

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

In the matter of:  Rodney Garcia  No. COPP 2020-CFP-004	FINDING OF SUFFICIENT FACTS TO SUPPORT A CAMPAIGN PRACTICE VIOLATION
---	--

On March 25, 2020, the Commissioner of Political Practices issued an Order of Noncompliance to Rodney Garcia for failure to file a required C-5 financial report, and failure to properly amend his C-1- Statement of Candidate to properly reflect the candidate’s campaign bank of record.

**SUBSTANTIVE ISSUES ADDRESSED**

Proper and timely filing of campaign finance reports and updating a political candidate’s Statement of Candidate. Failure to comply with an Order of Noncompliance issued by the Commissioner.

**FINDINGS OF FACT**

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: On March 25, 2020, an Order of Noncompliance was issued to Rodney Garcia, a candidate for Senate District 20 in Yellowstone County, for his failure to: list the proper election year on his C-1 Statement of Candidate filed with the COPP; list the name or address of his campaign bank on the C-1; and failing to file the required March 20 C-5 campaign financial report. The Order provided candidate Garcia five business days to address these issues- March 26, March 27, March 30, March 31, and April 1. (Commissioner’s Records.)

Finding of Fact No. 1A: Rodney Garcia filed a C-1 Statement of Candidate signaling his intention to run as a Republican candidate for election to Montana Senate District 26 in Yellowstone County with the COPP on March 16, 2020, using the CERS electronic reporting system. Candidate Garcia listed 2018, not 2020, as the election year on his C-1, and listed his name in the 'Bank Full Name' field and his address in the 'Bank Address' field. Candidate Garcia filed as a candidate for SD 26 with Montana's Secretary of State on February 3, 2020. (Commissioner's Records.)

Finding of Fact No. 2: On March 27, 2020, candidate Garcia called the COPP office to briefly discuss the Order. COPP Compliance Staff instructed him that the Order required him to amend his C-1 Statement of Candidate to both list 2020 instead of 2018 as the election year and list the name and address of the bank his campaign was to use; candidate Garcia was also instructed to file the March 20 C-5 campaign financial report. Candidate Garcia stated that he would have everything taken care of no later than Monday, March 30. (Commissioner's Records.)

Finding of Fact No. 3: On March 30, 2020, candidate Garcia filed an amended C-1 Statement of Candidate. This document still listed 2018 as the election year. Candidate Garcia added Netspend of Austin, TX as the campaign bank. (Commissioner's Records.)

Finding of Fact No. 4: Netspend is a company that offers prepaid debit cards for personal use. It is not a chartered bank, credit union, or other financial institution.<sup>1</sup> (Commissioner's Records.)

Finding of Fact No. 5: On March 30, COPP compliance staff emailed candidate Garcia in response to his March 30 amended C-1 Statement of Candidate. The email reminded candidate Garcia that he still needed to change the election year to 2020 and notified him that Netspend did not appear to meet the requirements for a campaign depository laid out by §13-37-205, MCA. The email also reminded candidate Garcia of his need to file the March 20 C-5 campaign financial report and offered COPP resources and staff assistance meant to assist in his filing it. (Commissioner's Records.)

Finding of Fact No. 6: On March 31, 2020, in response to an email from candidate Garcia, COPP compliance staff again emailed candidate Garcia regarding his C-1 Statement of Candidate, this time to provide instructions on how to change the election year to 2020. This email again pointed out that Netspend does not appear

---

<sup>1</sup> <https://www.netspend.com/about/>

to meet the campaign depository requirements of §13-37-205, MCA. Candidate Garcia was also reminded that he was still required to file the March 20 C-5 campaign financial report. (Commissioner's Records.)

Finding of Fact No. 7: On March 31, candidate Garcia filed an amended C-1 Statement of Candidate listing 2020 as the election year. This document still listed Netspend as the campaign bank. (Commissioner's Records.)

Finding of Fact No. 8: Candidate Garcia did not file his March 20 C-5 campaign financial report on or before April 1, 2020. (Commissioner's Records.)

## **DISCUSSION**

The Commissioner issued an Order of Noncompliance to Candidate Garcia for failure to file a required C-5 financial report, and failure to properly amend his C-1- Statement of Candidate to designate his primary campaign depository, and provided five days to comply with the order (FOF No. 1).

Montana campaign finance law requires “each candidate ... designate one primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate ...” and “only a bank, credit union, savings and loan association, or building and loan association authorized to transact business in Montana may be designated as a campaign depository”, Mont. Code Ann. § 13-37-205.

Candidate Garcia initially listed himself as the campaign's primary depository (FOF No. 1A) and subsequently amended the primary depository as Netspend, a prepaid debt card service (FOF Nos. 3, 4).

Further, “each candidate ... shall file with the commissioner periodic reports of contributions and expenditures made by or on the behalf of a

candidate ...”, Mont. Code Ann. § 13-37-225. Montana law specifies Mont. Code Ann. §13-37-226(1)(b)

“... a candidate shall file reports required by 13-37-225(1)(a) containing the information required by 13-37-229, 13-37-231, and 13-37-232 as follows:

(b) the 20th day of March, April, May, June, August, September, October, and November in the year of an election in which the candidate participates”

Despite numerous requests, COPP offers of assistance, and an Order of Noncompliance, Candidate Garcia has failed to designate an authorized depository (FOF No. 1, 1A, 3, 4, 5, 6, 7) and file his March 20, 2020 campaign finance report with the Commissioner’s office (FOF Nos. 1, 5, 6, 8).

### **FINDINGS**

The Commissioner may investigate all statements filed pursuant to Title 35 or 37, and shall investigate alleged failures to file any statement required under § 13-37-111(2)(a). Pursuant to an Order of Noncompliance, Rodney Garcia failed to timely report campaign financial activity. Reporting and disclosure is required so that the public, press and opposing candidates or committees understand contributions and expenditures of a political candidate’s funds. §§ 13-37-226(1)(b), 229, MCA.

Sufficiency Finding No.1: The Commissioner finds that there are sufficient facts to show that Rodney Garcia did not a file campaign finance report as required by Montana law. (FOF Nos. 1, 5, 6, 8)

Montana requires that campaign finance reports be timely filed according to statutory deadlines, § 13-37-226, MCA. A political candidate is required to report at the times specified in § 13-37-226(1)(b), MCA.

Sufficiency Finding No. 2: The Commissioner finds that there are sufficient facts to show that Rodney Garcia did not amend his Statement of Candidate to designate an authorized primary campaign depository as required by Montana law. (FOF No. 1, 1A, 3, 4, 5, 6, 7)

The Statement of Candidate is the form designated by the Commissioner of Political Practices to designate the campaign's primary depository. Candidate Garcia has not provided the COPP the name and location of the campaign's primary depository despite multiple requests.

Candidate Garcia failed to provide the public both the name and location of his campaign depository and the required March 20, 2020, campaign finance report, even upon the issuance of an Order of Noncompliance. The candidate's Statement of Candidate remains incomplete as of the date of this decision. Candidate Garcia remains under order to fully and completely report all contributions and expenditures until the COPP is satisfied the filing is complete.

Reporting and disclosure is required so that the public, press, and opposing candidates understand the contribution and expenditure of funds used in a candidate's campaign.

### **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 the Rodney Garcia campaign 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 prohibit use of state or local resources for campaign purposes. *See Matters of Vincent*, Nos. COPP-2013-CFP-006, 009 (discussing excusable neglect principles). Likewise, the Commissioner does not normally accept that failures to prohibit use of state or local resources for campaign purposes 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 Rodney Garcia. 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. §§§§ 13-37-201,205, 225, and 226. *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 7th day of April 2020.



---

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



BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Jeffrey A. Mangan, Commissioner of Political Practices  To Rodney Garcia  No. COPP-2020-ONC-001	ORDER OF NONCOMPLIANCE
--	------------------------

WHEREAS, the above named candidate, Rodney Garcia, is a candidate for Montana Senate District 26, Yellowstone County, as evidenced by his February 3, 2020 filing with the Montana Secretary of State; and

WHEREAS, Rodney Garcia electronically filed a Statement of Candidate C-1 form on March 16, 2020 using the Candidate Electronic Reporting System (CERS) with the Commissioner of Political Practices; and

WHEREAS, despite instruction<sup>1</sup> and guidance provided to Candidate Garcia by COPP staff, candidate Garcia has failed to:

- File an amended C-1 Statement of Candidate correcting the election year, bank of record for the candidacy, and address of the campaign's bank for the 2020 election;

---

<sup>1</sup> COPP Compliance Specialist contacted candidate Garcia on March 16, 2020 via email with instructions to correct the deficiency.

- File the required C-5 campaign financial report on or before March 20, 2020 for the period of February 3, 2020 to March 15, 2020;

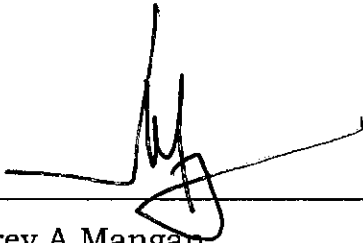
A Copy of the candidate's Statement of Candidate is attached.

IT IS FURTHER ORDERED, pursuant to §13-37-121, MCA, that Rodney Garcia is declared to be in NONCOMPLIANCE with the provisions of sections §13-37-201 and 13-37-225, MCA and ARM 44.11.302; and

IT IS FURTHER ORDERED that a County Attorney or the Commissioner may, on failure by Rodney Garcia to submit appropriate campaign finance reports within 5 days after receiving this Order of Noncompliance, may initiate a civil action pursuant to sections §13-37-124 and §13-37-128, MCA; and

FURTHER, if Rodney Garcia is aggrieved by the issuance of this Order of Noncompliance, he may seek judicial review in District Court pursuant to section §13-37-122, MCA.

DATED this 25 day of March 2020.



---

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

# Statement of Candidate (C1 or C1-A)

## Candidate Information

**Candidate Full Name:** Garcia, Rodney  
**Mailing Address:** 141 Calhoun Lane Billings, MT 59101  
**Physical Address:** 141 Calhoun Lane Billings, MT 59101  
**Home Phone:** (406) 850-7346  
**Alternate Phone:**  
**Campaign Email Address:** rodneygarcia1054@gmail.com  
**Election Year:** 2018  
**Candidate Type:** State District  
**Office Sought:** Senate District No. 26  
**Resident County:** Yellowstone  
**Political Party:** Republican  
**Current Status:** Active  
**Date Filed:** 03/16/2020  
**Amended Date:**  
**D1 Received Date:**  
**C118 Received Date:**  
**Reporting Status:**  
**Bank Full Name:** Rodney Garcia  
**Bank Address:** 141 Calhoun Lane Billings, MT 59101

## Campaign Treasurer Information

**Treasurer Full Name:** Garcia, Rodney  
**Mailing Address:** 141 Calhoun Lane Billings, MT 59101  
**Physical Address:** 141 Calhoun Lane # 402 Billings, MT 59101  
**Home Phone:** (406) 850-7346  
**Alternate Phone:**  
**Home or Personal Email Address:** rodneygarcia1054@gmail.com

## Deputy Treasurer Information

**Cook, Scott**

---

**From:** Wilson, Cheryl  
**Sent:** Monday, March 16, 2020 2:07 PM  
**To:** 'rodneygarcia1054@gmail.com'  
**Subject:** Registration form for 2020 candidacy

Hello Rodney,

I just reviewed the registration form you submitted for your 2020 candidacy – you will need to AMEND this registration form to reflect:

Bank name and address  
AND  
CHANGE the election year from 2018 to 2020

Thank you for your time,  
*Cheryl Wilson*  
*Operations Specialist*  
*PO Box 202401*  
*1209 8<sup>th</sup> Ave, Helena MT 59620-2401*