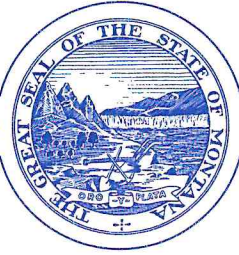


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

CHRIS J. GALLUS
COMMISSIONER
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PO BOX 202401
HELENA, MONTANA 59620-2401
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May 15, 2024

The Honorable Austin Knudsen
Attorney General of Montana
PO Box 5202
Helena, MT 59604

Subject: Complaint received May 8, 2024; *Hogan v. Knudsen*, COPP-2024-CFP-017

Attorney General Knudsen,

The enclosed complaint alleges violation of Montana election law under Title 13, Chapters 35 and 37 of the Montana Code Annotated (MCA), enforcement of which falls under my jurisdiction as Commissioner of Political Practices (COPP). The complaint also conforms to the requirements of 44.11.106 ARM, the administrative rule regarding election complaints. For those reasons, I have accepted it for further consideration.

Pursuant to MCA §13-37-132, I formally request a written response from you addressing the specific issues identified in this complaint.

Please provide your response by 2:00 PM on Thursday, May 23, 2024. Any response you provide is a public record that COPP posts on our website, per MCA §13-37-132.

I will review any additional materials relevant to this complaint for any deficiencies pursuant to 44.11.106 ARM, law, and prior relevant COPP decisions, 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, as noted above, I may determine that a formal investigation is warranted. This generally involves a more extensive and time-consuming process, during which you may contact us for a status update.

If an investigation is conducted, a decision will be issued which includes a summary of facts and determines if those facts are sufficient or insufficient to support a violation. This decision will also determine if prosecution is justified. Upon completion of this investigation a copy of the decision will be sent to you and posted on COPP's website.

This office is now conducting a legal review and records currently in your possession are subject to a pending investigation. Although the Montana Supreme Court has held that COPP does not have the power to subpoena documents, COPP may request such an action through the appropriate district court pursuant to MCA § 13-35-108. *Mangan v. Montana Republican Party*, 2021 MT 99. You now have notice that an official proceeding is pending and therefore all relevant

documents must be retained. 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. Therefore, MCA § 45-7-207 - Tampering with or fabricating physical evidence, is attached for your convenience.

Montana law authorizes the Commissioner to inspect records, accounts, and books held by a candidate or political committee that must be kept pursuant to the provisions of MCA Title 13, Chapters 35 and 37, and to 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. MCA § 13-37-111(b)(c).

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. As indicated, your preservation of all such documents is not only essential but is required pursuant to this request and failure to do so is subject to penalties provided by MCA § 45-7-207.

In accordance with MCA § 13-37-124, If I determine prosecution is justified, this matter will be referred to the county attorney in the county where the violations occurred. The county attorney will then determine whether they will prosecute the matter or refer it back to me. If returned to me, I will either prosecute the matter in district court or negotiate a settlement pursuant to MCA § 13-37-128. Penalties, if any, are imposed based upon MCA § 13-37-128.

If a local county attorney is implicated in the matter or has another conflict, the commissioner may refer matters to the Lewis and Clark County Attorney, if warranted. The commissioner is also authorized to directly prosecute violations if a county attorney where the violation occurred is implicated in the violation. MCA § 13-37-124(3).

I appreciate your time and consideration of this important matter.

Regards,

A handwritten signature in cursive script, appearing to read "Chris J. Gallus".

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.