

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)

ROBYN MOHS v. VOTE YES FOR PUBLIC SAFETY	COPP-2024-CFP-015 DISMISSAL
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COMPLAINT

On May 3, 2024, Robyn Mohs, of East Helena, MT, filed a campaign finance and practices complaint against the Vote Yes for Public Safety (Vote Yes) political committee. The complaint alleged that Vote Yes was acting as a political committee by receiving contributions and making expenditures without being “listed publicly with any agency,” and failed to timely and appropriately file committee finance reports.

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.” However, the requirement that a complaint actually cite numerically and correctly to particular statutes has not been strictly enforced by this 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.

Aside from the lack of citation to specific statutes, the complaint met the requirements of ARM 44.11.106. The complaint was properly notarized, contained sufficient facts, and alleged violations of Montana election law that fall under my jurisdiction as Commissioner of Political Practices. Therefore, I accepted it as filed and requested a response from Vote Yes. The committee timely provided the requested response on May 14, 2024. The complaint and response are available on COPP’s website, politicalpractices.mt.gov.

ISSUES

This decision addresses proper registration as a political committee with COPP, Montana Code Annotated (MCA) § 13-37-201(2)(b); timely filing of campaign finance reports by political committees, MCA § 13-37-226; and time periods covered by reports, MCA § 13-37-228.

BACKGROUND

Vote Yes filed as a ballot issue committee by submitting a C-2 Statement of Organization to COPP on March 15, 2024. On the Statement of Organization, the committee indicated as its purpose, “Citizens of Helena for the Public Safety Levy – Support.”

Vote Yes filed its initial C-6 committee finance report, dated March 15 through April 25, 2024, on May 2, 2024, disclosing \$17,450 in contributions received by the committee and \$117.56 in expenditures made. This complaint was filed the following day, on May 3, 2024.

The Public Safety Levy appeared on the June 4, 2024, ballot for Helena, MT, and failed to pass.

DISCUSSION

Filing a Statement of Organization with COPP

The complainant first states that Vote Yes registered with COPP on March 15, 2024, but the registration “could not be found to the public” until May 2, 2024, the day before this complaint was filed.

Montana law requires all political committees to file a C-2 Statement of Organization with COPP “within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first.” MCA § 13-37-201(2)(b). “A political committee is a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure: to support of oppose a ballot issue. . .” MCA § 13-1-101(34)(a)(ii). Vote Yes, with their stated purpose of “Public Safety Levy – Support” is unquestionably a ballot issue committee required to file with COPP.

Vote Yes filed their C-2 Statement of Organization with COPP on March 15, 2024. Their initial finance report, filed on May 2, 2024, discloses the first expenditure made by Vote Yes was \$7.86 to ActBlue on April 10, 2024, identified as “[d]onation processing fee for received donations.” (COPP Records.) Therefore, Vote Yes was required by Montana law to file their C-2 on or before April 15, 2024, five days following this first expenditure. Vote Yes filed their C-2 Statement of Organization with COPP well in advance of this date, on March 15, 2024.

Here, the complainant agrees that the Statement of Organization was filed on March 15, 2024, but states the organization was only “made public” on May 2, 2024. I cannot speculate as to why the complainant was unable to find the committee prior to May 2, 2024, but I can confirm that Vote Yes filed their C-2 on March 15, 2024, using the Campaign Electronic Reporting System (CERS), and all filings are immediately available to the public. There is no option for a committee to file a Statement of Organization with COPP and have it not be available to the public. Therefore, Vote Yes did not violate MCA § 13-37-201(2) by failing to timely register with COPP. This allegation is dismissed.

Timely Reporting

The complainant next asserts Vote Yes failed to timely submit accurate finance reports as required by Montana election law. Specifically, the complainant alleges that Vote Yes “missed several timely filing dates for the month of April (April 2 and April 25) [and] they failed to submit their report on 03/30/2024.” (Complaint.)

MCA § 13-37-226 outlines Montana’s mandatory campaign finance report filing requirements. Political committees participating in Montana’s 2024 primary election by supporting or opposing candidates or ballot issues voted on by electors were not required to file reports on April 2 and April 25, 2024, as suggested by the complainant, but were required to file campaign finance reports monthly, on “the 30th day of March, April, May, [and] June. . .” MCA § 13-37-226(2)(b).

Here, COPP’s review of this matter determined the committee did not file C-6 committee finance reports on or before March 30 or April 30, as required by law.

The committee instead filed its initial report, covering both the March 30 and April 30 reporting periods required under MCA § 13-37-228 on May 2, 2024. As a result, the committee missed the initial March 30, 2024, reporting due date by thirty-three (33) days, and the April 30, 2024, reporting due date by two days.

Vote Yes' failure to timely file is a violation of MCA § 13-37-226. However, at the time this complaint was received, the respondents had filed a report covering the time period in question, ultimately correcting the issue. Based on the following discussion, this portion of the complaint - although factual - is dismissed.

Pursuit of a civil action in circumstances such as these, comes at an economic cost while doing little to increase compliance and transparency for Montana voters. For exactly this reason, Montana provides by rule the requirements for filing a complaint and a non-exhaustive list of reasons a commissioner may choose to dismiss a campaign practices violation in ARM 44.11.106. Specifically, the rule states: "No investigation shall be required and a complaint may be dismissed if the complaint is frivolous on its face." ARM 44.11.106(4).

In an effort to improve the ability of COPP to process complaints in an economic and equitable fashion, the Commissioner in *Landsgaard v. Peterson* enumerated four indicia of frivolous complaints and held "future complaints identified as frivolous will be dismissed summarily with minimal discussion." COPP-2014-CFP-008, at 4. *Landsgaard* specifically identifies a complaint "directed to a corrected campaign practice" as frivolous. *Id.* at 11. "The policy of Montana does not favor "got you" complaints. Instead, where it is possible to do so, Montana law favors correcting campaign errors." *Id.* at 12.

Here, this portion of the complaint easily falls within COPP's definition of a frivolous complaint. While Vote Yes indeed violated MCA § 13-37-226 by failing to timely file committee finance reports on or before March 30, or April 30, 2024, this issue was corrected by Vote Yes, prior to the complaint being filed. Therefore, the allegation that Vote Yes failed to timely file committee finance reports prior to May 2, 2024, although factual, is dismissed as frivolous.

Time period covered by reports

The complainant also alleges Vote Yes filed “an insufficient report on 05/02/24 that does not go through 04/30/24.” This allegation is based on a misunderstanding of the law.

Montana election law specifically states the time periods which must be covered by finance reports. Relevant here, MCA § 13-37-226(2)(b) specifies that committee finance reports are due on the 30th of each month and MCA § 13-37-228 states that each report covers the time period from the close of the last report until five days before the next report is due. Therefore, Vote Yes’ report due April 30 (late filed on May 2) was required to cover a time period closing on April 25, 2024, not April 30, 2024, as stated by the complainant.

COPP records indicate that Vote yes filed a report on May 2, 2024, for a reporting period beginning on March 15, 2024, and ending on April 25, 2024. Although Vote Yes was required to file a report ending March 25, and April 25, 2024, the failure to file the first report has been discussed above and dismissed as frivolous as it addresses a corrected campaign practice. The complainant’s additional allegation that Vote Yes’ C-6 finance report filed on May 2, 2024, was insufficient because it did not go through April 30, 2024, is based on a misstatement of law and is also dismissed.

Summary

Several misstatements of law or procedure have been made by the complainant. No campaign finance reports were due on April 2 or April 25, 2024, and the report filed on May 2, 2024, was required to cover contributions and expenditures through April 25, not April 30, 2024. Furthermore, the CERS electronic system does not allow Statements of Organization filed by political committees to be made ‘available’ to the public on any day other than the day on which it was filed. While the complainant does accurately assert that Vote Yes failed to timely file reports on March 30, and April 30, 2024, these violations were corrected prior to the complaint being filed. Each of the complainant’s allegations have been considered as described above and are hereby dismissed.

Additional violations identified by COPP

In addition to addressing issues in the complaint, “Montana law also permits COPP to ascertain whether other violations exist.” *MFC v. Zephyr*, COPP-2023-CFP-010, at 2. Here, COPP identified five additional reports, subsequent to the May 2, 2024, complaint, late filed by Vote Yes. None of these late filings were included in the filed complaint and each were quickly resolved in a manner consistent with COPP policy. When late filing occurs in the ordinary course of business, COPP staff notifies the violator and provides the opportunity to correct. That ultimately occurred here.

While a pattern of late reporting is apparent, it would be fundamentally unfair to handle violations that occurred (and were ultimately remedied) during the interim period between when a complaint was filed and COPP finalized a decision, in any other manner than that which is provided to other committees. To do otherwise would create a capricious system where the likelihood of prosecution is dependent more on COPP’s schedule than the egregiousness of violations. The additional late filings identified by COPP have been resolved in a manner consistent with COPP policy and do not warrant consideration for prosecution.

CONCLUSION

The complaint has been considered as described above and is hereby dismissed in full.

Dated this 26th day of December, 2024,



Chris J. Gallus
Commissioner of Political Practices
of the State of Montana
P.O. Box 202401
1209 8th Avenue
Helena, MT 59620