

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

O'Donnell v. McMurtry No. COPP 2020-CFP-050	FINDING OF SUFFICIENT FACTS TO SUPPORT CAMPAIGN PRACTICE ACT VIOLATIONS
--	---

On October 26, 2020, Tony O'Donnell of Billings, MT, filed a campaign practices complaint against Valerie McMurtry, also of Billings. The complaint alleged that candidate McMurtry failed to report several campaign expenditures on finance reports filed with the COPP, and that material distributed by candidate McMurtry failed to include the partisan symbol as part of its attribution message as required.

SUBSTANTIVE ISSUES ADDRESSED

The proper and timely filing of campaign expenditures.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Valerie McMurtry filed a C-1 Statement of Candidate as a Democratic candidate for Public Service Commission (PSC) District 2 with the COPP on March 6, 2020. Candidate McMurtry advanced to Montana's General election, held on November 3. (Commissioner's Records.)

Finding of Fact No. 1B: Tony O'Donnell filed a C-1 Statement of Candidate as a Republican candidate for PSC District 2 with the COPP on February 13, 2020. Candidate O'Donnell advanced to Montana's General election, held on November 3. (Commissioner's Records.)

Finding of Fact No. 1C: The allegedly unreported materials noted by this complaint were: at least one banner; a poster; yard signs; hand outs; and campaign mailers. Pictures of yard signs were included with this complaint, as well as several Facebook posts referencing the yard signs. A picture of a campaign poster was also included. Pictures of two (2) printed materials supporting candidate McMurtry were also included- one (1) contrasting her with candidate O'Donnell and one (1) focusing on her priorities if elected. The attribution message included on the contrast piece did not include candidate McMurtry's partisan affiliation. (Commissioner's Records.)

Finding of Fact No. 2: On November 6, 2020, candidate McMurtry emailed her response in this matter to the COPP. The response affirmed that her campaign had purchased materials of the type noted in this complaint: a campaign banner, campaign yard signs, a campaign poster, door hangers, and mailers. The response indicated that the banner invoice "was paid on June 18, 2020"; the yard signs invoice "was paid on June 18, 2020"; the poster invoice "was paid on June 26, 2020"; the door hangers invoice "was paid on September 2, 2020"; and the mailers invoice "was paid on September 7, 2020". Candidate McMurtry indicated that the door hangers and mailers had been appropriately reported on campaign financial reports. The response stated that she had failed to originally report the campaign banner, yard signs, and poster expenditures but had since amended the relevant campaign finance reports to include them. The response included one (1) invoice received from Purple Snow Promotional, dated June 18, 2020 for the purchase of 300 double sided poster board yard signs and the campaign banner (see *Table 1*). (Commissioner's Records.)

The response also indicated that failure to include partisan affiliation with the attribution message on the contrast piece was an oversight, and that the issue had been rectified by adding a 'D' to undistributed pieces as soon as it was discovered. Candidate McMurtry estimated that 1,000 pieces were distributed before the issue was noticed. A photograph showing this attribution remedy was sent to the COPP as part of the response. (Commissioner's Records.)

Finding of Fact No. 2A: On November 10, 2020, candidate McMurtry emailed the COPP a copy of one (1) invoice received from Purple Snow Promotional, dated September 7, 2020 for the purchase of four (4) separate mailers (see *Table 2*). A copy of one (1) invoice received from The Billings Times, dated August 31, 2020 for the purchase of 2,000 door hangers at \$604.00 was also

included (see *Table 6*). The Billings Times invoice provided by candidate McMurtry indicated payment had been provided on this obligation on September 1, 2020. (Commissioner's Records.)

Finding of Fact No. 2B: On November 18, 2020, COPP Investigator spoke with Hans Abbey of Purple Snow Promotional requesting copies of all agreements made by the McMurtry campaign with the vendor. Mr. Abbey explained that only an Invoice represented a final agreement between Purple Snow Promotional and the customer. If an invoice had not been generated by Purple Snow Promotional, no final agreement had been reached, he explained. That afternoon, Mr. Abbey emailed copies of all invoices sent by Purple Snow Promotional to the McMurtry campaign for items or services purchased. Included were the June 18, 2020 invoice for 300 double sided poster board yard signs and campaign banner (*Table 1*); a June 26, 2020, invoice for 1 poster (see *Table 3*); an August 17, 2020 invoice for 25 corrugated signs (see *Table 4*); and the September 7, 2020, invoice for campaign mailers (*Table 2*). (Commissioner's Records.)

Finding of Fact No. 3: On August 16, 2020, candidate McMurtry filed a Periodic C-5 campaign finance report, dated June 16, 2020, through August 15, 2020. This report did not disclose any expenditures made or debts owed by candidate McMurtry for campaign banner/s, yard signs, poster/s, door hangers, or mailers. (Commissioner's Records.)

Finding of Fact No. 3A: On November 1, 2020, candidate McMurtry filed an Amended version of her June 16, 2020, through August 15, 2020 C-5 campaign finance report. This version of the report added two (2) expenditures to Purple Snow Promotional: one dated June 18, 2020, in the amount of \$1,131.84, with Purpose provided of "\$975 for 300 16"x26" yard signs / \$99.00 for one Parade Banner 36"x36"", Platform as "Yard signs and parade banner", Quantity as "300 signs and one parade banner", and Subject Matter as "Promoting Vote for Valerie"; and one dated June 28, 2020, in the amount of \$35.00 for 12 campaign posters (see *Table 5*). (Commissioner's Records.)

Finding of Fact No. 4: On September 17, 2020, candidate McMurtry filed a Periodic C-5 campaign finance report, dated August 16, 2020, through September 15, 2020. This report disclosed four (4) expenditures mentioning campaign mailers: one (1) to a vendor named Mailing Technical Services dated August 22, 2020, in the amount of \$115.00 for "Fundraising letter mailing services"; one (1) to Purple Snow Promotional dated September 10, 2020, in the

amount of \$12,000.00 for “Mailing 15,000 pieces”; one (1) to a vendor named The Billings Times dated September 2, 2020, in the amount of \$604.00 for “Printing for mailing”; and one (1) to The Billings Times dated August 21, 2020, in the amount of \$257.20 for “Printing fundraising letter”. An expenditure to Purple Snow Promotional dated August 18, 2020, in the amount of \$1,111.25 for “25 highway signs” was also included on this report. (Commissioner’s Records.)

Finding of Fact No. 4A: On October 20, 2020, candidate McMurtry filed an Amended version of her August 16, 2020 through September 15, 2020, C-5 campaign finance report. This version of the report added additional information to describe three (3) mailing expenditures. No additional information was provided to describe the August 22, 2020, expenditure to Mailing Technical Services. The \$12,000.00 expenditure to Purple Snow Productions had its date changed to September 7, 2020, with Purpose of “Printing and mailing 15,000 pieces. \$6,992.82 for postcards, \$4,270.83 postage, and \$736.35 for ink jet addressing”, Platform of “Mailer post cards” Quantity of “15,000 postcards promoting Vote for McMurtry”, and Subject Matter of “Vote for McMurtry”. The September 2, 2020, expenditure of \$604.00 to The Billings Times was given a Purpose of “Door Hangers”, Platform of “Door Hangers for voter information”, Quantity of “2,000 door hangers @ \$0.302 each”, and Subject Matter of “Voter information on door hangers as to why to vote for Valerie.”. The August 21, 2020, expenditure of \$257.20 to The Billings Times was given a Purpose of “Printing and mailing of fundraising letter and remittance envelopes”, Platform of “Postal mailing letters”, Quantity of “300 Fundraising letters with envelopes / 300 remittance envelopes for donations”, and Subject Matter of “Why you should vote for Valerie, and please donate to her campaign.”. The August 18, 2020, expense of \$1,111.25 to Purple Snow Promotions was given a Purpose of “48"x36" - 25 Highway Signs - Vote for McMurtry”, Platform of “Roadside highway signs”, Quantity of “25 Highway Signs @ \$37.25 each plus \$180.00 shipping”, and Subject Matter of “Vote for McMurtry” (see Table 7). (Commissioner’s Records.)

Tables

Table 1: List of all items or services provided by Purple Snow Promotional to the McMurtry campaign as included on the June 18, 2020 invoice.

Entity	Date	Amount	Item
Purple Snow Promotional	06/18/2020	\$876.00	Double-sided signs, 16"x26"- 300
		99.00	Parade Banner- 1
		\$57.84	Shipping

		\$1,032.84	
--	--	------------	--

Table 2: List of all items or services provided by Purple Snow Promotional to the McMurtry campaign as included on the September 7, 2020 invoice.

Entity	Date	Amount	Item
Purple Snow Promotional	09/07/2020	\$2,176.14	'Valerie PSC' postcards- 5,000
		\$2,176.14	'Valerie Comparison' postcards- 5,000
		\$1,740.91	'Tony No Show' postcards- 4,000
		\$435.31	'Valerie 25-40' postcards- 1,000
		\$4,270.83	Postage for mailing- 14,727
		\$736.35	Ink Jet Addressing- 14,727
		\$464.31	Shipping
		\$12,000.00	

Table 3: List of all items or services provided by Purple Snow Promotional to the McMurtry campaign as included on the June 26, 2020 invoice.

Entity	Date	Amount	Item
Purple Snow Promotional	06/26/2020	\$35.00	Dozen Posters- 1
		\$35.00	

Table 4: List of all items or services provided by Purple Snow Promotional to the McMurtry campaign as included on the August 17, 2020 invoice.

Entity	Date	Amount	Item
Purple Snow Promotional	08/17/2020	931.25	Corrugated signs, 48"x36"- 25
		180.00	Shipping
		\$1,111.25	

Table 5: Items or services purchased through Purple Snow Promotional as reported by candidate McMurtry on her June 16, 2020 through August 15, 2020 C-5 campaign finance report. Report was Amended and filed on November 1, 2020.

Entity	Date	Amount	Purpose; Platform; Quantity; Subject Matter
Purple Snow Promotional	06/18/2020	\$1,131.84	"\$975 for 300 16"x26" yard signs / \$99.00 for one Parade Banner 36"x36""; "Yard signs and parade banner"; "300 signs and one parade banner"; Promoting Vote for Valerie"
	06/28/2020	\$35.00	"Campaign posters"; "Campaign posters"; "12 posters"; "Vote for Valerie"
		\$1,166.84	

Table 6: List of all items or services provided by The Billings Times as included on the August 31, 2020 invoice.

Entity	Date	Amount	Item
The Billings Times	08/31/2020	\$604.00	2000 ea. Door Hangers

Table 7: Items or services purchased through Purple Snow Promotional and The Billings Times as reported by candidate McMurtry on her June 16, 2020 through August 15, 2020 C-5 campaign finance report.

Entity	Date	Amount	Purpose; Platform; Quantity; Subject Matter
Purple Snow Promotional	09/10/2020	\$12,000.00	"Printing and mailing 15,000 pieces. \$6,992.82 for postcards, \$4,270.83 postage, and \$736.35 for ink jet addressing"; "Mailer postcards"; "15,000 postcards mailed promoting Vote for McMurtry"; "Vote for McMurtry".
	08/17/2020	\$1,111.25	"48"x36" – 25 Highway Signs – Vote for McMurtry"; "Roadside highway signs"; "25 highway signs @ 37.25 each plus \$18.00 shipping"; "Vote for McMurtry"
		\$13,111.25	
The Billings Times	09/02/2020	\$604.00	"Door Hangers"; "Door Hangers for voter information"; "2,000 door hangers @ \$0.302 each"; "Voter information on door hangers as to why to vote for Valerie"
		\$604.00	

DISCUSSION

Part One: Reporting Expenditures

The first allegation contained in the complaint is that candidate McMurtry failed to report a variety of campaign expenditures on C-5 finance reports filed with the COPP. Five specific types of campaign material were included within this allegation: a campaign banner, campaign yard signs, a campaign poster, door hangers, and campaign mailers.

Campaign banner

The first alleged unreported campaign material included in this complaint as identified by candidate McMurtry is a campaign banner supporting her candidacy. Candidate McMurtry's response to this complaint confirmed the campaign's purchase of a campaign banner, stating that the material was paid for on June 18, 2020 (FOF No. 2).

A June 18, 2020, invoice received by the campaign from Purple Snow Promotional indicated that the campaign had ordered one banner on June 18, 2020 (FOF No. 2, *Table 1*). Candidate McMurtry did not disclose any expenditures made or debts owed to Purple Snow Promotional for a campaign banner on her June 16, 2020 through August 15, 2020 C-5 campaign finance report as originally filed on August 16, 2020 (FOF No. 3). An amended version of this report filed on November 1, after candidate McMurtry's receipt of this complaint did disclose the activity as an expenditure dated June 18, 2020 (FOF No. 3A).

Candidates are required to disclose both "the full name, mailing address, occupation, and principal place of business, if any, of each person to whom expenditures have been made by the committee or candidate during the reporting period, including the amount, date, and purpose of each expenditure" and "the total sum of expenditures made" during the relevant reporting period on all campaign finance reports filed with the COPP, Mont. Code Ann. §13-37-229(2)(a)(i) and (iii). While candidate McMurtry clearly incurred an expenditure of \$99.00 during the period of June 16-August 15 for her purchase of the campaign banner, this expenditure was not disclosed on the finance report as

originally filed. As candidate McMurtry did not disclose information required by Mont. Code Ann. §13-37-229(2)(a), specifically subsections (i) and (iii) on her June 16-August 15 finance report, a violation of Montana campaign Finance law.

Sufficiency Finding No. 1: There are sufficient facts to show that candidate McMurtry failed to report a campaign expenditure as required.

The Commissioner notes after receiving the complaint, Candidate McMurtry did disclose her campaign's purchase of this banner as an expenditure on the relevant campaign finance report.

Posters

A campaign poster supporting candidate McMurtry was also directly identified within this complaint. In her response, candidate McMurtry confirmed her campaign had purchased campaign posters, which she states were paid for on June 26, 2020 (FOF No. 2).

A June 26, 2020, invoice from Purple Snow Promotional indicates that candidate McMurtry purchased twelve campaign posters on that date (FOF No. 2B, *Table 3*). As originally filed on August 16, candidate McMurtry's June 16, 2020 through August 15, 2020, C-5 campaign finance report did not disclose any debts owed or expenditures made to obtain campaign posters (FOF No. 3). An amended version of this reported filed after candidate McMurtry's receipt of this complaint did disclose this purchase, as an expenditure to Purple Snow Promotions dated June 28 (FOF No. 3A).

Candidate McMurtry did not originally include her \$35 purchase of campaign posters on the June 16-August 15 finance report despite the purchase occurring during that reporting period, a violation of Mont. Code Ann. §13-37-229(2)(a)(i) and (iii).

Sufficiency Finding No. 2: There are sufficient facts to show that candidate McMurtry failed to report a campaign expenditure as required.

The Commissioner notes after receiving the complaint, Candidate McMurtry did disclose her campaign's purchase of this banner as an expenditure on the relevant campaign finance report.

Campaign signs

Campaign yard signs supporting candidate McMurtry were another item directly noted by the complainant in this matter as materials allegedly not reported by her campaign. The complaint itself referenced both pictures and Facebook posts specifically referencing small yard signs. Candidate McMurtry's response confirmed her campaign had purchased all yard signs noted in the complaint, stating they were paid for on June 18, 2020 (FOF No. 2).

Candidate McMurtry's first purchase of campaign signs occurred on June 18, in the form of 300 double sided yard signs from Purple Snow Promotional for \$876 (FOF No. 2, *Table 1*). Candidate McMurtry did not disclose any expenditures made or debts owed to Purple Snow Promotional for these yard signs on her June 16, 2020 through August 15, 2020, C-5 campaign finance report as originally filed on August 16, 2020 (FOF No. 3). The November 1 amended version of this report did disclose the purchase of these

300 double-sided yard signs as an expenditure dated June 18, 2020 (FOF No. 3A). These appear to be the signs noted in the complaint.

Candidate McMurtry failed to disclose her purchase of 300 double-sided yard signs on the June 16-August 15 finance report despite the purchase occurring during this period, a violation of Mont. Code Ann. §13-37-229(2)(a)(i) and (iii).

Sufficiency Finding No. 3: There are sufficient facts to show that candidate McMurtry failed to report a campaign expenditure as required.

The Commissioner notes after receiving the complaint, Candidate McMurtry did disclose her campaign's purchase of these campaign signs as an expenditure on the relevant campaign finance report.

Candidate McMurtry's second purchase of campaign signs occurred on August 17, 2020, and was for 25 corrugated signs, according to the invoice received from Purple Snow Promotional (FOF No. 2B, *Table 4*). Candidate McMurtry's August 16, 2020, through September 15, 2020, C-5 campaign finance report did disclose the campaign's purchase of these 250 corrugated signs as originally filed (FOF No. 4). Candidate McMurtry reported this expenditure appropriately under the requirements of Mont. Code Ann. §13-37-229(2). The allegation candidate McMurtry failed to properly report these signs on her campaign finance report is hereby dismissed.

Door Hangers

Another alleged unreported campaign material included in this complaint, as identified by candidate McMurtry, are campaign door hangers

supporting her candidacy. Candidate McMurtry stated that these door hangers were paid for by the campaign on September 2, 2020 (FOF No. 2). An August 31, 2020, invoice from The Billings Times indicates that candidate McMurtry purchased 2,000 door hangers on that date at a total cost of \$604.00 (FOF No. 2A, *Table 6*). As originally filed on September 17, 2020, candidate McMurtry's C-5 campaign finance report for the dates of August 16, 2020, through September 15, 2020, did not disclose any expenditures made to obtain door hangers- while a \$604.00 expenditure to The Billings Times was noted, it was described only as "Printing for mailing" (FOF No. 4).

On October 20, 2020, candidate McMurtry filed an Amended version of this finance report providing additional information to describe her campaign expenditure to The Billings Times, specifically identifying door hangers as the item provided. This action was taken prior to the filing of this complaint. Candidate McMurtry's door hangers represent another expenditure activity reported in accordance with the requirements of Mont. Code Ann. §13-37-229(2). The allegation candidate McMurtry failed to properly report this campaign material on her campaign finance report is hereby dismissed.

Campaign mailers

As identified by candidate McMurtry, campaign mailers represent the final alleged unreported material included with this complaint. Candidate McMurtry's response assumed responsibility for these materials, stating they were paid for on September 7 (FOF No. 2).

A September 7, 2020, invoice from Purple Snow Promotional indicates that candidate McMurtry purchased four (4) distinct mailers on that date, at a total quantity of 15,000 (FOF No. 2A, *Table 2*). Like the door hangers, this expenditure was partially disclosed on candidate McMurtry's August 16-September 15 C-5 campaign finance report, being described as "Mailing 15,000 pieces" (FOF No. 4). The October 20 Amended version of this report slightly expanded upon this explanation, identifying the materials as four (4) distinct postcards (FOF No. 4A).

By disclosing her expenditure for campaign postcards on the campaign finance report covering the period where the purchase occurred, candidate McMurtry has satisfied the requirements of Mont. Code Ann. §13-37-229(2). The allegation candidate McMurtry failed to properly report this campaign material on her campaign finance report is hereby dismissed.

Other issues

While candidate McMurtry did report her purchase of campaign postcards on the relevant campaign finance report, she failed to provide all required detail to describe this them. 44.11.502(7), ARM, requires that:

For purposes of the disclosure requirements of 13-37-229 and 13-37-232, MCA, the "purpose" of each expenditure as reported on the commissioner's campaign finance reporting forms shall specifically describe the purpose, quantity, subject matter, as appropriate to each expenditure, and must be detailed enough to distinguish among expenditures for similar purposes. For example, two expenditures for direct mail advertisements should not both be reported as "Flyers."

The September 7 invoice received by the McMurtry campaign from Purple Snow Promotional clearly includes four distinct postcards were included as

part of this expenditure: 5,000 “Valerie PSC” postcards, 5,000 “Valerie Comparison” postcards, 4,000 “Tony No Show” postcards, and 1,000 “Valerie 25-40” postcards (see *Table 2*). Candidate McMurtry failed to provide relevant information required under 44.11.502(7), ARM when reporting this expenditure. Specifically, she did not provide quantity or subject matter for each individual postcard, instead providing quantity as 15,000 and subject matter as only the overly generic “Vote for McMurtry”. Candidate McMurtry also failed to distinguish any of the four (4) distinct postcards from one another, instead reporting the expense as if 15,000 copies of one postcard was what was printed and distributed by Purple Snow Promotional.

The expenses require additional detail. Such generic expenditure descriptions are more akin to a list or category than a description and do not provide the “purpose, quantity, subject matter” of the expense which are the details required to be reported by 44.11.502(7), ARM. Nor, does the listing meet Montana’s statutory requirement of detail required for expenditures to consultants or other persons who perform services for or on behalf of a candidate; the law requires that such expenditures “must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made.” Mont. Code Ann. § 13-37-229(2)(b).

Sufficiency Finding No. 4: There are sufficient facts to show that candidate McMurtry failed to disclose sufficient detail describing campaign expenditures.

Candidate McMurtry will need to amend this campaign finance report to require all quantity and subject matter information as required by rule.

Part Two: Attribution of campaign materials

The second allegation raised by this complaint is that a campaign material produced and distributed by candidate McMurtry failed to fully conform to Montana's attribution requirements. Specifically, it included a copy of a campaign material (which appears to be the "Valerie Contrast" postcard) that does not include partisan affiliation.

Partisan affiliation is required on the attribution by candidates in a partisan election, Mont. Code Ann. §13-35-225(2). By failing to include partisan affiliation on material finance by the campaign, candidate McMurtry violated this statute. The law governing complaints of failure to properly attribute political brochures provides precise directions to the Commissioner:

1. The Commissioner is to immediately assess the merits of the attribution Complaint. §13-35-225(5), MCA. The Commissioner found merit to the attribution Complaint and hereby memorializes that finding.
2. The Commissioner shall notify the candidate of the merit finding, requiring the Candidate to bring the material into compliance. §13-35-225(6)(a), MCA. The COPP, by notifying the campaign and providing Notice of Non-compliant Election Communication, did this and hereby memorializes the Notice.
3. The Candidate is provided 2 business days to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA.

In her response to the complaint, candidate McMurtry accepted blame for this omission, stating that the failure to include partisan affiliation on the material was an oversight. Once this omission was discovered, the campaign

worked to rectify it, adding a 'D' to deficient materials; a picture of such a material with the 'D' added was sent to the COPP (FOF No. 2). Use of the letter 'D' to denote partisan affiliation on campaign materials by a Democratic candidate such as candidate McMurtry is considered acceptable, 44.11.601(4)(b)(i), ARM. As candidate McMurtry appropriately remedied the omission of partisan affiliation on her campaign material, the allegation is hereby dismissed.

DECISION

The Commissioner has limited discretion when making the determination as to an unlawful campaign practice. First, the Commissioner "shall investigate" any alleged violation of campaign practices law. Mont. Code Ann. § 13-37-111(2)(a). The mandate to investigate is followed by a mandate to take action; where there is "sufficient evidence" of a violation the Commissioner must ("shall notify," *see id.*, at § 13-37-124) initiate consideration for prosecution.

Second, having been charged to make a decision, the Commissioner must follow substantive law applicable to a particular campaign practice decision. This Commissioner, having been charged to investigate and decide, hereby determines that there is sufficient evidence to show that Valerie McMurtry violated Montana's campaign practice laws, including, but not limited to the laws set out in the Decision. Having determined that sufficient evidence of a campaign practice violation exists, the next step is to determine

whether there are circumstances or explanations that may affect prosecution of the violation and/or the amount of the fine.

The failure to fully and timely report and disclose cannot generally be excused by oversight or ignorance. Excusable neglect cannot be applied to oversight or ignorance of the law as it relates to failures to file and report. See *Matters of Vincent*, Nos. COPP-2013-CFP-006, 009 (discussing excusable neglect principles). Likewise, the Commissioner does not normally accept that failures to file or report be excused as *de minimis*. *Id.* (discussing *de minimis* principles).

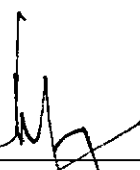
Because there is a finding of violation and a determination that *de minimis* and excusable neglect theories are not applicable to the above Sufficiency Findings, a civil fine is justified. Mont. Code Ann. § 13-37-124. The Commissioner hereby issues a “sufficient evidence” Finding and Decision justifying a civil fine or civil prosecution of Valerie McMurtry. Because of the nature of the violation, this matter is referred to the County Attorney of Lewis and Clark County for his consideration as to prosecution. *Id.*, at (1). Should the County Attorney waive the right to prosecute (*id.*, at (2)) or fail to prosecute within 30 days (*id.*, at (1)) this Matter returns to this Commissioner for possible prosecution.

Most of the Matters decided by a Commissioner and referred to the County Attorney are waived back to the Commissioner for his further consideration. Assuming that the Matter is waived back, this Finding and Decision does not necessarily lead to civil prosecution as the Commissioner

has discretion (“may then initiate” *see id.*) in regard to a legal action. Instead, most of the Matters decided by a Commissioner are resolved by payment of a negotiated fine. In setting that fine the Commissioner will consider matters affecting mitigation, including the cooperation in correcting the issue when the matter was raised in the Complaint.

While it is expected that a fine amount can be negotiated and paid, in the event that a fine is not negotiated and the Matter resolved, the Commissioner retains statutory authority to bring a complaint in district court against any person who intentionally or negligently violates any requirement of campaign practice law, including those of Mont. Code Ann. §§ 13-37-229(2)(a)(i) and (iii), 13-37-229(2)(b). *See id.*, at § 13-37-128. Full due process is provided to the alleged violator because the district court will consider the matter *de novo*.

DATED this 9th day of March 2021.



Jeffrey A. Mangan
Commissioner of Political Practices
Of the State of Montana
P.O. Box 202401
1209 8th Avenue
Helena, MT 59620
Phone: (406)-444-3919