

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaint)
Against Andrew L. Cetraro)
)

**SUMMARY OF FACTS
AND
STATEMENT OF FINDINGS**

On November 1, 2002, Brian F. Close filed a complaint alleging that Andrew L. Cetraro violated Montana campaign finance and practices laws. Specifically, the complaint alleges that Cetraro accepted a contribution in excess of the limits set forth in Montana Code Annotated § 13-37-216 and failed to report an in-kind contribution for use of the Holiday Inn for a fundraiser. The complaint also questions whether Cetraro actually received \$2,650 in individual cash contributions of less than \$35 at two fundraisers.

SUMMARY OF FACTS

1. Andrew L. Cetraro was a candidate for the Bozeman City Commission in 2001. On May 8, 2001 he filed a Statement of Candidate (form C-1-A) with the Commissioner of Political Practices (Commissioner) certifying Chris Reiquam as Campaign Treasurer.

2. People For Responsible Government, Inc. (PRG) was formed as a general business corporation, incorporated on September 10, 2001; and it continues to exist as a corporation in good standing with the Montana Secretary of State's Office. On September 17, 2001, PRG filed with the Commissioner a Statement of Organization (form C-2) as a political action committee certifying Cathi Simonson as Committee Treasurer.

3. On September 19, 2001, PRG made a \$500 contribution to the Cetraro campaign. The contribution was made by a check drawn on the account of PRG. On the top left hand portion of the check, where the address would normally appear, was

the hand-written notation: "Get Out to Vote PAC." The check was signed by Kurt Shull, certified on PRG's C-2 as Secretary.

4. Reiquam filed Cetraro's campaign finance report for the period August 26, 2001 to September 26, 2001, listing a contribution of \$500 received on September 19, 2001, from "Get Out to Vote PAC."¹

5. Montana law prohibits corporate contributions to candidates. Montana Code Annotated § 13-35-227. Montana law also limits contributions from political committees to candidates for local office to \$100. Montana Code Annotated § 13-37-216. Cetraro stated that when he became aware he could not legally accept a \$500 contribution from PRG, his campaign treasurer returned \$400 to PRG through a check dated October 31, 2001. The \$400 was returned to PRG because Cetraro believed that PRG was subject to the \$100 limitation for contributions from political committees to candidates. According to Cetraro, he then decided to return the remaining \$100 to PRG, "just so there wouldn't be any trouble." He stated his campaign treasurer sent a \$100 check dated November 1, 2001 to PRG. There is no evidence that Cetraro was aware, when he accepted the \$500 contribution that PRG is a corporation or that PRG had made an illegal corporate contribution.

6. The post-election Cetraro campaign finance report filed with the Commissioner by Reiquam lists expenditures to "Get Out to Vote PAC" of \$400 on October 31, 2001 and \$100 on November 1, 2001.

7. The Montana Tavern Association held a banquet at the Holiday Inn in Bozeman on September 12, 2001. Various persons who were there estimated attendance between 240 to 275 people. Cetraro attended the event. Mark Staples, a speaker at the banquet, announced that Cetraro, candidate for the Bozeman City Commission, was in the crowd and that a hat would be passed for cash contributions to

¹ It is unclear why PRG was also referred to or known as "Get Out to Vote PAC." It is undisputed, however, that the two entities are one and the same.

Cetraro's campaign. According to Cetraro, Staples stated that individual contributions should be limited to \$20 or less. Mike Hope, owner of a Bozeman restaurant, went from table to table with the "hat," which was actually a pitcher, and collected cash contributions. Hope stated that he monitored the contributions to ensure there were no individual cash contributions in excess of \$20. When all the contributions were collected, Hope gave the cash to Cetraro. The following day Cetraro gave it to Chris Reiquam, his Campaign Treasurer, who deposited the money in the campaign account.

8. In the campaign finance report for the period August 26, 2001 to September 26, 2001, the Cetraro campaign reported receiving contributions of \$690 in cash from a fundraiser at the Holiday Inn held on September 12, 2001. The report indicated that 240 to 260 people attended.

9. The Cetraro campaign held a fundraiser on September 20, 2001, at 525 Curtis, in Bozeman. A jar for contributions was placed on a table, and Cetraro stated that he monitored the contributions to limit them to no more than \$20 apiece. In the campaign finance report for the period August 26, 2001 to September 26, 2001, the Cetraro campaign reported receiving contributions of \$1,960 in cash from the fundraiser. The report indicates that "124+" people attended.

10. The Cetraro campaign held a fundraiser on October 11, 2001, at Ferraro's Restaurant in Bozeman. A jar or pitcher for cash contributions was available, and Cetraro monitored the contributions to ensure that individual contributions did not exceed \$20. In the campaign finance report for the period September 27, 2001 to October 20, 2001, the Cetraro campaign reported receiving \$460 from 45 people who attended the fundraiser.

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STATEMENT OF FINDINGS

Contribution from PRG

Montana Code Annotated § 13-35-227 prohibits a corporation from making a direct contribution in connection with a candidate. The statute also prohibits a candidate from accepting or receiving a contribution from a corporation. A contribution is “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election.” Montana Code Annotated § 13-1-101(6)(a)(i). As a candidate, Cetraro was subject to the prohibition in Montana Code Annotated § 13-35-227; however, there is no evidence that Cetraro was aware PRG was a corporation when he accepted the contribution. After Cetraro had received the \$500 contribution from PRG, he became aware of the limitation in Montana Code Annotated § 13-37-216(1)(a)(iii), which limits contributions from political committees to candidates for local office to \$100. Believing that PRG had made a contribution in excess of the statutory limit, he returned \$400 to PRG and later returned the remaining \$100 of the \$500 contribution. Since Cetraro returned the entire \$500 contributed by PRG, neither he nor his campaign has received anything of value from PRG. Cetraro, therefore, has not accepted or received an illegal corporate contribution.

Fundraisers

The complaint alleges that Cetraro failed to report an in-kind contribution for the use of the Bozeman Holiday Inn for a September 12, 2001 fundraiser. The investigation revealed the September 12, 2001 function at the Holiday Inn was a banquet for the Montana Tavern Association. While some of the attendees at the banquet made cash

contributions to Cetraro's campaign, the banquet was not an organized fundraiser for Cetraro; therefore, there was no in-kind contribution to report.

The complaint questions whether all of the individual cash donations received by Cetraro at the fundraisers were in amounts less than \$35. Montana law requires campaign finance reports to disclose the name, address, occupation, and employer of each person who makes aggregate contributions of \$35 or more to a candidate. Montana Code Annotated § 13-37-229(2). Campaign finance reports are required to include "an itemized account of proceeds that total less than \$35 from a person from mass collections made at fundraising events." Montana Code Annotated § 13-37-229(8). The Commissioner has adopted a regulation to implement this statutory provision:

MASS COLLECTIONS AT FUND-RAISING EVENTS--ITEMIZED ACCOUNT OF PROCEEDS, REPORTING. (1) For the purposes of 13-37-229(8), MCA:

(a) "Mass collections" made at a fund-raising event include the proceeds received from passing the hat or from the sale of items such as campaign pins, flags, emblems, hats, banners, raffle tickets, auction items, refreshments, baked goods, admission tickets and similar items sold at a dinner, rally, auction, dance, bake sale, rummage sale or similar fund-raising event. Provided that mass collections do not include the proceeds of purchases of \$35 or more for any candidate or political committee.

(b) "Itemized account of proceeds" means the date and approximate number of individuals in attendance at a fund-raising event, a description of the method utilized to gain the proceeds of a mass collection (i.e.; passing the hat, sale of raffle tickets, auction items, etc.) and the total amount received from each method utilized.

An examination of Cetraro's campaign finance reports discloses that he properly reported the mass collections of cash contributions. He contends that either he or others monitored the cash contributions to ensure that individually no contribution exceeded \$20, which is well below the \$35 statutory amount that triggers reporting of

individual aggregate contributions. There is no evidence that any of the individual cash contributions at Cetraro's fundraising events exceeded \$20.

CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is insufficient evidence to justify a civil or criminal prosecution based on allegations that Andrew L. Cetraro violated Montana campaign finance and practices laws.

Dated this _____ day of June, 2002.

Linda L. Vaughey
Commissioner