

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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COMMISSIONER
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October 11, 2024

John Repke
PO Box 1613
Whitefish, MT 59937

Sent via email to: repke4mtstateauditor@gmail.com

Subject: Mohs v. Repke, COPP-2024-CFP-043

John,

The enclosed complaint alleges a violation of Montana election law. The complaint is accepted as conforming to the requirements of 44.11.106 ARM, the administrative rule regarding campaign complaints.

Upon review, I have determined that the allegation that certain election communications referred to in this complaint fail to include partisan affiliation as required under Montana Code Annotated (MCA) §13-35-225(2) is merited. You will need to add appropriate partisan affiliation to all materials lacking this, and provide photographic evidence or related documentation to COPP showing this addition has been made.

This attribution response needs to be provided to COPP within 2 business days of receipt of this letter, as provided for under MCA § 13-35-225(6)(a)(i). Failure to bring “material into compliance as required...is subject to a civil penalty pursuant to 13-37-218, MCA”, MCA § 13-35-225(6)(b).

If you did not engage in the activity relating to this complaint, I would appreciate having any additional information you can provide as to potential parties involved. It is in everyone’s best interest to immediately resolve the situation in the manner described above, and COPP will work with you, or other parties, to get this accomplished.

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, 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.

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 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 and/or Title 45, if applicable.

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 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). 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.

Thank you for your immediate attention and consideration of this urgent matter.

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.