

**BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)**

<b>MONTANA REPUBLICAN PARTY (via Danielle Bradley)</b>	<b>COPP-2024-CFP-034 and COPP-2024-CFP-036</b>
<b>v.</b>	
<b>RYAN BUSSE/BUSSE FOR MONTANA CAMPAIGN</b>	<b>DISMISSAL</b>

**COMPLAINT**

Danielle Bradley, on behalf of the Montana Republican Party (MTGOP), filed Campaign Finance and Practices (CFP) complaints against Montana gubernatorial candidate Ryan Busse and the Busse for Montana campaign on September 3 and September 9, 2024. The first complaint, filed on September 3, 2024, alleged that the Busse for Montana campaign failed to report contributions received and/or expenditures made in connection with an August 9, 2024, campaign event held in Bozeman, MT. After receiving the complaint, COPP requested the MTGOP provide additional information relevant to this matter, specifically to establish “that a campaign event involving Mr. Busse, or the Busse for Montana campaign has actually occurred.” MTGOP provided this information via email on September 6, 2024. The second complaint, filed on September 9, 2024, alleges that the Busse for Montana campaign failed to report contributions received and/or expenditures made in connection to two separate polls referenced by Lt. Governor candidate Raph Graybill when speaking at a campaign event.

The above-named complaints were submitted pursuant to MCA § 13-37-111, conform to the basic requirements of Admin. R. Mont. 44.11.106, and allege violations of election law which fall under my jurisdiction as Commissioner of Political Practices. Consequently, I accepted them both as filed and requested a response from the Busse campaign. The Busse campaign, through campaign manager Aaron Murphy consulting, provided a combined response to both complaints on September 16, 2024, and also provided COPP with an additional response later that same day.

The parties in both complaints are identical and there are common or substantially similar issues of law and fact presented. Therefore, these complaints are being combined for purposes of this decision.<sup>1</sup> This avoids unnecessary delay and expense for both of the parties and for COPP.

The complaint, additional information provided by the complainant, and the Busse campaign's responses are posted on COPP's website, [politicalpractices.mt.gov](http://politicalpractices.mt.gov).

## ISSUES

This dismissal addresses coordination between political party committees and candidates, ARM 44.11.601; reporting of independent expenditures by candidates, ARM 44.11.502(6)(c); and disclosure and reporting requirements for candidates and political party committees, MCA § 13-37-229. This decision specifically addresses when polling, poll results, and activities of political party committees become expenditures reportable by a candidate or their campaign.

## BACKGROUND

Democratic candidate for Governor of Montana, Ryan Busse, attended an event advertised as the "Montana Freedom Rally," in Bozeman, MT, on August 9, 2024. This event took place at "the Rialto" and featured live music provided by Missoula band, Shakewell. (Complaint, September 3, 2024.) Advertising for the event states that it was "presented by The Montana Democratic party, in support of reproductive rights."<sup>2</sup>

The complainant and the respondent agree that this event occurred, that Mr. Busse was in attendance, and that the Busse for Montana campaign did not report contributions received or expenditures made to produce this event. The response provided by the Busse for Montana campaign states that "[t]his event was

---

<sup>1</sup> Complaints where the commissioner has taken this approach include *Hogan v. Olson and Knudsen*, COPP-2024-CFP-017 and 018; and *O'Hara v. Cascade County Republican Central Committee*, COPP-2016-CFP-004 and 013.

<sup>2</sup> Ryan Busse to hold "Montana Freedom Rally" Friday, Aug 9 in Bozeman in support of reproductive rights | Bozeman News | [montanarightnow.com](http://montanarightnow.com)

organized, hosted, and paid for by Big Sky Victory, the Montana Democratic Party's coordinated campaign. This campaign's participation in this event is exactly the type of lawful coordination between political parties and candidates that party organizations are expected to fulfill." The response goes on to state that the Busse for Montana campaign properly and timely reported its expenses associated with the event, specifically mileage and staff time, and that all event expenses themselves were "properly reported by the Montana Democratic Party."  
(Response.1.)

In the second complaint, the Gianforte campaign asserts that Raph Graybill, candidate for Lt. Governor, spoke at a campaign event in Helena where he stated: "We have a poll. We're not supposed to know about it. We are within the margin of error with this guy. We are right on his heels. This is the key moment. But we need your help right now to close that gap." In another part of the same speech, the complaint states that Mr. Graybill said, "These are issues that cut through. We have done the research. We have done the polling." (Complaint, September 9, 2024.)

In their response, provided through Aaron Murphy Consulting, the Busse campaign states that the Gianforte campaign, "surreptitiously" recorded Mr. Graybill's speech and that the "campaign does not even have access to that recording." (Response, 2.) Nevertheless, the Busse campaign does not dispute the fact that the statements presented by the Gianforte campaign were indeed made by Mr. Graybill.

## DISCUSSION

The complainant asserts that "Mr. Busse has either a) failed to report campaign expenses as required by law b) failed to report campaign debts as required by law or c) accepted illegal corporate in-kind contributions." (Complaint, 1.) Although these allegations are elucidated in the first complaint regarding Mr. Busse's attendance at a rally in Bozeman, MT, the same allegations apply to the second complaint regarding polling.

Montana law specifies that all expenditures made, or contributions received by a candidate to support their candidacy or to oppose another candidate must be

disclosed. MCA § 13-37-229. These activities, including debts and in-kind contributions, are reported on C-5 periodic campaign finance reports, filed with COPP according to a statutorily mandated reporting calendar. MCA § 13-37-226.

Any activity, including production of and attendance at the rally in Bozeman, MT, or polling conducted or received by the campaign, require the disclosure of related expenditures or contributions if the activities were intended to “support or oppose” a candidate.

"Support or oppose", including any variations of the term, means: (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to voters in an election; or (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the passage or defeat of the ballot issue or other question submitted to the voters in an election. MCA § 13-1-101(34).

### *Bozeman Rally*

In the first complaint, the complainant alleges Busse for Montana failed to report contributions and expenditures related to the Montana Freedom Rally held in Bozeman, MT, on August 21, 2024. Here, evidence does not show that this campaign rally was held to “support or oppose” the Busse for Montana campaign which would create reportable contributions or expenditures. While advertisements for the event do name Ryan Busse as a speaker at the event, none state “vote” for Ryan Busse, or use other terms of express advocacy which would fulfill the definition of “support or oppose” provided above. Additionally, an alternative reasonable interpretation exists in the additions to the complaint provided by MTGOP.

Advertising and social media posts related to this event identify it as a “Montana Freedom Rally” presented “by the Montana Democratic Party.”<sup>3</sup> Advertising further indicates that the rally is held “in support of reproductive rights.” *Supra* n. 3. COPP has no reason to doubt the purpose of the event is to “support reproductive rights.” Evidence does not support a conclusion that the Bozeman rally’s purpose was to support or oppose Busse for Montana. Consequently, all expenditures related to the event are reportable by the Montana Democratic Party, rather than Busse for Montana.

While the Montana Democratic Party certainly coordinated with Mr. Busse to bring him to the rally, this is type of associational rights afforded to political party committees. See *O’Hara v. Cascade County Republican Central Committee*, COPP-2016-CFP-004 and 013 and *Buckley v. Valeo*, 424, U.S. 1, 99 S. Ct. 612, Overruled on other grounds.

#### *Political Party Committees*

In this decision, I do not hold that any reportable coordination occurred between the Montana Democratic Party and the Busse for Montana Campaign. Nevertheless, the relationship between the Democratic Party and Democratic candidates is referenced by the respondent and warrants some discussion.

Political party committees hold a unique position in Montana election law which has been described by the Montana legislature in MCA Title 13, chapter 38. Such committees can only be created by a political party organization, rather than by individuals. ARM 44.11.202(5). A political party committee serves a number of roles that other political committees do not, such as selecting delegates, selecting national committee representatives, filling ballot vacancies and “all other functions inherent in a party organization.” MCA § 13-38-101, *O’Hara*, at 4.

One activity always served by a political party committee and “inherent in a

---

<sup>3</sup><https://www.facebook.com/photo/?fbid=3375654559233705&set=a.585054498293739>; Ryan Busse to hold "Montana Freedom Rally" Friday, Aug 9 in Bozeman in support of reproductive rights | Bozeman News | montanarightnow.com

party organization” is to support candidates from their political party.<sup>4</sup> *Id.* The Montana Democratic Party is a political party committee and Mr. Busse is the Democratic candidate for Governor of Montana. As illustrated by the exemption from contribution limits of personal services provided by a political party to a candidate, some amount of coordination is expected and necessary between a political party committee and its candidates.

Here, the complaint lends itself to speculation of illicit coordination between the Busse campaign and the Montana Democratic Party. As I state later in this decision, evidence does not support a determination that the rally in question was organized to support candidates Busse and Graybill. Therefore, because the rally was not created to “support or oppose,” we need not determine if reportable coordinated expenditures occurred.<sup>5</sup> However, I agree with the respondent’s assertion that “this event is exactly the kind of lawful coordination between political parties and candidates that party organizations are expected to fulfill.” (Response, 1.)

In *Adams v. MDP*, the commissioner, in considering the classification of political committees, notes:

[R]eporting and disclosure by a political party involves a nuanced analysis exempting some values reported from the contribution limits applicable to political parties. That nuanced analysis is required in order to accommodate the unrestricted associational rights of a party in its use of paid professional staff to advance the party’s interest in

---

<sup>4</sup> The Montana Democratic Party is a political party committee as defined by MCA § 13-1-101(35) and Ryan Busse is a Democratic candidate for Governor. The unique associational interests between a political party committee and candidates are discussed at length in *VanFossen v. Missoula County Republican Central Committee, et. al.* COPP-2023-CFP-008, p. 15-19.

<sup>5</sup> A "coordinated expenditure" means any election communication, electioneering communication, or reportable election activity that is made by a person in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, at the request or suggestion of, or with the express prior consent of a candidate or an agent of the candidate. The coordination of an expenditure need not require agreement, cooperation, consultation, request, or consent on every term necessary for the particular coordinated expenditure, but only requires proof of one element, such as content, price, or timing, to be met as a fact of a coordinated expenditure

supporting candidates, while still requiring reporting and disclosure of the value of that activity.” COPP-2015-CFP-006, at 3.

Personal services provided to a candidate by a political committee, are by necessity, always coordinated. Under most circumstances, this would normally create reportable contributions from a political committee to the candidate, which are then reportable as expenditures by the political committee and as contributions received by the candidate. ARM 44.11.602(5). In the case of a political party committee, such services need only be reported by the committee and are not subject to the contribution limits established under MCA 13-37-216, 229(4)(A).

Here, a determination that asking Mr. Busse to speak at a Montana Democratic Party event created reportable contributions, based on resulting potential support of the Busse campaign, would clearly infringe on the “unrestricted associational rights of a party” addressed by the commissioner in *Adams* and the First Amendment “freedom to associate with voters for the common advancement of political beliefs and ideas” afforded to all Americans by the First Amendment. U.S. Const., Amend. 1, *Buckley v. Valeo*, at 8, 633.

COPP has no evidence to suggest that the Busse campaign received contributions, either cash or in-kind, made expenditures or entered into any type of agreement that would create a debt, related to the production of the Montana Freedom Rally, that went unreported. All allegations related to this event are hereby dismissed.

### *Polling*

The second complaint alleges that the Busse campaign failed to report contributions received and/or expenditures made in connection to two separate polls referenced by Lt. Governor candidate Raph Graybill when speaking at a campaign event on August 21, 2024. MTGOP alleges that the Busse for Montana campaign paid to conduct candidate polling or similar activity intended to inform campaign strategy or alternatively coordinated with an entity that financed polling but failed



to report this as expenditures made or contributions received on two occasions, in violation of Montana law.

In their second response filed on September 16, 2024, the Busse for Montana campaign states that this particular complaint should be dismissed as frivolous because the campaign event at which Mr. Graybill made statements implicating polling by the campaign, occurred on August 21, 2024, and the applicable reporting period didn't close until September 15, 2024. This is a misstatement of the law. If the Busse campaign or Mr. Graybill had obtained poll results, any related expenditures would have necessarily already occurred, either in the form of payment or a resulting debt when a polling company was hired, prior to Mr. Graybill sharing information at a campaign event. Therefore, any such debts or expenditures would be required to be reported in the reporting period during which they occurred, undeniably prior to the reporting period closing on September 15, 2024. MCA § 13-37-229(2)(a)(vi), ARM 44.11.502(2), *MTGOP v. Alke*, COPP-2023-CFP-018, at 8.

If a poll is conducted by a candidate's campaign in order to support the candidate, that expenditure is clearly an activity which triggers reporting. MCA § 13-37-229. Additionally, COPP decisions have determined that paid polling or survey activity is reportable as an in-kind contribution once any collected data or information is used to inform candidate/issue support or opposition strategy and material development. See *Huntley v. Paxinos* (2000), at 10-16; and most recently *Healthy Montana for I-185 v. Montanans Against Tax Hikes* (2018), at 5-12. "The activity became contributions to MATH on June 13, 2018, when all opinions, research (and any other information) collected by Altria and RAI were used to determine opposition, develop and create materials opposing I-185." *Healthy Montana* at 10.

In its response to this matter, the Busse for Montana campaign asserts responsibility for partially financing a candidate survey conducted in April 2024. The response indicates, however, that the campaign reported expenses associated with this survey in "the appropriate time period." In reviewing the C-5 campaign



finance reports filed by the Busse campaign, COPP was unable to identify any expenditures specifically described as involving “candidate survey,” polling, or related activity.

Consequently, COPP staff contacted the Busse campaign and was informed that the polling activity mentioned by Mr. Graybill actually took place in March 2024. An inspection of the Busse campaign’s C-5 filed for the reporting period of March 16 through April 15, 2024, shows an expenditure reported to Global Strategy Group, on March 26, 2024, for \$4,250, detailed as “Payment for Survey.” This evidence adequately supports Busse for Montana’s assertion that this expenditure was reported as required under MCA § 13-37-229(2)(b).

The second allegation of unreported polling relies on Mr. Graybill’s statement made on August 21, 2024, “We have a poll. We’re not supposed to know about it. We are within the margin of error with this guy. . .” (Complaint, September 9, 2024.) In their response, the Busse campaign asserts that the referenced poll was conducted by a third-party entity and the information provided to the campaign was not provided by that third party. (Response. 2.)

COPP lacks any evidence or compelling reasoning to reject the Busse for Montana campaign’s assertion the described surveys or polling were conducted independently by a third-party entity. Candidates are not required to report any independent expenditures financed by a third-party, including polling or survey activity, as campaign contributions received. ARM 44.11.502(6)(c). Nor would the ‘results’ of such polling or survey activity be considered a coordinated expenditure subject to reporting as a contribution received simply because the Busse for Montana campaign was informed after the fact.

“A “coordinated expenditure” does not exist solely because after publication or distribution, the person funding or facilitating the communication or reportable election activity informs the candidate or an agent of the candidate that the person has made an expenditure or funded the activity, provided that there is no other exchange of information, not otherwise available to the public, relating to details of the expenditure or funding the activity.” ARM 44.11.602(4)(c).

COPP has no evidence to support allegations that the Busse campaign was provided polling results that informed campaign decision making, or otherwise failed to report expenditures or contributions related to polling, as stated in the above-named complaints.

### CONCLUSION

Sufficient evidence has not been provided to indicate the Busse for Montana campaign violated Montana election law by failing to report contributions or expenditures related to the August 9, 2024, Montana Freedom Rally, or any polling mentioned by Mr. Graybill on August 21, 2024. The above-named complaints have been considered as described above and are hereby dismissed in full.

Dated this 3<sup>rd</sup> day of October, 2024.



---

CHRIS J. GALLUS  
Commissioner of Political Practices  
State of Montana  
1209 8<sup>th</sup> Avenue  
Helena, MT 59620-2401