

**MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY**

The COMMISSIONER OF POLITICAL)
PRACTICES FOR THE STATE OF)
MONTANA, through JONATHAN R.)
MOTL, acting in his official capacity as)
The Commissioner of Political Practices,)

Plaintiffs,)

vs.)

ARTHUR "ART" WITTICH,)

Defendant,)

Cause No. BDV-2014-251

Hon. Ray J. Dayton

**SUMMARY OF PENALTIES AND
COSTS**

This Court on June 17, 2016 held a hearing whereby it issued its Order regarding the punishment for Wittich and costs associated with the litigation. This Memorandum is meant to summarize the Order.

Penalties

Wittich was found to have committed the following campaign violations and the Court determined the following punishment is warranted:

1. Failing to use designated campaign account when purchasing 12 campaign items totaling \$4,903.14 and also by issuing three checks totaling \$2,602.44 for which there is not a corresponding matching expense on his campaign finance report.

Penalty: \$7,505.58

2. Failing to reflect a debt owed (\$500) to Walter Brannen for his help on the Wittich campaign in the proper campaign report.

Penalty: \$500

3. Receiving contributions over the \$35 threshold at two rallies (\$390 & \$540 respectively) and failing to report the contributions.

Penalty: \$930

4. Failing to maintain and preserve records of his campaign contributions and expenditures.

Penalty: \$500

5. Accepting or receiving corporate contributions, including coordinated in-kind contributions, in the amount of \$19,599.
6. Failing to report all contributions, including coordinated in-kind contributions, in the amount of \$19,599.

Penalty for both: \$58,797

Total Penalty: \$68,232.58

The Court determines that removing Wittich from office and imposing the equitable remedies requested by the Commissioner is not supported by the statutes.

Costs

Whether certain costs are allowable is determined by statute:

Costs generally allowable. A party to whom costs are awarded in an action is entitled to include in the party's bill of costs the party's necessary disbursements, as follows:

- (1) the legal fees of witnesses, including mileage, or referees and other officers;
- (2) the expenses of taking depositions;
- (3) the legal fees for publication when publication is directed;
- (4) the legal fees paid for filing and recording papers and certified copies of papers necessarily used in the action or on the trial;
- (5) the legal fees paid stenographers for per diem or for copies;
- (6) the reasonable expenses of printing papers for a hearing when required by a rule of court;
- (7) the reasonable expenses of making transcript for the supreme court;
- (8) the reasonable expenses for making a map or maps if required and necessary to be used on trial or hearing; and
- (9) other reasonable and necessary expenses that are taxable according to the course and practice of the court or by express provision of law.

Mont. Code Ann. § 25–10–201. The Commissioner, in its Memorandum of Costs, broke them down by category. The Court will do the same.

A. Appearance and Filing Fees

The Commissioner asked for \$45.00. The cost was not objected to. The request is granted.

B. Expenses of Taking Depositions

The Commissioner asked for the costs related to seven depositions. Wittich objected on two grounds. First, as a whole, the Commissioner provided no explanation or detail as to the amount for each item. Second, Wittich objected to costs three through six because they were not used at trial.

The Commissioner responded by attaching the invoices for the depositions. The Commissioner additionally cited authority indicating that if the deposition was used in dispositive motions, the cost is allowed. The Court determines that the depositions were all either used in trial or in dispositive motions. The only correction the Court has is that Expense One, for Carolin Rockvoy, amounted to \$622. With the correction of Expense number one, the expenses of taking depositions are granted in the total amount of \$10,358.80.

C. Mileage and Travel

Expenses 8–21 relate to mileage and travel. Wittich objected to all but Expense 18 and Expense 21. The Commissioner conceded that Expenses 8–14 are not recoverable. As to Expenses, 15–17, the parties agreed that it is within the discretion of the Court, but disagreed about whether the Court should exercise its discretion to grant the cost. Expenses 19 and 20 are objected to by Wittich on the ground that only in-state travel expenses are allowed. The Commissioner listed the total travel expense instead of only the amount in-state.

The Court concludes that Expenses 8–14 have been withdrawn and will not be awarded. The Court exercises its discretion to allow Expenses 15–17. Expenses 18 and 21 were not objected to and are granted. Expenses 19 and 20 are incorrect and are accordingly denied. The total amount allowed for mileage and travel is \$696.90.

D. Reasonable and Necessary Expenses

Expenses 22, 23, and 32 were not objected to. Expenses 24–31 were objected to because Wittich believes they were not reasonable or necessary. Expense 33 was objected to because it is not clear what the expense was for. Expense 34 was objected to because Wittich argues he was separately billed for his use of Quantum Grafix.

The Court concludes that Expenses 22, 23, and 32 are granted. The Court further grants Expenses 24–31 and concludes that such expenses were reasonable and necessary. The Court denies Expense 33.

As to Expense 34 relating to Qunatum Grafix, there is a dispute as to how much the total bill is and how the parties were to go about paying it. The Court concludes that the parties must contact Quantum Grafix and determine the total bill from using it at trial. The parties then must each pay half of the total cost. Thus, the total reasonable and necessary expenses allowed, excluding Quantum Grafix, is \$4,519.00.

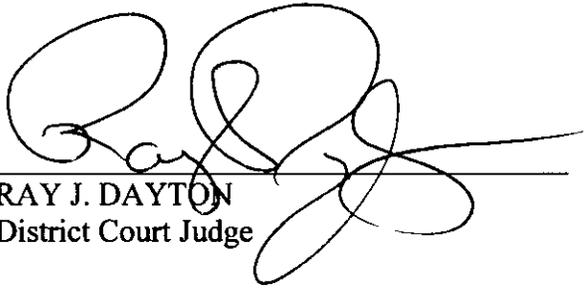
E. Cost of Motion

The Commissioner requested the cost of filing 30 motions totaling \$300. The request was not objected to and is granted.

The Court concludes that the total amount of costs to be payed is \$15,919.70.

Therefore, Wittich is ORDERED to pay costs as consistent with this Order.

DATED this 17th day of June, 2016.



RAY J. DAYTON
District Court Judge