

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Welch v. Western Tradition Partnership, et. al.  No. COPP 2014-CFP-015	DECISION AND NOTICE DISMISSING COMPLAINT IN PART AND REASSIGNING COMPLAINT IN PART
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On April 21, 2014, Whitefish, Montana resident Sandra Welch filed a complaint with the Commissioner of Political Practices (COPP) against Western Trade Partnership/American Tradition Partnership and 11 additional corporations, individuals and political committees: Taxpayers for Liberty; Assembly Action Fund; Montana Citizens for Right to Work; Christian and Allison Lefer; Donald Ferguson; Direct Mail and Communications/General Consulting; Doug Lair; Geoff Goble; and Peter MacKenzie.

**DISCUSSION**

Ms. Welch's complaint lists and identifies a group of individuals and organizations that she asserts acted in concert to influence the illegally election of certain candidates during Montana's 2008, 2010 and 2012 election cycles. The complaint was filed in April of 2014 and it appears to be based on a reflective analysis of information that has been released over the past several years.

While it may be important, for policy and cultural reasons, to fully understand the electoral roles played by those identified by Ms. Welch's complaint, the Commissioner's role is limited to that of enforcement of conformance to Montana's Campaign Practices Act. In turn, civil enforcement of Campaign Practice Act violations has a timeliness (or statute of limitations) requirement that the action be brought no later "than 4 years after the occurrence of the facts that give rise to the action." §13-37-130 MCA.<sup>1</sup> The Commissioner applies those statute of limitations and enforcement concerns and responds to Ms. Welch's complaint in the manner set out below.

### **1. Complaints Concerning the 2010 Elections**

Ms. Welch filed a complaint against the individuals and groups over their election activity in "the 2010 and 2012 election cycles." The Commissioner first addresses the 2010 election cycle.

The Commissioner has already considered comparable complaints and found sufficient facts to show illegal undisclosed, unreported, and coordinated corporate involvement by WTP (and agents) in nine 2010 candidate campaigns: *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*,

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<sup>1</sup> Ms. Welch argues that concealment tolls the statute of limitations. While that may be the case, the Commissioner prefers to avoid this issue entirely by staying with the four year statutory period afforded enforcement.

COPP-2010-CFP-035.

The Commissioner then followed the Sufficiency Decisions set out above by filing state court enforcement actions in the 1<sup>st</sup> Judicial District of the State of Montana<sup>2</sup>: *COPP v. Miller*, Cause CDV-2014-62; *COPP v. Murray*, Cause BDV-2014-170; *COPP v. Bannan*, Cause CDV 2014-178; *COPP v. Boniek*, Cause ADV-2014-202; *COPP v. Kennedy*, Cause BDV-2014-234; *COPP v. Prouse*, Cause DDV-2014-250; *COPP v. Wittich*, Cause CDV-2014-251; *COPP v. Wagman*, Cause DDV-2014-267; and *COPP v. Sales*, Cause DDV-2014-283.

The Commissioner further issued several companion Sufficiency Decisions to the candidate Decisions, with those companion Decisions addressing most of the individuals and groups listed in Ms. Welch's complaint. In turn, those companion sufficiency Decisions were grouped together under two enforcement actions, again timely filed in the Court of the 1<sup>st</sup> Judicial District: *COPP v. Western Tradition Partnership (n.k.a. American Tradition Partnership), Direct Mail and Communications, Inc., Smart Simple Campaigns, LLC, National ProLife Alliance, Assembly Action Fund, Montana Citizens For Right To Work, Taxpayers For Liberty, Sportsmen's Rights PAC, Montana Conservative Alliance, Christian Lefer, Allison Lefer, and John Does, 1-20*, Lewis and Clark County, Cause No.DDV-2014-351 (hereinafter *COPP v. WTP, et al.*) and *COPP v. Lair, Faw and Baird* 1<sup>st</sup> Judicial District, Lewis and Clark County No. ADV-2014-352.

The Commissioner hereby determines that, as to the 2010 elections, the allegations of Ms. Welch's complaint are incorporated into and covered by prior sufficiency Decisions, as enforced by *COPP v. WTP, et al.* and *COPP v. Lair, Faw*

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<sup>2</sup> The enforcement actions were all filed within the 4 year period allowed by §13-37-130 MCA.

and Baird. Accordingly, as to the 2010 campaigns the allegations of the Welch complaint are dismissed as an independent complaint.

## **2. Complaints Concerning the 2012 Elections**

The Commissioner next considers Ms. Welch's complaint as it applies to the 2012 election cycle. The 2012 election issues raised by Ms. Welch's complaint potentially require substantial investigation and enforcement actions, as indicated by the 2010 election discussion set out above. This Commissioner has dealt with a substantial backlog of complaints by setting a priority for groups of complaints.<sup>3</sup> The Welch complaint, despite being filed in 2014, is properly part of the 2012 complaint group that is listed on the Commissioner's pending complaint docket. Accordingly, the Commissioner merges the Welch complaint into the similar pending complaint of *Tutvedt v. Roberts et. al.* COPP-2012-CFP-0047. The Welch complaint will be removed as a separate complaint on the Commissioner's website and placed on the Commissioners website under, and as part of, the *Tutvedt* complaint and dealt with at the time and priority afforded the *Tutvedt* complaint.

### **ENFORCEMENT OF SUFFICIENCY FINDINGS**

The Commissioner has limited discretion when making the determination as to an unlawful campaign practice. First, the Commissioner cannot avoid, but must act on, an alleged campaign practice violation as the law mandates that the Commissioner ("shall investigate," *see*, §13-37-111(2)(a) MCA)

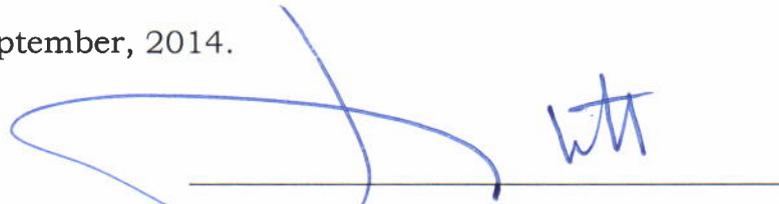
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<sup>3</sup> The priorities set were first to decide 2010 election complaints (because of statute of limitation concern), then decide 2014 election complaints and then address and decide 2012 election complaints.

investigate any alleged violation of campaign practices law. The mandate to investigate is followed by a mandate to take action as the law requires that if there is “sufficient evidence” of a violation the Commissioner must (“shall notify”, see §13-37-124 MCA) initiate consideration for prosecution.

In regard to this Complaint the Commissioner determines that issues related to the 2010 elections have been dealt with by the Decisions and enforcement actions set out above. The Commissioner further determines that issues related to the 2012 elections are merged with and will be dealt with as part of the investigation and Decision in *Tutvedt v. Roberts et. al.* COPP-2012-CFP-0047.

DATED this 8th day of September, 2014.



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