

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)

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| TED KRONEBUSCH | COPP-2024-CFP-014 |
| v. | DISMISSAL |
| JAMES COOMBS (Montana House District 18 candidate) | |

COMPLAINT

On May 2, 2024, Ted Kronebusch of Conrad, MT, filed a campaign finance and practices complaint against James Coombs, candidate for election to the Montana House of Representatives, District 18. The complaint alleged that candidate Coombs failed to timely file a C-5 campaign finance report due on or before April 20, 2024, and failed to include proper “paid for by” attribution disclaimers on election materials.

The complaint conforms to the requirements of Admin. R. Mont. 44.11.106 and alleged violation of statutes which fall under my jurisdiction as Commissioner of Political Practices. Therefore, I accepted it as filed, and in accordance with COPP procedures, requested a response from Mr. Coombs. Mr. Coombs timely filed a response with COPP on May 17, 2024. The complaint and response are posted on COPP’s website, www.politicalpractices.mt.gov

ISSUES

Timely filing of campaign finance reports by candidates, Montana Code Annotated (MCA) § 13-37-226; candidate reporting of contributions received and expenditures made, MCA § 13-37-229; and “paid for by” attribution requirements, MCA § 13-35-225.

BACKGROUND

James Coombs filed a C-1 Statement of Candidate as a Republican candidate for election to the Montana House of Representatives, District 18, with COPP on March 13, 2024. On his C-1, Mr. Coombs states his campaign email address is “info@coombsforchange.org.”

Mr. Coombs filed an initial C-5 campaign finance report for the period of March 13 through March 29, 2024 and a C-5 campaign finance report on April 29, 2024, for the period of March 30 through April 29, 2024. The above-named complaint, alleging that Mr. Coombs had not filed a C-5 campaign finance report due on April 20, 2024, was postmarked on April 29, 2024, and received by COPP on May 2, 2024. Therefore, while Mr. Coombs indeed filed his C-5 report due April 20, 2024, nine days late, he did so prior to COPP's receipt of this complaint.

When filing his April 29, 2024, report, Mr. Coombs also amended his initial report from March 29, 2024, to redesignate contributions marked "general" to be designated "primary." Mr. Coombs also amended the April 29, report on April 30, 2024, and subsequently amended both reports on May 17, 2024. Mr. Coombs also filed a third C-5 report on May 17, 2024, for the period of March 30 through May 31, 2024. Mr. Coombs did not advance to the general election and on June 26, 2024, he filed a C-5 report for the period of June 1 through June 30, 2024, closing his campaign.

DISCUSSION

The complainant first alleges that Mr. Coombs failed to file his campaign report due April 20, 2024, stating that during the time between when Mr. Coombs first filed a campaign finance report on March 29, 2024 and the filing of his complaint, Mr. Coombs "was expending money very visibly" including handing out flyers and putting up yard signs.

Time for filing reports

MCA § 13-37-226 requires candidates to file campaign finance reports with COPP and mandates a reporting schedule. Candidates who participated in Montana's June 4, 2024, primary election were required to file campaign finance reports on "the 20th day of March, April, May, June." MCA § 13-37-226(1)(b). In *Bradshaw v. Bahr*, the Commissioner found that "any failure to meet a mandatory, date-certain filing date is a violation of § 13-37-226 MCA." COPP-2018-CFP-008, *emphasis added*.

Here, Mr. Coombs timely filed one report on May 17, 2024. The remaining

three C-5 campaign finance reports for March, April, and June were each filed six to nine days late and each are for a reporting period through the end of a given month, rather than the standard 16th of the previous month until the 15th of the month due. MCA §§ 13-37-226 and 228. It is noteworthy that each time Mr. Coombs filed a report, he also made amendments to past reports. Primarily, Mr. Coombs corrected technical errors such as designating funds “general” that should have been designated “primary” and moving a contribution from “individual contributions’ to “committee contributions.”

Mr. Coombs additionally made amendments to report debts owed by the campaign for in-kind loans Mr. Coombs had made by covering expenses with his personal credit card. In his response, Mr. Coombs indicated that he realized his error in not reporting these as debts following a candidate training offered by COPP in Conrad, MT. (Response.)

MCA § 13-37-229(2)(a)(vi) includes in the definition of expenditures “the amount and nature of debts and obligations owed by a political committee, candidate, or joint fundraising committee.” ARM 44.11.502(2) further explains that all obligations must be reported during the reporting period during which they occurred. See *MTGOP v. Alke*, COPP-2023-CFP-018, *MTGOP v. Busse*, COPP-2023-CFP-017 and COPP-2024-CFP-027.

Here, Mr. Coombs has not strictly adhered to the COPP reporting calendar and additionally failed to timely report personal expenditures as debts owed by the campaign. However, Mr. Coombs assertion that he made an effort to correct this issue as soon as he became aware of it, is supported by the fact that he made these corrections the day following the COPP training offered in Helena, MT and virtually through Zoom, on May 16, 2024.

Specifically addressing the C-5 report implicated in this complaint, five contributions totaling \$850.00 were late reported (nine days) but the loans from Mr. Coombs to his campaign for signs and other election material were not required to be reported until the next reporting period of April 16 through May 15, 2024. While errors still exist, such as reporting loans also as debts and expenditures when they

are only reportable as loans until paid, these technical errors do not deprive Montana voters of information regarding the campaigns spending *Paid for by attribution.*

The complainant also alleges that Mr. Coombs violated MCA § 13-35-225 by including in the required “paid for by” attribution “paid for by coombsforchange.org” which the complainant states does not include the name of the candidate or his campaign.

MCA § 35-225(1)(a) specifically requires that communications financed by a candidate or their campaign include “the name of the candidate or the candidate’s campaign. ARM 44.11.601(2)(a)(ii)(A) further states that if an attribution disclaimer utilizes the name of candidate’s campaign, and the name of the candidate’s campaign does not include the candidates last name, the attribution statement must include the candidate’s first and last name. There are no statutory requirements restricting what a candidate may choose to use as a campaign name.

Here, Mr. Coombs uses the attribution statement, “paid for by coombsforchange.org.” While, as the complainant states, this is the address of his website, there is no restriction in statute or rule which prevents Mr. Coombs from also using this as his campaign name. It is entirely within Mr. Coombs’ purview to choose to call his campaign “coombsforchange.org.”

Relevant to Montana’s attribution requirements, this campaign name includes the last name of the candidate as required by ARM 44,11,601(2)(a) and leaves no doubt as to who financed the expenditure. If COPP were to determine that the inclusion of ‘dot-org’ following ‘coombsforchange’ was a violation of the attribution requirement, COPP would nevertheless dismiss such a violation as de minimis. ARM 44.11.603(2)(f) specifically includes “any failure to comply with the attribution requirements of 13-35-225, MCA, that is determined to nevertheless provide sufficient disclosure regarding who made or financed the communication” as acts that may be considered de minimis and therefore “[do] not warrant enforcement as a campaign practices violation.” MCA § 13-1-101(11).

The complainant’s allegation that Mr. Coombs violated MCA § 13-35-225 by

failing to include his name or the name of his campaign in the attribution statement on various election materials is hereby dismissed.

ENFORCEMENT

MCA § 13-37-124(1) requires that I refer a matter to the appropriate county attorney when I find sufficient evidence “to justify a civil or criminal prosecution.” The county attorney may then choose to prosecute the matter or refer it back to me for appropriate civil or criminal action. *Id.* While I do not have discretion to pursue a civil action without first referring the matter to the affected county attorney, I do have discretion to determine if enforcement action and therefore referral to the county attorney is justified. *Montana Freedom Caucus v. Rep. Zephyr*, COPP-2023-CFP-010, 23, *Doty v Montana Commissioner of Political Practices*, 2007 MT 341, 340 Mont. 276, 173 P.3d 700. “The determination of whether a prosecution is justified must take into account the law and the particular factual circumstances of each case, and the prosecutor can decide not to prosecute when they in good faith believe that a prosecution is not in the best interest of the state.” *Zephyr*, COPP-2023-CFP-010, at 26.

Recently, in *MTGOP v. Mullen*, COPP-2024-CFP-030, *MTGOP v. Alke*, COPP-2023-COPP-018, and *O’Neill v. Wilson*, COPP-2024-CFP-022, I discussed in detail the objective factors I apply in determining when prosecution is justified. These primarily consist of proximity to the election, a campaign’s pattern of behavior, the size of contributions or expenditures which have gone unreported, and finally, responsiveness of the campaign. The above factors are listed in order of relevance, with proximity to the election being the most determinative factor.

Mr. Coombs’ late filing of C-5 campaign finance reports is a violation of MCA § 13-37-226. However, consideration of the above factors indicates prosecution of this matter is not justified.

First, Mr. Coombs filed his April 20, 2024, report well in advance of the primary election. The May report, due just prior to the election, was timely filed on May 17, 2024. While, Mr. Coombs’ June finance report was also filed nine days late, this action followed the election. Consequently, Montana voters were not deprived of

information prior to the election.

The second factor, the value of contributions or expenditures that were late reported, does not affect prosecution either way. The complete value of late reported contributions is \$850.00. The additional expenditures added on May 17, 2024, all occurred between April 17 and April 30, 2024, and therefore were not reportable until the May 20, 2024, C-5 report for the reporting period of April 16 through May 15, 2024. Consequently, all but \$850 in contributions were timely reported.

The third factor, a pattern of behavior by the campaign, weighs in favor of prosecution. Mr. Coombs not only filed the report implicated by this complaint nine days late, he additionally filed his initial report nine days late, and his June report six days late. None of these reports were filed according to MCA § 13-37-228's reporting periods.

Finally, considering responsiveness of the campaign, Mr. Coombs has promptly replied to COPP requests and has repeatedly made efforts to bring his campaign into compliance. While numerous amendments to a single report can indicate a lack of attentiveness to reporting, each of Mr. Coombs' amendments addressed technical errors, displaying an effort to comply with COPP requests and advice received from COPP at a candidate training.

Here, there is an additional reason to dismiss this complaint. First, the initial violation - failure to report - was remedied before COPP received this complaint. In *Landsgaard v. Peterson and Wilks*, the commissioner determined that complaints directed at campaign practice violations that had already been corrected would be dismissed as frivolous. COPP-2014-CFP-008. While the complainant mailed this complaint before this violation had been remedied, it did not arrive in the Commissioner's office until after Mr. Coombs had filed his report. Therefore, this qualifies as a complaint "directed to a corrected campaign practice" and may be dismissed as frivolous under *Landsgaard. Id.* at 11.

Next, applying the factors outlined above, the only information Montana voters did not receive in a timely manner consists of \$850.00 in contributions. Although other issues have been discovered during the course of this investigation,

none of these issues deprived Montana voters of information prior to the primary election and actually point to efforts by the Coombs campaign to comply with Montana election law. The above considerations as well as the fact that Mr. Coombs has not advanced to the primary election, indicate that prosecution is not in the best interest of Montana voters.

CONCLUSION

The complaint allegations have been considered as described above and sufficient evidence exists to determine:

- Mr. Coombs did not violate MCA § 13-35-225 by failing to include his name or campaign name in his “paid for by” attribution on election materials.
- Mr. Coombs violated MCA § § 13-37-226 and 228 by failing to comply with the statutorily mandated reporting calendar.

Prosecution of this matter is not justified at this time and therefore this complaint is dismissed in full.

Dated, this 10th day of October, 2024.



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