

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)

<p>MARY MOSER and RICK MOSER,</p> <p style="text-align: center;">Complainants,</p> <p>v.</p> <p>LISA BENNETT and JOHN FRANICH,</p> <p style="text-align: center;">Respondents.</p>	<p>COPP-2024-CFP-005</p> <p>DISMISSAL</p>
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COMPLAINT

On March 4, 2024, Complainants Mary Moser and Rick Moser (hereinafter “Moser”) filed an Ethics Complaint with the Office of the Commissioner of Political Practices (COPP) against Respondents Lisa Bennett and John Franich (hereinafter “Respondents” unless specifically referenced by name). In essence, the *Complaint* alleges that Respondents have violated some unspecified rule regarding the appointment or election of an officer of the Carbon County Republican Central Committee (CCRCC). As alleged, after Mr. Franich was elected to the office of CCRCC Treasurer on September 21, 2023¹ Ms. Bennett assumed the position of “Deputy Treasurer” of the organization without being elected to that post by a vote of the membership. Thereafter, as alleged, Ms. Bennett was listed on a Statement of Organization (C2) form as the “Deputy Treasurer,” filed with the COPP.

The *Complaint* alleges a series of facts concerning the transition of responsibilities from the previous Treasurer to Mr. Franich, after his election, including some difficulties encountered in communication and the transfer of the

¹ Ms. Moser was elected to the position of CCRCC Vice Chair on that date, and Mr. Moser was elected to the position of CCRCC State Committeeman on January 18, 2024. *Complaint*, attached letter at 1.

books and records necessary for the Treasurer to perform the responsibilities of the office. *Complaint* (letter) at 1. There are also allegations of CCRCC meetings unscheduled and missed. *Id.* By January 2024 it was apparent that Mr. Franich needed some assistance with his tasks, including filing the required C2 financial reports with the COPP. As alleged, prior to the February 15, 2024, CCRCC meeting, Ms. Moser contacted a representative of the COPP and was informed that “the reports had been filed on February 14, 2024.” The C2 report had Lisa Bennett listed as Deputy Treasurer. Lisa was never officially appointed or elected as deputy treasurer.” *Id.* at 1, para. 4. While additional narrative follows, the *Complaint* appears to be limited to the contention that Ms. Bennett was never formally elected or “appointed” to the position. Additional facts recite the passage of a motion for an investigation of the situation and eventual resolution by the CCRCC Chair, without investigation. *Complaint* at 2. Whether an investigation was or was not conducted is not a basis of the *Complaint*.

Administrative Rule of Montana (ARM) 44.11.106 sets out specific requirements for the filing of complaints which includes “a detailed description of the alleged violation, including citation to each statute and/or rule that is alleged to have been violated.” Complaints must allege facts, include reference to law within the commissioner’s authority, and must be notarized. *Id.* However, the requirement that a complaint actually cite numerically and correctly to particular statutes has not been strictly enforced by the present COPP or previous commissioners, because doing so limits access to justice by everyday citizens lacking resources or legal training. Commissioners “regularly proceed with complaints that adequately describe violations of law, even when the complainant does not provide specific citation.” *Hogan v. Olson/Knudsen*, COPP-2024-CFP-017, at 14.² That appears to

² On March 27, 2024, Complainants requested that Commissioner of Political Practices Chris Gallus recuse himself from further consideration of the *Complaint* herein, and Commissioner Gallus agreed due to his previous representation of Ms. Bennett in a wholly separate matter. The undersigned is acting in the capacity of Deputy Commissioner of Political Practices, by appointment dated October 2, 2024.

be the situation here.

Before recusing, the COPP determined that the *Complaint* generally conformed to the requirements of Admin. R. Mont. 44.11.106 but reclassified the *Complaint* as one involving Campaign Finance and Practices, not ethics. The Commissioner accepted it as filed, and in accordance with COPP procedures requested a response from the Respondents by April 1, 2024. The Respondents timely filed a response via email on April 1, 2024, including a five-page letter and 12 exhibits. The *Complaint* and response are posted on the COPP website.³

DISCUSSION

The *Complaint*, summarized above, alleges the September 2023 election of Respondent Franich as CCRCC Treasurer and subsequent communication issues between Ms. Moser and Mr. Franich. It also alleges missed or cancelled CCRCC meetings, issues concerning timely filing of C2 reports with the COPP, and eventual resolution of the reporting and communication issues through the assistance of the CCRCC Chair. None of those concerns is a violation of Campaign Finance and Practices laws, and all were apparently resolved prior to the *Complaint* being filed in March 2024.

The overriding complaint made by Complainants is that, according to them, Ms. Bennett assumed the role of CCRCC “Deputy Treasurer” without election or official appointment. CCRCC records on file with the COPP show that Ms. Bennett was in fact listed as “Deputy Treasurer” on one C2, amended on February 14, 2024. The C2 also identified John Franich as “Treasurer,” which was accurate. The *Complaint* itself confirms that Mr. Franich requested assistance in the performance of his duties. *Id.*, attached letter at 1-2.

Respondents’ response documents address the various communications and scheduling concerns through several pages of explanation based primarily on

³ www.politicalpractices.mt.gov

argument and hearsay. COPP has no jurisdiction over organizational disputes (bylaws, communications, scheduling, etc.) and other issues internal to the CCRCC, and therefore is not the proper arbiter of such concerns. The narratives and exhibits submitted by the parties frame only one issue that might remotely involve Montana Campaign Finance and Practices law: the allegation that Ms. Bennett assumed the CCRCC “Deputy Treasurer” position without election or formal appointment.

Complainants failed to cite any statute or rule which make the Respondents’ actions relating to Treasurer obligations subject to COPP scrutiny. Respondents, on the other hand, cite 13-37-202 and -203, MCA, which are indeed relevant to this dispute.

Under 13-37-202(1), MCA “[a] campaign treasurer may appoint deputy campaign treasurers.” Mr. Franich was duly authorized to appoint Ms. Bennett to help fulfil his Treasurer responsibilities. An additional election for the deputy position is not required by that statute, nor does it require the appointment of a deputy be in writing. The statute requires only that the deputy be authorized in writing to carry out powers and duties of the treasurer. There is no evidence that Ms. Bennett ever exercised any of the Treasurer’s powers and duties, with the possible exception of filing a “no activity” C2 with the COPP.

The appointment could have been better memorialized. The only document of record identifying Ms. Bennett as “Deputy Treasurer” is the Statement of Organization (C2) amended February 14, 2024, on file with the COPP. Yet critical to the sole issue are admissions submitted generally by both Respondents specific to Ms. Bennett, *to wit*:

- “John Franich, our Treasurer’s intent was (*sic*) to have someone help him until he firmly understood the requirements of being the CCRCC Treasurer.” *Response* at 4.
- “[Ms. Bennett’s] name was added to the COPP site on February 14, 2024 and on February 15, 2024, at the CCRCC mtg., John Franich asked for a

Deputy Treasurer and specifically asked that I [Ms. Bennett] be the Deputy Treasurer.” *Id.*

- Yet at the CCRCC meeting held February 15, 2024, the Chair, Ms. Bennett and Treasurer Franich all agreed that Ms. Bennett would be “removed” from the position of “Deputy Treasurer.” *Id.*, at 5.
- “For the record, I [Ms. Bennett] do not care whether I am the Deputy Treasurer.” *Id.*, at 4.

All of the actions or events alleged in the *Complaint* occurred between September 2023 and February 15, 2024. The actions that are the subject of this analysis were noted, apparently discussed, and, with the assistance of the CCRCC Chair, corrected internally by February 15, 2024. The *Complaint* was not filed until after all events had occurred and *corrective action had been taken*. Simply stated, there is nothing for the COPP to do at this point.

Committees such as the CCRCC self-select who their treasurers will be. They must report the identity and contact information to the COPP. 13-37-201, MCA. A committee treasurer may appoint a deputy treasurer, whose official contact information must also be provided to COPP. 13-37-202(1), MCA. The deputy treasurer’s powers and duties are defined in writing by the treasurer and committee. *Id.*, at (2). While evidence of Ms. Bennett’s appointment and designation of duties might be absent, it is also undisputed that she was removed from that post by agreement the next day – February 15, 2024 – and, according to Ms. Bennett, she never “served” as deputy treasurer by writing checks, making deposits, “etc.” *Response* at 4.

Mr. Franich’s intent was clear: he needed help with the CCRCC books and, as treasurer, appointed a deputy. Ms. Bennett agreed. While it would have been preferable that CCRCC bylaws or other rules had provided a specific framework for such an appointment, the materials submitted by the parties fail to identify any such procedure. Nonetheless, because the treasurer is allowed by statute to make such an appointment, the absence of evidence memorializing that appointment does

not by itself constitute a violation of Montana election law.

In *Montana Freedom Caucus v. Zephyr*, COPP-2023-CFP-010 (November 16, 2023) at 16-18, the COPP outlines its approach to campaign committee treasurer issues. Substantial compliance with statutory requirements is recognized. *Id.*, at 18, citing *Berry v. Fanning*, COPP-2012-CFP-4/23/13.⁴

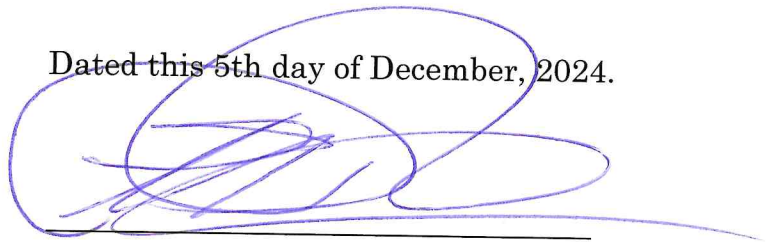
Errors (if any) such as those allegedly made by Respondents, caused largely by a misunderstanding of the law, have been dismissed by prior Commissioners. See *Motl v. CMRG*, COPP-2001-CFP-2/21/2002 and *Hardin v. Skinner and Ringling*, COPP-2010-CFP-12/17/2012. It appears from the evidence herein that, when the issue of the proper appointment of a deputy treasurer was brought to the attention of the CCRCC Chair in early 2024, the matter was resolved internally.

Allowing the CCRCC to self-correct is consistent with COPP practice. *Montana Freedom Caucus v. Zephyr* at 17. Because there is no evidence of any CCRCC financial transactions taking place within the timeframe of the *Complaint*, and in the absence of any evidence of harm to voters, contributors or to the CCRCC itself, I find that dismissal is appropriate.

CONCLUSION

The *Complaint's* allegations have been considered as described above and are hereby dismissed in full.

Dated this 5th day of December, 2024.



⁴ Respondents also make a point of suggesting that they filed the February 14 C2 with Ms. Bennett's office and contact information following recommendations by "Deb" of the COPP office. Interactions between committees and the COPP are not collaborative. *Montana Freedom Caucus v. Zephyr* at 18, Committees are responsible for identifying and correcting errors. *Id.*

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