

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Jernigan v. Citizens for Government Transparency No. COPP 2020-CFP-014B	DISMISSAL
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On May 14, 2020, Jeremy Jernigan of Helena, MT filed a campaign practices complaint against Citizens for Government Transparency, a registered Independent political committee. The complaint alleged that Citizens for Government Transparency coordinated committee expenditure activities with Montana candidate Nelly Nicol in violation of campaign finance law.

SUBSTANTIVE ISSUES ADDRESSED

Coordination of political committee campaign expenditures.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Citizens for Government Transparency filed a C-2 Statement of Organization as an Independent political committee with the COPP on March 11, 2020. Gary Matthews was listed as the committee Treasurer, with Keith Brownfield as the Deputy Treasurer. The Purpose of Committee section of the C-2 indicated the committee Supported candidate Nelly Nicol. (Commissioner's Records.)

Finding of Fact No. 2: Nelly Nicol filed a C-1 Statement of Candidate as a candidate for State Auditor with the COPP on October 2, 2019. Katie Wenetta was listed as the campaign Treasurer, with no Deputy Treasurer provided. Candidate Nicol is currently employed

by Victory Insurance Company, with her LinkedIn profile describing her job title as “Communications Manager, Secretary Treasure, Board of Directors”. (Commissioner’s Records.)

Finding of Fact No. 3: Victory Insurance Company is a private workers’ compensation insurance carrier based in Miles City, MT. Keith Brownfield is the company’s CEO. (Commissioner’s Records.)

Finding of Fact No. 4: On March 30, 2020, Citizens for Government Transparency timely filed its Initial C-6 committee finance report, dated March 11, 2020 through March 25, 2020. This report disclosed Citizens for Government Transparency had received one (1) contribution of \$45,500.00 during this period, from the Victory Insurance Company, Inc. Incidental Committee. The report also included one (1) Independent Expenditure of \$45,500.00 made to Victory Enterprises Inc.¹ on March 23; the Purpose of this expenditure was listed as “committee set up and initial digital ad creation”, Candidate/Issue was listed as Nelly Nicol, Platform as “Adobe Ad Exchange”, Quantity as “online ads and videos run dates from 3/25/2020 through 4/13/2020” and Subject Matter as “Opposition research; legal services-compliance, committee set up, filings; digital advertising fees; creative development-graphic design, video production, website creation; video-protect seniors from fraud; video-meet Nelly, bio, family focus, healthcare expertise; static content ad 1-conservative for State Auditor; static content ad 2-Nelly Nicol will crackdown on fraud”. (Commissioner’s Records.)

Finding of Fact No. 5: On April 30, 2020, Citizens for Government Transparency timely filed a Periodic C-6 committee finance report, dated March 26, 2020 through April 25, 2020. This report disclosed Citizens for Government Transparency had received two (2) contributions from the Victory Insurance Company, Inc. Incidental Committee during this period, totaling \$20,200.00, and one (1) contribution of \$200.00 from CEO Keith Brownfield. The report also included one (1) Independent Expenditure of \$9,700.00 made to Lamar on April 20; the Purpose of this expenditure was listed as “Billboards”, Candidate/Issue was listed as Nelly Nicol, Platform as “Billboards”, Quantity as “12 boards to be from April 24, 2020 to June 3, 2020” and Subject Matter as “Nelly for State Auditor”. (Commissioner’s Records.)

¹ Victory Enterprises Inc. is a “political and corporate consulting firm based in Davenport, Iowa”, and is in no way related to Victory Insurance Company:
<https://www.victoryenterprises.com/about/>

Finding of Fact No. 6: On May 29, 2020, Citizens for Government Transparency timely filed a Periodic C-6 committee finance report, dated April 26, 2020 through May 25, 2020. This report disclosed Citizens for Government Transparency had received three (3) contributions from the Victory Insurance Company, Inc. Incidental Committee during this period, totaling \$121,000.00, and one (1) contribution of \$35.00 from CEO Keith Brownfield. The committee also disclosed receiving contributions from eleven (11) additional individuals on this report (see Table 1). (Commissioner's Records.)

Finding of Fact No. 7: Candidate campaign finance reports filed by candidate Nicol with the COPP disclosed that candidate Nicol did not report receiving any contributions, either cash or In-Kind, from Citizens for Government Transparency. (Commissioner's Records.)

Finding of Fact No. 8: This Complaint included photographs of three (3) images from candidate Nicol's Facebook page as well as an image of a billboard that all shared the same design and imaging (see Exhibit A). Each of the three (3) images from candidate Nicol's Facebook page included materials with an attribution message stating "Paid for by Nelly Nicol for State Auditor, PO Box 6505, Helena, MT 59604. Republican". The billboard contained an attribution message stating it was paid for by Citizens for Government Transparency. (Commissioner's Records.)

Finding of Fact No. 9: On May 18, 2020, candidate Nicol (through The James Brown Law Office, PLLC) provided the COPP with a formal response to this Complaint. The response stated that candidate Nicol did not pay "for the billboard placed by Citizens for Government Transparency or requested it be put up". (Commissioner's Records.)

Finding of Fact No. 10: On May 19, 2020, Citizens for Government Transparency (through Taylor Luther Group, PLLC) provided the COPP with a formal response to this Complaint. The response stated that "The creation of the Citizens for Government Transparency committee and its subsequent activities were unknown by Ms. Nicol- she was not consulted, asked for permission, or told about any of the activities" because Deputy Treasurer Brownfield "undertook those activities solely on his own volition". The response went on to emphasize that candidate Nicol played no role in the creation, design, or placement of the billboard referenced in the Complaint. The response stressed that "Mr. Brownfield appropriated the sign artwork from Ms. Nicol's signs used for her campaign after she had publicly posted them in yards, on Facebook, her website and several other public sources".

This response also contained a sworn affidavit from Keith Brownfield stating that candidate Nicol is currently employed by Victory Insurance but that she resigned from the company's Board of Directors in 2019 because of her decision to run for the State Auditor position, and that candidate Nicol was not involved in the creation of the Citizens for Government Transparency committee nor in planning or executing any of its activities. The affidavit also stated that "Victory Insurance Company has donated corporate funds to CGT. The decision to donate funds was mine on behalf of the Company, and it was made without any knowledge or input from Nelly. In her position, Nelly is not informed of or involved with any political expenditures made by the Company".

The response finally contained a copy of the invoice received by Citizens for Government Transparency from Lamar for the pro-Nicol billboards, which disclosed the committee as paying \$9,700.00 for the creation of the billboard design and its display at twelve (12) locations. (Commissioner's Records.)

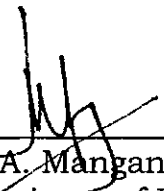
DISCUSSION

The complainant in this matter alleged the billboards were coordinated between the Nicol campaign and Citizens for Government Transparency (CGT) in violation of campaign finance law. All evidence available in this case suggests the billboards were conceived of, purchased, and placed independently by CGT. See the Discussion in *Jernigan v. Nicol*, COPP-2020-CFP-014A. The allegation of coordination is hereby dismissed.

DECISION

The Complaint is hereby dismissed.

DATED this 15 day of February 2021.



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