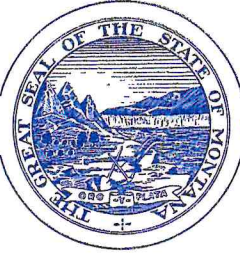


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

CHRIS J. GALLUS
COMMISSIONER
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August 4, 2023

C.B. Pearson
5141 Elk Ridge Road
Missoula, MT 59802

Subject: Complaint received July 27, 2023; Pearson v. Missoula
Organization of Realtors, National Association of Realtors Fund,
and Missoula Mayor, COPP-2023-CFP-011.

Dear C.B.,

This letter acknowledges the receipt of your formal Campaign Finance and Practices (CFP) complaints, received by this Office on July 27, 2023. Your signed and sworn complaint alleges violation of Montana election law under my jurisdiction as Commissioner of Political Practices, and also appears to conform to the basic requirements of 44.11.106 ARM. Consequently, I will accept it as filed.

Pursuant to the established process, your complaint and letters are being sent to each person named in your complaint (respondents) listed above. I am requesting that they provide a written response to this office and retain pertinent records pending further investigation of this matter.

I will review any additional materials relevant to this complaint for any deficiencies pursuant to 44.11.106 ARM, law, and prior relevant COPP rulings, and reserve the right to dismiss the complaint upon this initial inquiry. If this occurs, I will notify you and provide a basis for the dismissal. Alternatively, upon this further review, I may determine that a formal investigation is warranted. If an investigation is conducted, a summary of facts and statement of findings will be prepared, and a copy will be sent to you. This generally forms the basis as to whether the matter is going to be pursued further, which then involves referring the matter to the local county attorney.

Additionally, you indicate in your complaint that two additional individuals are willing to appear in support of the relevant matters asserted in the complaint. I will honor your request for anonymity of those individuals at this point in time, but you and they should be aware such anonymity is unlikely to continue if there is a formal investigation. I will need to rely on best available evidence to support a sufficiency finding, so please make sure these two individuals maintain their records in that condition.

I do want to disclose to you and the other parties that I previously provided legal advice to a person named in the complaint. The issues involved in that prior representation are unrelated and not substantially or reasonably related to issues contained in the current complaint. Representation

involved compliance with ARM 44.11.305 (Nonresident and Federally Filing Committees), and review of proposed disclaimers for compliance with MCA § 13-35-225.

Due to this prior representation, I reviewed MCA § 13-37-111 with respect to recusal. I also reviewed prior decisions COPP decisions and a Montana Supreme Court opinion with respect to recusal and discretionary authority. See Ponte v. Gallik, COPP 2014-CFP-009, Greenwood v. MSWD, COPP-2014-CFP-063, Maxwell v. York, COPP 2015-CFP-019, and Tschida v. Bullock and O'Leary, COPP-2016-ETH-005, as well as the Montana Supreme Court's opinion in Powell v. Motl, OP-14-0711.

Based upon my review, I note that previous commissioners rely upon unnecessary delay and costs to a small agency, like COPP, to establish a preference to resolve complaints within the agency without relying on the need for appointing outside counsel. Applying discretion in MCA 13-37-111(3) and Powell, and relying on Maxwell, I concur with the conclusion that appearance of impropriety must meet a "very high bar." This bar has not been met. There is no actual conflict of interest because the issues are not similar, there is no present relationship, and the prior representation ended. In fact, the private practices client no longer follows the original advice provided in 2012. Consequently, mandatory or discretionary recusal is not required, and I have already made my decision not to recuse.

I appreciate your time and consideration of this important matter.

Regards,



Chris Gallus
Commissioner of Political Practices