

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)
STATE OF MONTANA

In Re: The matter of MOSER AND MOSER V. BENNETT AND FRANICH	COPP-2024-CFP-005 ORDER APPOINTING DEPUTY COMMISSIONER
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PROCEDURAL HISTORY

On March 7, 2024, Rick and Mary Moser, both of Bridger, MT, filed campaign practice complaints against Lisa Bennett and John Franich, both of Red Lodge, MT. These complaints were reviewed by Commissioner Gallus and COPP staff. The submitted complaints were properly signed and notarized, and alleged violations of statutes which fall under the jurisdiction of COPP. Therefore, they were accepted as filed and in accordance with COPP procedures, a response was requested from Lisa Bennett and John Franich. Ms. Bennett and Mr. Franich furnished a response with attached exhibits on March 31, 2024.

In a March 22, 2024, letter to the complainants informing them that their complaints had been accepted as filed, Commissioner Gallus informed them that prior to his appointment as commissioner, he had represented Lisa Bennett in a matter pertaining to a public records request. This letter served to inform Mr. and Mrs. Moser that the Commissioner would consider discretionary recusal to avoid any conflict of interest or any appearance of a conflict between “public duty and private interest pursuant to Title 2, chapter 2,” and that they may also request the Commissioner’s recusal. Mont. Code Ann. (MCA) §§ 13-37-111(3) and 13-37-108(6).

On March 27, 2024, via email, Mr. and Mrs. Moser requested the Commissioner recuse himself from the above stated matter. On April 23, 2024, Mr. and Mrs. Moser, via email, subsequently withdrew their request. Nevertheless, following acceptance of this matter, but prior to any investigation, on May 28, 2024, Commissioner Gallus became aware of a developing private legal matter and determined that recusal was appropriate.

AUTHORITY

Montana law vests in the Commissioner of Political Practices the duty to investigate all alleged violations of election law contained in Title 13, chapters 35 and 37, of the Montana code, and to enforce these laws in conjunction with Montana county attorneys. MCA § 13-37-111. “If the commissioner determines that considering a matter would give rise to the appearance of impropriety or a conflict of interest, the commissioner is recused from participating in the matter.” MCA § 13-37-111(3). Unless a complaint is filed against the commissioner, recusal is discretionary. See *Powell v. Motl*, OP-14-0711, Order of the Montana Supreme Court (Nov. 6, 2014). In the event the commissioner chooses to recuse himself, the commissioner must appoint a deputy commissioner that meets the same qualifications as the commissioner himself which are described in MCA § 13-37-107.

APPOINTMENT

In this matter, Commissioner Gallus has recused himself, and Patrick Risken is hereby appointed to serve as deputy commissioner. The Commissioner has determined that Mr. Risken meets the qualifications described in MCA § 13-37-107 and has duly executed a contract with Mr. Risken in accordance with MCA § 13-37-111(7). This appointment begins on October 2, 2024, and terminates on December 31, 2024, unless extended by a written agreement signed by the Commissioner and Mr. Risken. Mr. Risken has the same authority, duties, and responsibilities as the commissioner in the above-named matter in accordance with MCA § 13-37-111(6).

Signed this 7th day of October, 2024.



Chris J. Gallus
Commissioner of Political Practices
State of Montana