

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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December 22, 2011

Mr. Kevin Nelson
P.O. Box 23107
Billings, MT 59104

RE: Dismissal of Complaint against Attorney General Bullock

Dear Mr. Nelson:

I received your complaint against Attorney General Bullock on December 8, 2011. I have carefully reviewed the factual allegations contained in your complaint. For purposes of determining whether your Complaint states a legally sufficient ethics complaint to this office, I considered the properly stated allegations of your complaint as true.

You allege Attorney General Bullock's failure to pursue an investigation into two matters:

- 1) Whether the Billings City Administrator, in her capacity as a board member of Downtown Billings Partnership, Inc., violated the law when voting to allocate \$1.9 million of Tax Increment Financing funds pursuant to Babcock, LLC's application.
- 2) Whether a Billings City Council member violated the law when he attended a board meeting of Downtown Billings Partnership, Inc., where it approved allocation \$1.9 million of Tax Increment Financing funds pursuant to Babcock, LLC's application, and thereafter voted for final approval in his capacity as a Billings City Council member.

The basis for your complaint to this office against Attorney General Bullock is that he "refused to investigate this matter is that his dad, Jack Copps was a member of Downtown Billings Partnership, Inc and was present at the meeting"

The statutes attached to your complaint, (7-15-4239, 15-1-201 and 15-1-202) are not under the jurisdiction of the Commissioner of Political Practices. Although your typewritten complaint against Attorney General Bullock does not cite statutes under the jurisdiction of this office, the handwritten notes below your signature states; "Allege a violation of 2-2-103(1), MCA & 104(b)(i)"

The relevant provisions of 2-2-103, MCA state as follows:

(1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.

(2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

(3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.

(4) (a) The enforcement of this part for:

(i) state officers, legislators, and state employees is provided for in 2-2-136;

(ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136;

(iii) local government officers and employees is provided for in 2-2-144.

Your request to Attorney General Bullock was to investigate the Billings City Administrator and a Billings City Council member. Section 2-2-103(4)(a)(iii), MCA, indicates enforcement for "local government officers and employees is provided for in 2-2-144."

The County attorney is charged with investigation and prosecution of local government officers and employees, pursuant to 2-2-144, MCA. That statute states:

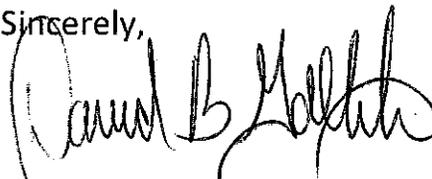
(1) Except as provided in subsections (5) and (6), a person alleging a violation of this part by a local government officer or local government employee shall notify the county attorney of the county where the local government is located. The county attorney shall request from the complainant or the person who is the subject of the complaint any information necessary to make a determination concerning the validity of the complaint.

(2) If the county attorney determines that the complaint is justified, the county attorney may bring an action in district court seeking a civil fine of not less than \$50 or more than \$1,000.

Because it is statutorily mandated that the County Attorney is responsible for investigation and prosecution of complaints alleging unethical conduct of local government officials, Attorney General Bullock did not have jurisdiction to investigate as you requested. Thus, there cannot be a violation of the ethics statutes by Attorney General Bullock because his given reason, lack of jurisdiction, is supported by 2-2-144, MCA.

Based upon the foregoing, your complaint to this office against Attorney General Bullock is dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Gallik". The signature is fluid and cursive, with a large initial "D" and "G".

David B. Gallik

Commissioner of Political Practices