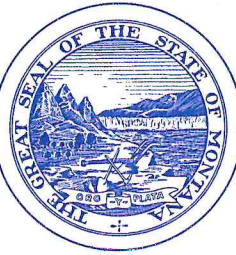


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

CHRIS J. GALLUS
COMMISSIONER
TELEPHONE (406) 444-2942
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1209 EIGHTH AVENUE
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HELENA, MONTANA 59620-2401
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September 9, 2024

American Civil Liberties Union, Inc.
Attn. Akilah Deernose, Treasurer and Terence Dougherty, Deputy Treasurer
125 Broad Street
New York, NY 10004

Delivered via email to: regfilings@aclu.org

Subject: Complaint received September 5, 2024; Eaton v. American
Civil Liberties Union, Inc., COPP-2024-CFP-033

Dear Akilah and Terence,

The enclosed complaint alleges specific violations of Montana election law under Title 13, Chapter 37 of the Montana Code Annotated, enforcement of which falls under my jurisdiction as Commissioner of Political Practices (COPP). While the specific statute alleged to have been violated--Montana Code Annotated (MCA) § 13-37-223--is not in code, I verified with the complainant that the alleged violation is, in fact, MCA § 13-37-225. Consequently, I determine the complaint conforms to the requirements of 44.11.106 ARM, which is the administrative rule regarding election complaints filed pursuant to MCA § 13-37-111. For those reasons, I have accepted it for further consideration.

Pursuant to Mont. Code Ann. (MCA) §13-37-132, I formally request a written response from you addressing the specific issues identified in this complaint. **Please provide this formal response on or before 5:00 PM Friday, September 13, 2024.** Any response you provide is a public record that COPP posts on our website. COPP normally sets a 10-day response period, but this matter is accepted in close proximity to the election, and expediting your response is appropriate under the circumstances. If you do need a short extension, please explain the reasons for one to me or Mr. Scott Cook and one may be provided.

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, 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 involves a more extensive and time-consuming process, during which you may contact us for a status update. If violations are determined during this process, they are typically referred to the local county attorney. The local county attorney then determines whether they will prosecute the matter or refer it back to me, MCA §13-37-124.

If returned to me, I will either work with the responding party to settle the matter or prosecute it within their local jurisdiction in district court. Penalties, if any, are imposed based upon MCA §13-37-128.

This letter initiates the legal process established by this office and Montana law to determine whether the allegations in the complaint are valid. Consequently, at this point, you have a duty to maintain all records currently in your possession because an investigation may indeed occur. To facilitate such an investigation, please take immediate steps to retain all such records, and begin collecting and preparing records for review. This includes documents, including computer communications (e.g. email), in your possession or the possession of any of your agents, representatives, or assigns. Communications with attorneys should be retained, as these records might need to be produced if attorney-client privilege is not involved. Your preservation of all such documents is essential and required pursuant to this request and subject to penalties provided in MCA §45-7-207.

While I do not anticipate that you would intentionally destroy any relevant records, due to the severity of the penalty I feel compelled to provide you with the relevant statute in this regard. See attached MCA §45-7-207 (Tampering with or fabricating physical evidence). COPP may need to review documents connected to your activity during the prescribed period. Accordingly, MCA §13-37-111 authorizes the Commissioner to inspect records, accounts, and books held by a candidate or political committee, administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers and records that are relevant or material for the purpose of conducting an investigation.

I appreciate your time and consideration of this important matter. I am travelling this week. If you need to reach me directly, please do not hesitate to do so. My mobile phone number is (406) 465-4353.

Best of my regards,



Chris J. Gallus
Commissioner of Political Practices

Montana Code Annotated 2023

TITLE 45. CRIMES

CHAPTER 7. OFFENSES AGAINST PUBLIC ADMINISTRATION

Part 2. Perjury and Other Falsification in Official Matters

Tampering With Or Fabricating Physical Evidence

45-7-207. Tampering with or fabricating physical evidence. (1) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, the person:

(a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in the proceeding or investigation; or

(b) makes, presents, or uses any record, document, or thing knowing it to be false and with purpose to mislead any person who is or may be engaged in the proceeding or investigation.

(2) A person convicted of tampering with or fabricating physical evidence shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.

History: En. 94-7-208 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-208; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1684, Ch. 56, L. 2009.