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THE STATE OF MONTANA

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 Jon Wemple
Complete Mailing Address P.O. Box 211, Victor, Mont. 59875
Phone Numbers: Work 406-369-1771 Home _____

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

Complete Name Patrick "Pat" Connell
Complete Mailing Address 567 Tiffany Lane
Hamilton, Mont. 59840
Phone Numbers: Work 961-5363 Home 370-8682

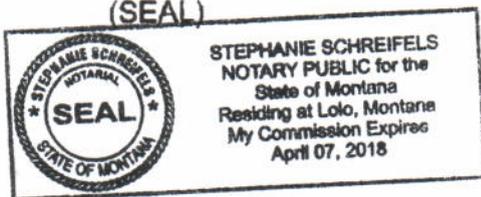
Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

State of Montana, County of Missoula

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

[Signature]
Signature of Complainant



Subscribed and sworn to before me this 6th day of October, 2014.

[Signature]
Notary Public

My Commission Expires:

Commissioner Jonathan Motl
Montana Office of Political Practices
P.O. Box 202401
1205 8th Avenue
Helena, MT 59620-2401

Re: Formal Complaint Against Candidate Pat Connell

Dear Commissioner Motl:

I am Jon Wemple, P.O. Box 211, Victor, MT 59875. This is a formal complaint to your office that Pat Connell a 2014 candidate for Montana Senate District 43, of 567 Tiffany Lane, Hamilton, MT 59840, violated Montana campaign finance laws regulated by your office. (ARM 44.10.307 requirements).

I reviewed reports filed with your office, codes, rules and COPP decisions as well as other material, and was alarmed at what I consider a staggering amount of personal expenses being paid by Candidate Connell that he reports as being related to his campaign. While it is difficult to discern in all instances, I believe specific facts show a personal benefit to Candidate Connell, and that the totality of the circumstances, points toward an abuse of his campaign account to pay his personal expenses.

For example, Pat Connell's reports show that the campaign paid \$622.60 for his wife to travel to Washington, D.C. The report shows the expenditure as a "flight cost for spouse to [go to] campaign meeting" with Montana's Congressman. Obviously, the Congressman has little--probably nothing--to do with Connell's campaign in the Bitterroot Valley. The Congressman did not even make a reportable contribution as part of this vital "campaign" meeting warranting a personal trip by his spouse.

This is not the only example. In fact, the sheer level of these numerous abuses is significant enough to warrant an immediate fine totaling between \$20,000 or even \$50,000 and withholding his name from the 2014 ballot certification or removing him if elected. If he does not or cannot correct the deficiencies he can be conditionally banned from any further Montana elections.

Other specific examples in Candidate Connell's reports show he spent \$683.49 for a Whitefish golf tournament held in 2013. Meals and extra baggage expenses for his Washington, D.C. trip for \$168.18. An unexplained expenditure of \$229 on May 6th of this year, over \$500 for expenses related to professional conference fees connected to his industry, and in at least one case his "dues". One such expense is his travel to attend the Treasure State Resource Industry Association 2013 annual meeting in Big Sky (\$226.00), but he also travels to the Montana Logging Association, Wood Products and has numerous unexplained lodging, travel and meal expenses in Helena. These account for a large percentage of his reported spending total of \$16,485.

Pat Connell's systematic abuse of incurring and repaying debt circumvents the reporting laws. In one report alone, he shows 75 "loans" rather than using the legally required process of depositing contributions (including loans) and making expenditures (by check). While mandated circumstances may require the limited use of personal credit cards, cash or a campaign's petty cash fund, the system employed by Candidate Connell makes a mockery of the actual legal requirements. In addition to his loan system he shows 8 expenditures totaling \$400 for what he describes as "cash on hand".

On his schedule A Receipts from his 5/22/2014 report, his records show he made 45 loans to his campaign. Twenty-eight (28) of those are for food, alcohol, lodging, travel, subscriptions, dues, donations and conferences. Other expenses appear duplicative and are otherwise unexplained. His expenditures show a similar pattern of systematic abuse, and an overwhelming tendency to misuse contributor funds for his own personal benefit. On this same report he shows 133 expenditures. Seventy-six (76) are for meals, alcohol, lodging, travel, subscriptions, dues, donations, conferences or loan repayments to himself. (36 loan repayments, 32 listed as expenditures and 8 "cash on hand" expenditures). This report shows 42 debts not yet paid. All owing to Pat Connell. Twenty-seven (27) are for meals, alcohol, lodging, travel, donations or conferences.

Although it is difficult to decipher this convoluted accounting system--which might be the reason it's not allowed--this much is clear. Pat Connell appears to have spent almost \$8,100 of his campaign funds on his spouse, meals, alcohol, lodging, travel, subscriptions, dues and conferences related to his profession. A great many of these are from places such as Washington, D.C., Helena, Whitefish, Fairmont Hot Springs, and Big Sky where he has no constituency. He paid himself over \$3,400, and he claims he is owed another \$4,200. Again, a great many of these are outside the district he is campaigning in, and there is no connection to the campaign.

Since Pat Connell intermingled his campaign funds with his personal ones so intimately it is clear an investigation should include his campaign and personal accounts. He lists campaign expenses for conferences and engagements that may have been otherwise reimbursed in some instances. I think this is a fairly typical arrangement under the circumstances he describes, but not being in a position to take advantage of such perks, or other people's money, I cannot be certain. I can only review the reports and determine that something seems drastically wrong either with his widespread abuse of campaign dollars for his own personal benefit or with a system which permits it.

Two significant things may have factored in to Mr. Connell's belief that he could use campaign funds in such a reckless, haphazard and illegal manner. One is a general sense of political entitlement, but the principal factor, most likely, is the fact that he benefitted from large third-party independent expenditure efforts.

Claims, Legal References and Violations:

I believe, and it is my opinion, based on the actual evidence contained in his campaign finance reports, and this complaint, that Pat Connell is guilty of the following violations:

For campaign purposes, Montana law defines an “expenditure” as “a purchase, payment, distribution, loan, advance, promise, pledge or gift of money or anything of value made for the purpose of influencing the results of an election.” (MCA § 13-1-101(11)(a)). According to former COPP Commissioner Murry, “[t]his definition evinces a clear legislative intent that payments from a campaign account must be used for campaign purposes, and not for personal expenses unrelated to the campaign.” (*Berry v. Fanning*, COPP-CFP-2012 (further citation omitted) decided 4/23/2013, COPP Murry, Summary of Facts and Statement of Findings at p. 6).

Montana Code Annotated § 13-1-101 does not specifically define “personal benefit” but another code provision under your authority, MCA § 13-37-240(2), does. That provision provides that ““personal benefit” means a use that will provide a direct or indirect benefit of any kind to the candidate or any member of the candidate's immediate family.”

Pat Connell pays for personal expenses and discloses them as campaign expenditures which violates Montana law generally, and expenditure disclosure requirements of MCA, § 13-37-230. Connell’s activity meets the definition of contributions under MCA § 13-1-101(7) and he violates MCA § 13-37-229. A treasurer, in this case Mr. Connell himself, is required to keep detailed accounts of contributions received and expenditures made per MCA § 13-37-208. The fact that improper expenditures are reported does not excuse the violation, in fact, Commissioner Murry would say it “evinces” it. Mont Code Ann. § 13-37-205 requires reports of contributions and expenditures. Mr. Connell’s reports are replete with claimed expenditures, which are, in fact, merely funds which were used to cover his personal expenses and obligations.

Per Montana law, MCA § 13-37-205, each candidate campaign designates an account at a bank authorized to transact business in Montana. The account can be at the same place as the candidate’s other accounts, but the campaign account must be completely separate from any personal accounts. The established rules are simple, easy to follow and absolute. The accounting manual provided to Mr. Connell specifically provides that:

It is essential that *all* monetary receipts—including a candidate’s own funds—be deposited in the campaign account and that all money spent by the campaign be by check drawn on this account. (The only exception is the petty cash fund). (COPP Candidate Reporting Manual, p. 6)

Please note this is not Pat Connell’s first campaign. He is a veteran campaigner, and was his own deputy treasurer in 2010 and 2012. He is currently his own treasurer for 2014. As a state Representative in 2011 and 2013, Mr. Connell was not only a member of the Montana Legislature following the U.S. Supreme Court decision in *Citizens United* which lead to significant debate on campaign finance issues, but, even more importantly, he served both his sessions as a member of the House State Administration Committee which deals directly with these issues on a regular basis. Those significant factors aside, he was, nonetheless, provided further instructional material from your office, and had ample opportunity to follow the law.

He did not on at least 75 different occasions with each occurrence representing a separate violation of Montana law. (See, *Wilcox v. Raser*, May 26, 2010 Commissioner Unsworth). The Raser decision also describes the purpose of the requirement to have and use only the established campaign account:

The purpose of requiring the campaign account to be separate and distinct from other accounts is obvious—to ensure that the campaign maintains accurate records and carefully controls and documents receipts into and expenditures from the account...A campaign treasurer is required to keep detailed accounts of all contributions received and expenditures made during the campaign. Montana’s campaign finance disclosure laws reflect a sound policy of requiring full disclosure and reporting the sources and disposition of funds used to support or oppose candidates, with accurate recordkeeping and documentation of all transactions.

The failure of Candidate Connell to abide by these laws violates the letter and spirit of MCA § 13-37-208. His approach to recordkeeping is highly improper and, at best, confusing to the point that the public cannot discern the actual spending. It is doubtful that his records could have accurately reflected contributions and expenditures current within 10 days—which is also a requirement.

Pat Connell did not make disbursements for these expenditures from the account he was required to establish under MCA § 13-37-205, which is a violation of that statutory provision. This also violates ARM 44.10.503. (See, *O’Hara v. Ponte*, COPP 2014-CFP-014). As stated he was required to keep detailed accounts in accordance with the requirements of MCA § 13-37-208(1)(a). He did not. The accounts needed to be accurate to fulfill the requirements of MCA § 13-37-225. They were not. Many of the payments are not “expenditures” under the definition established in MCA § 13-1-101 and therefore could not have been properly reported as such under MCA § 13-37-230 or (MCA § 13-37-229).

The activity reported by Pat Connell on his reports with your office will not remotely match the activity showing in his bank records without also searching his personal accounts and other records—and, that fact alone sufficiently established his guilt. Even then a complete picture may not reveal itself given what appear to be large cash outlays. Had Candidate Connell made cash contributions and conducted expenditures through his campaign account as required these large scale accounting issues which deprive the public of important notice and disclosure could have been avoided. (See, *Ponte* at p. 14). While the Commissioner recognizes custom and the need for common sense application of the law through accommodating limited use of in-kind candidate contributions to his campaign, there is no exception for the kind of wholesale, often daily, circumvention of the legal requirements that Connell engaged in throughout his campaign. (See, *Id.*; *O’Hara v. Pinnochi*, COPP-2014-CFP-027; and *Berry v. Fanning*, COPP-2012-CFP-(citation omitted decided COPP Murry, April 23, 2013).

Lastly, understanding whether certain expenditures were even permitted under Connell’s convoluted method of loans, in-kind contributions and other matters will involve independent verification from outside parties to determine whether Mr. Connell was otherwise

already reimbursed for his appearance or attendance at various events.

A person who violates any of the provisions of Montana's campaign finance laws is subject to the civil penalty provisions of MCA § 13-37-128 which provides a penalty of \$500 or three times the amount of contribution or expenditure whichever is greater. Given Mr. Connell's experience in these matters having previously run for office, served in the legislature, and on the specific legislative committee where these issues are heavily debated, it should be determined that Candidate Connell acted with purpose and malice, rather than by accident, in violating these legal mandates. In addition, the Commissioner and Candidate Connell now have sufficient notice that his campaign finance reports are deficient and illegal. As a consequence, there being no excusable neglect given the candidates experience and because the systematic abuse is hardly de minimis, the Commissioner is compelled by MCA, 13-37-126 to notify the Montana Secretary of State that Candidate Connell may not appear as part of the 2014 ballot certification, and may not appear on any future ballot, until the issues related to his 2014 reports are addressed.

Conclusion

For the reasons stated herein Candidate Connell should be heavily fined and removed from the ballot until he can address these inexcusable deficiencies. If you need any additional assistance in your investigation, please contact me. Thanks.