 11/4/09 reported as \$160 primary and \$160 general

David Anderson \$200 on 11/4/09 reported as \$160 to primary and \$40 to general

David Lehnher \$160 on 9/13/09 to primary \$160 on 12/6/09 to general

Jeanne Williams \$320 on 11/4/09 reported as \$160 primary and \$160 general

Kai Anderson \$320 on 11/4/09 reported as \$160 primary and \$160 general

Lora Schultz \$100 on 9/3/09 to primary; \$60 on 1/8/10 to primary; \$160 on 1/8/10 to general

Michael Gibson \$100 on 10/7/09 to primary; \$60 on 2/4/10 to primary; \$40 on 2/4/10 to general

Patrick Murphy \$250 on 11/4/09 reported as \$160 primary and \$90 general

Tylynn Gordon, \$320 on 11/4/09 reported as \$160 primary and \$90 general

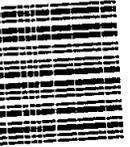
These are just *some* of the illegal contributions Van Dyk received. **The Commissioner must investigate this complaint immediately!** If Commissioner Motl allows this to sit on his docket while he pursues his own agenda the public will not have all of the information it should to make an informed decision about what kind of candidate Kendall Van Dyk really is. The 4 year limit will expire on most of these violations in March. There is more than enough time to confirm what I have written and issue a decision. I truly hope Commissioner Motl is sincere about making everyone follow the law, and punishing those who do not.

B Kent
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