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CLERK DISTRICT COURT

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MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

The COMMISSIONER OF POLITICAL
PRACTICES FOR THE STATE OF
MONTANA,

Plaintiff and Counterclaim
Defendant,

v.

RICHARD M. "MIKE" MILLER, and
JOANNE MILLER,

Defendants and Counterclaim
Plaintiffs.

Cause No. BDV-2014-062

**ORDER OF DISMISSAL
WITH PREJUDICE**

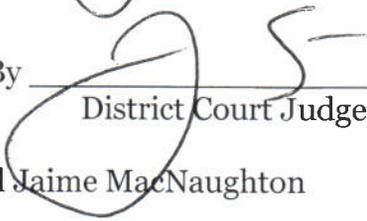
Pursuant to the Stipulation to Dismiss signed by counsel for all parties and the Settlement Agreement signed by the parties, and for good cause shown, IT IS HEREBY ORDERED that this matter, including all of plaintiff's claims and defendant's counterclaims, is DISMISSED with prejudice, as fully and finally settled on the merits. The parties shall pay their own costs and attorneys' fees.

Further IT IS HEREBY ORDERED as stipulated by the parties according to the Settlement Agreement paragraph 1(g):

1. That Richard M. "Mike Miller", will refrain from running for public office (other than a political party office, such as a precinct office or county central committee office, under Title 13, Chapter 38 MCA) for a period of 4 years ; and

2. that Richard M. "Mike" Miller will pay a civil fine of \$4,000.00.

DATED this 23 day of Jan, 2015.

By  _____
District Court Judge

c: Jonathan R. Motl and Jaime MacNaughton
Matthew Cochenour
James Brown

**SETTLEMENT OF COPP V. MILLER, CAUSE NO. BDV-2014-062, FIRST
JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY**

The parties to this settlement agreement are Richard M. (Mike) Miller, JoAnne Miller and the Office of the Commissioner of Political Practices, through Jonathan Motl.

Each party makes a settlement statement and then agrees to settle as follows:

Mike Miller Settlement Statement

1. I am Mike Miller of Helmville, Montana. I make this settlement statement consistent with my deposition testimony given December 16, 2014.
2. I was a 2010 primary election candidate for nomination by the Republican Party as a legislative candidate for nomination for election to the Montana legislature from House District (HD) 84. My 2010 HD 84 primary election campaign was primarily a direct mail campaign, consisting of letters mailed in support of my candidacy to selected groups of voters. I engaged in door-to-door campaigning in 2008, but because my legislative district is so rural and so large in area I engaged in minimal such activity in the 2010 HD 84 primary election because of the high fuel cost associated with going door-to-door, choosing instead a direct mail campaign and yard signs as my method of campaigning as such methods of campaigning were more cost-effective than going door-to-door.
3. I identify three people as being involved in my 2010 HD 84 campaign: myself, my wife (who describes her work in a separate statement) and my volunteer campaign advisor, Christian LeFer. I also employed vendors to help me prepare and design my campaign materials, but there were no other people significantly involved in my 2010 HD 84 campaign. I performed the majority of my own campaign work.
4. Christian LeFer was my volunteer campaign advisor in my 2008 primary and general HD 84 elections. In my 2008 election, Christian LeFer referred me to a mail house (Direct Mail and Communications) that was run by his wife, Allison LeFer and suggested I use that mail house to print and send out my campaign materials. In my 2008 election, I used Direct Mail to prepare certain campaign letters, mailed under my or my wife's signature. I provided Allison with a scanned image of my signature and that image was used by Direct Mail to add my signature to letters mailed under my name.
5. I also used Direct Mail as the mail house for my 2010 HD 84 primary election campaign. My contact with Direct Mail was through Christian and Allison LeFer. I do not recall the names of any other people associated with Direct Mail that I dealt

with, but I am aware that the mail house used volunteer help to get mailings out the door. I also mailed campaign materials I prepared through a subsidiary of the US Post Office, called Click2Mail. I did not use Direct Mail for my 2010 general election activities, nor for any part of my 2012 or 2014 campaigns.

6. Prior to the time Commissioner Motl filed this litigation, I produced from my campaign records copies of two Direct Mail bills that are Bates Stamped as BROMMIL0060 and BROMMIL0061. The billings are dated February 7 and June 5, 2010.
7. The February 7, 2010 bill charges me for printing and stuffing 275 fundraising letters. I addressed and mailed these letters myself, providing my own stamp. I wrote the text of this letter. I produced a copy of this letter at BROMIL0233-0234. The February 7, 2010 bill also charges me for remittance envelopes I purchased through Direct Mail.
8. The June 5, 2010 bill lists 8 letters printed by Direct Mail and used in my 2010 HD84 direct mail campaign. I identify these 8 letters as follows:
 - a. The June 5, 2010 bill lists 1230 "intro" letters mailed to two lists of voters, an absentee voter list of 550 and another voter list of 680 voters. I reviewed the letter identified as B2MIL0049-51 and I agree that this is a copy of the "intro" letter mailed to these voting lists. I agree that the survey accompanying this letter is copied and identified as B2MIL0052-53. I wrote the vast majority of the language of this letter and provided the first draft to Direct Mail. The mailing lists were supplied by Direct Mail. My signature was added to the letter by Direct Mail using a scanned signature image I provided to Allison LeFer. Direct Mail, without my involvement, provided the mailing list, chose the time to mail letter, chose the paper for printing the letter and survey, printed the letters, folded and stuffed the documents in an envelope, sealed the envelope, addressed the envelope and mailed the envelope. I paid 50 cents per letter for this work.
 - b. The June 5, 2010 bill lists 1564 "issue" letters that Direct Mail mailed on my behalf. There were four separate "issue" letters on the topics of life, guns, taxes/spend and right to work. These four letters were mailed to four groups of voters interested in these issues and the total of these four mailings was 1564 letters. Direct Mail, with my permission but without my involvement, provided the mailing lists, chose the time to mail these 4 letter, wrote these letters, placed my signature on the letters, chose the paper for printing the letters, printed the letters, folded and stuffed the documents in an envelope, sealed the envelope, addressed the envelope and mailed the envelope. I paid 45 cents per letter for this work. I did not keep a copy of any of these four letters.
 - c. The June 5, 2010 bill lists a "Wife" letter. A copy of that letter is identified at BROMIL0065. My wife, JoAnne Miller, has described

how the Wife letter was produced, printed and mailed. I produced a copy of this letter to the Commissioner.

- d. The June 5, 2010 bill lists a final letter. Direct Mail, with my permission but without my involvement, provided the mailing list, chose the time to mail this final letter, wrote the letter, which I reviewed, placed my signature on the letter, chose the paper for printing the letter, printed the letter, folded and stuffed the letter in an envelope, sealed the envelope, addressed the envelope and mailed the envelope. I paid 45 cents per letter for this work. I did not keep a copy of this letter.
9. In addition to these 8 letters the June 5, 2010 bill shows that Direct Mail printed 1000 copies of a "larger palm card" for \$110 or 11 cents each. I personally put together this document with only the slight assistance of a designer. Direct Mail did nothing more than reprint and mail 1034 copies of this same palm card. The invoice sent by Direct Mail identified this card as a "slick", charging 43 cents each (or \$444.62 total) for this task. I did not participate in the choice of the 1034 people to whom the "slicks" were mailed. I produced a copy of this palm card when requested.
10. Four years out from the time of my 2010 campaign, I now know that certain outside entities, including Western Tradition Partnership and Montana Right to Work, sent out mailers in the 2010 HD 84 Republican primary election. During the course of this litigation, I have reviewed the examples of letters mailed by these groups (B2MIL0031-0036, B2MIL0072-0075) and I can see that they were involved. However, at the time of the 2010 Republican primary election I was not aware of any plans of (nor did I give approval or consent to or discuss mailers with) these groups or other third party groups becoming involved, through a direct mail campaign, in the 2010 HD 84 Republican primary election. I did not in any way consent to or urge these outside groups to send out third-party letters or flyers to voters in the 2010 HD 84 Republican primary election. In 2010, my involvement with third party groups was, like many other candidates for public office, limited to filling out and answering surveys sent by these two and other groups, such as the NRA, Right to Life, and the Montana Shooting Sports Association. I had never heard of Taxpayers for Liberty until the Commissioner's administrative decision in this matter. What these groups did with my survey answers when returned by me to these groups as beyond my control and knowledge.
11. Neither I nor my campaign paid for any mailer, flyer, or postcard that attacked my primary opponent. All my materials discussed my campaign and my qualifications for public office only.
12. I have read my wife's, JoAnne Miller, statement below and I agree with it.
13. I did not receive any bids or other competitive pricing as to the mailing house services offered by Direct Mail for my HD84 2010 Republican primary election. I have no information as to pricing other than the information set out on the Direct

Mail or other bills I provided copies on in BROMILO001-0275. However, as a 2010 candidate I was generally aware of standard campaign material pricing because of my successful 2008 campaign; and I found, after reviewing other vendors prices, that Direct Mail offered the most competitive price.

14. I have read the statement of Jonathan Motl, below, and I do not agree with any part of paragraph 5 of the Motl statement and strongly deny the allegations set forth in the same and set forth in the Complaint filed against me by Motl with the First Judicial District Court.

JoAnne Miller Settlement Statement

1. I am JoAnne Miller and I make this statement as part of the settlement of the complaint brought by the office of the Commissioner of Political Practices.

2. I had limited involvement with my husband's, Mike Miller, 2010 HD 84 primary election. My principal involvement was in the production of a letter known as a "Wife" letter. My involvement with the 2010 Wife letter used by my husband in the 2010 HD 84 primary election is as follows:

- a. I created the 2010 Wife letter because Mike asked me to do so.
- b. I said I would only do it if the Wife letter was actually in my handwriting, and created by me.
- c. I was provided a letter template or guide by the printer and I was told that my own handwritten letter had to be neat and stay within the margins of the guide.
- d. I created and vetted a typed version of the Wife letter Mike used in the HD 84 2010 primary election. It took me 2 to 3 hours to copy that typed version of my letter into my personal script onto the template supplied by the printer. Once I had finished handwriting the letter I signed it and Mike and I mailed the handwritten letter to the printer.
- e. The printer then added a masthead and printed the letter. The letter was printed on pink, smaller (stationary style) paper with the script printed in blue ink. The printer delivered about 700 printed copies of the Wife letter to me. The Wife letters were collated (I do not recall if they were folded) and were delivered in a box along with envelopes, stamps and a mailing list of people to whom to send the letter. I spent three days of about 8 hours each (24 hours total) inserting the letters into the envelopes, hand addressing the envelope with an address from the list and putting a stamp on the envelope.
- f. I did inspect the list and remove some names but the list was provided by the printer. All of the people I mailed letters to were women living in HD 84.

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Jonathan Motl Settlement Statement

1. I am Jonathan Motl, the Commissioner of Political Practices for the State of Montana. I make this settlement statement in response to the settlement statements of Mike Miller and JoAnne Miller

2. I have read the statement of JoAnne Miller and I have reviewed the deposition of JoAnne Miller (taken December 16, 2014) on which this statement was based. On behalf of the COPP the statement of JoAnne Miller is accepted as complete and any claim against JoAnne Miller, other than a derivative claim based on her role as the treasurer of Mike Miller's 2010 campaign, is resolved without fine, rebuke or finding of wrongdoing.

3. I have read the statement of Mike Miller and I have reviewed the deposition of Mike Miller (taken December 16, 2014) on which this statement was based. Further, I have reviewed the document file of the COPP regarding the 2010 HD 84 primary election.

4. I accept the description of the 8 HD84 2010 Mike Miller campaign letters, including mailing and handling services, as set out in paragraphs 7 and 8 of the statement of Mike Miller.

5. I hereby state that the reporting, disclosure and source (corporate) of the funds used to pay for the letters described in paragraphs 7 and 8 of the statement of Mike Miller did not meet the requirements of Montana's campaign practice laws. I take the following positions:

- a. That Mike Miller did not pay a full arms-length cost amount for the campaign letter services set out in paragraph 8. I base this statement on objective data (charges assessed for comparable services in Mike Miller's and other 2010 campaigns) and on opinion, including the opinion of the COPP retained expert CB Pearson. Because these services were provided by a profit corporation (Direct Mail) and a non-profit corporation (Western Tradition Partnership) the unpaid for services became an unlawful corporate contribution to the 2010 HD 84 primary election campaign of Mike Miller.
- b. That Mike Miller's claim of lack of information, knowledge or insight as to the third party 2010 HD 84 Republican primary attack letters and flyers (paragraph 10, Mike Miller statement) is not credible. First, there was extensive public discussion of this third party attack letter/flyer activity in the 2008 HD 84 Republican primary election and it is not believable that Mike Miller, one of the two 2008 HD 84 Republican candidates, could somehow have failed to gain knowledge from this public discussion. Second, Mike Miller demonstrated his acute awareness of third party activity in his 2010 campaign by filing a COPP complaint against Main Street Advocacy claiming it engaged in illegal third party activity in the 2010 HD 84 primary election campaign. Third, there is information from other 2010 Republican primary candidates as to the basic level

of understanding of third party activity that any 2010 Republican primary election candidate, including Mike Miller, would have to possess.

SETTLEMENT AGREEMENT

Based on the foregoing statements and in contemplation of settling the matter of *COPP v. Miller*, Cause No. BDV-2014-062, First Judicial District Court, Lewis and Clark County the parties settle this Matter as follows.

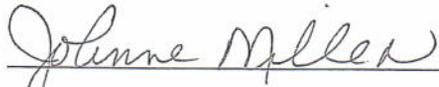
1. I, Mike Miller, hereby declare that I completely disagree with the positions set out at paragraph 5 of the statement of Jonathan Motl. Nevertheless, in order to settle this Matter and thereby avoid paying out thousands more in attorney's fees and costs beyond those I have already paid to defend myself in this matter, particularly in order to avoid the high costs associated with taking this case to jury trial, I agree and declare:
 - a. That the statements I have made above and in my December 16, 2014 Deposition are accurate.
 - b. That I cannot report on my campaign finance report (Form C-5) what has been determined by the Commissioner of Political Practices three years after the fact to be in-kind corporate contributions when I did not know about the alleged in-kind contributions at the time of my 2010 primary campaign. As reflected on the public campaign finance reports I timely filed for my 2010 primary campaign, I paid all of the amounts billed and charged to me by Direct Mail and paid the price of those services as the same were quoted to me by Direct Mail.
 - c. That I strongly deny that I did not properly attribute my 2010 campaign materials as alleged by the Commissioner in his Complaint as all my

materials contained on their face the statutorily required disclaimer language.

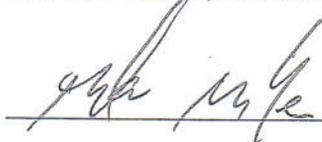
- d. That, contrary to what the Commissioner asserts in his legal Complaint against me, I did maintain all 2010 campaign records that I was required by law to maintain, namely I maintained copies of all invoices for services purchased by my 2010 primary campaign and did voluntarily provide the same to the Commissioner upon his request.
- e. That the documents produced by the COPP at B1Millo01-0024, B2Millo001-0076 and B3Millo001-0073 appear to be valid and I do not dispute the authenticity of these documents.
- f. That, in retrospect, I regret my association with Christian Lefer and Direct Mail to the extent that I worked with them on my 2010 primary campaign.
- g. That in order to settle this matter and to end the lawsuit brought against me by the Commissioner I agree that I, Mike Miller, will refrain from running for public office (other than a political party office, such as a precinct office or county central committee office, under Title 13, Chapter 38 MCA) for a period of 4 years from the date that this settlement agreement results in dismissal of *COPP v. Miller*, Cause No. BDV-2014-062 by the Court. In addition, I will pay a fine of \$2,000 each for a total of \$4,000 to address the issues raised in 5(a) and 5(b) of the statement of Jonathan Motl.
- h. That an Order dismissing all claims and counterclaims with prejudice and incorporating the terms of paragraph 1(g) of this Settlement Agreement may be entered in this Matter.

1. I, JoAnne Miller, agree to the dismissal of all claims and counterclaims in this Matter with prejudice.
2. I, Jonathan Motl, as the Commissioner of Political Practices of the State of Montana accept the settlement agreement statements of Mike Miller and JoAnne Miller, as set out paragraphs 1(g), 1(h) and 2 of this Settlement Agreement, above, and agree that based on those settlement agreement statements, this Matter is settled with prejudice to all claims made and that might have been made. I further agree that an Order dismissing all claims and counterclaims with prejudice and incorporating the terms of paragraph 1(g) of this Settlement Agreement may be entered in this Matter.

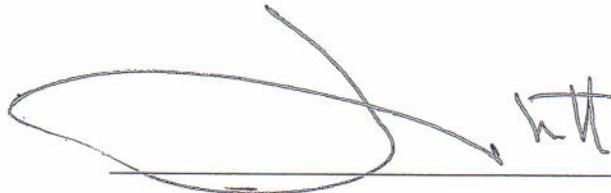
Dated this 22nd day of January, 2015.



JoAnne Miller, Defendant.



Mike Miller, Defendant.



Jonathan Motl, Plaintiff

Montana Commissioner of Political Practices.