

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Wilsman v. Lund  No. COPP 2016-CFP-016	Dismissal of Complaint As Frivolous
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On May 11, 2016, Philip Wilsman, a resident of Harlowtown, Montana, filed a complaint against Hertha Lund, a resident of Martinsdale, Montana. Ms. Lund is a candidate seeking 2016 election to the Montana legislature from Senate District 15 (SD 15). The Complaint alleges that Candidate Lund falsely declared residency when filing her declaration for nomination<sup>1</sup> for SD 15 with the Office of the Montana Secretary of State.

Foundational Findings of Fact

The following findings of fact are necessary before proceeding to discussion of this Matter:

Finding of Fact No. 1. Hertha Lund, Harry Klock and Ryan Osmundson are primary election candidates for Republican Party nomination to the general election to be elected Senator from SD 15. Sean McConnaha is the only Democratic Party nominee for election from SD 15 and will therefore proceed to the general election to face the winner of the Republican primary election. (Montana Secretary of State Website.)

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<sup>1</sup> A declaration for nomination is defined at §13-10-201, MCA.

Finding of Fact No. 2. On February 4, 2016 Hertha Lund filed a declaration for nomination with the Montana Secretary of State, listing her residence address as 148 Grande Road, Martinsdale, Montana. (Montana Secretary of State Website.)

### Discussion

Ms. Lund filed a declaration for nomination listing a resident address of 148 Grande Road, Martinsdale, Montana (FOF No. 2). The “District Lookup” program maintained by the Montana Legislative Services places the Martinsdale address in SD 15.

The Complaint, however, alleges that Ms. Lund has listed a false residency address on her declaration of nomination, alleging that Ms. Lund “does not live, work, bank, vote or pay taxes” in SD 15. Under Montana law filing a false declaration of nomination is a deceptive election practice. §13-35-207(4), MCA. The Commissioner is charged with investigating all alleged violations of Title 13, Chapters 35 and 37 of the Montana Code. (§ 13-37-111, MCA).

The Commissioner investigated the allegations of the Complaint. The allegations have no merit. Attached to this Decision is a letter from Candidate Lund. As the letter explains, while Candidate Lund owns a law office and a house in Bozeman, for the past 7 years “her home” has been the ranch she and her husband own in Lennep<sup>2</sup> with a mailing address in nearby Martinsdale. Further, the letter attests that Candidate Lund and her husband bank in Lewistown as well as pay taxes, register vehicles and vote in Meagher County. The Commissioner determines that the address listed in Candidate Lund’s

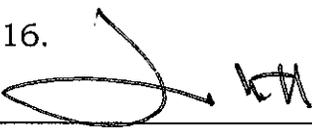
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<sup>2</sup> Lennep is also located in Meagher County. See Official Map of Montana.

declaration of nomination is in accord with the requirements of Montana's constitution<sup>3</sup> and statutes<sup>4</sup>. Further, the address listed is in accord with the COPP's past recognition of a candidate's right to state intention of residence if there is any conflict between two locations. *Motta v. Laslovich*, 11/18/09 (Commissioner Unsworth) and *Clark Advisory Opinion* COPP-2016-AO-003 (Commissioner Motl).

Perhaps there is an upside to the Complaint insofar as it resulted in this Decision, thereby ending unfounded rumors. That upside is not enough to avoid labeling the Complaint as a frivolous complaint under the authority and reasoning of *Landsgaard v. Peterson*, COPP-2014-CFP-008. This Complaint is frivolous because it cites unsubstantiated facts as a basis for restriction of a democratic act – the filing of a declaration of nomination.

DATED this 25<sup>th</sup> day of May, 2016.

  
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Jonathan R. Motl  
Commissioner of Political Practices  
Of the State of Montana  
1209 8<sup>th</sup> Avenue  
Helena, MT 59620

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<sup>3</sup> The Montana Constitution, Article V, section 4 provides:  
A candidate for the legislature shall be a resident of the state for at least one year next preceding the general election. For six months next preceding the general election, he shall be a resident of the county if it contains one or more districts or of the district if it contains all or parts of more than one county.

<sup>4</sup> "The residence of an individual [for the purpose of running for the state legislature] is where the individual's habitation is fixed and to which, whenever the individual is absent, the individual has the intention of returning." Mont. Code Ann. § 13-1-112(1).



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**Leadership *for* Montana**

May 23, 2016

Jonathan R. Motl  
 Commissioner of Political Practices  
[mabaker@mt.gov](mailto:mabaker@mt.gov)

**Re: Response to *Wilsman v. Lund*, COPP-2016-CFP-016.**

**Dear Commissioner Motl:**

This letter is in response to your May 23, 2016 Notice of Complaint, *Wilsman v. Lund*, COPP-2016-CFP-016.

Based on Montana law, I am a resident of Meagher County where I have lived with my husband John Grande since we were married in June of 2009. We do own a house in Bozeman where I stay sometimes when I work at my law office. However, I return to our home in Lennep (mailing address of Martinsdale) when I am not working for my law practice elsewhere. I also have an office in our home at the ranch. Additionally, I have office hours in Lewistown on most Fridays for the law practice and I have multiple clients throughout SD 15 with whom I meet at various places. Also, I sometimes do ranch on our family ranch in Meagher County.

I have two vehicles, which are both registered in Meagher County. Just today I voted in Meagher County, which is where I am registered to vote as evidenced by Mr. Wilsman's first attachment to his complaint. I have a bank account in Lewistown. My husband banks in White Sulphur Springs. Additionally, I attend multiple social functions and church within SD 15.

On the issue of property taxes: my husband and I do pay taxes on our home in Bozeman and we pay a significant amount of taxes on our ranch in Meagher County.

Mr. Wilsman's statement about what I said at the Harlowton Meet and Greet is not quite accurate. I did respond to rumors that I did not live in SD 15. My remarks were meant to provide information that I had been asked to run in Bozeman; however, I did not address the fact that I would have had to make Bozeman my residence. My home is with my husband at our ranch in Meagher County.

Please let me know if you have any further questions of me related to this issue.

Sincerely,

Hertha L. Lund