

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Rankin v. Austin Knudsen No. COPP 2020-CFP-057B	DISMISSAL
--	-----------

On February 1, 2021, Sean Rankin of Washington, D.C. filed a campaign practices complaint against Austin Knudsen, a 2020 candidate for the office of Attorney General in Montana. The complaint alleges that candidate Knudsen coordinated paid Facebook ads run by the Republican Attorneys General Association (RAGA) intended to benefit his campaign with that organization but failed to properly report them as contributions received. The complaint also alleged that these alleged contributions candidate Knudsen received from RAGA were both from a prohibited source and exceeded Montana's campaign contribution limits.

**SUBSTANTIVE ISSUES ADDRESSED**

Coordination between a Montana political committee and candidate for office.

**FINDINGS OF FACT**

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Austin Knudsen filed a C-1 Statement of Candidate as a Republican candidate for the office of Attorney General with the COPP on May 21, 2019. Katie Wenetta of Helena,

MT was listed as candidate Knudsen's campaign Treasurer, with no other officers listed. (Commissioner's Records.)

Finding of Fact No. 2: The Republican Attorneys General Association (RAGA) is a national Republican political organization that "elects and re-elects Republican attorneys general nationally".<sup>1</sup> RAGA did not register as a political committee or file finance reports with the COPP in the State of Montana.

An organization named the RAGA Action Fund did register as a Federal political committee with the Federal Election Commission<sup>2</sup> and file copies of its federal Statement of Organization and certain finance reports with the COPP. Russell Lee of Washington, DC is listed as RAGA Action Fund's Treasurer, Adam Piper of Washington, DC is listed as President, and no other officers are listed.

According to its ads library, RAGA launched fifty-nine (59) paid advertisements on Facebook that directly reference Montana Attorney General candidates Austin Knudsen and/or Raph Graybill in September 2020 and twenty-eight (28) in October 2020.<sup>3</sup> The first ads were launched on September 3, 2020 and the last ads were launched on October 29, 2020. Each individual ad contains a disclaimer indicating it was paid for by RAGA Action Fund. (Commissioner's Records.)

Finding of Fact No. 3: On July 5, 2019, candidate Knudsen filed his Initial C-5 campaign finance report, dated May 17, 2019 through June 30, 2019. This report did not disclose any contributions received, either monetary or In-kind, from RAGA or RAGA Action Fund. This report was most recently Amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 4: On October 7, 2019, candidate Knudsen filed a periodic C-5 campaign finance report, dated July 1, 2019 through September 30, 2019. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

---

<sup>1</sup> <https://republicanags.com/about/>

<sup>2</sup> <https://www.fec.gov/data/committee/C00560904/?tab=about-committee>

<sup>3</sup>

[https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=all&country=US&view\\_all\\_page\\_id=172298889630363](https://www.facebook.com/ads/library/?active_status=all&ad_type=all&country=US&view_all_page_id=172298889630363)

Finding of Fact No. 5: On January 6, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated October 1, 2019 through December 31, 2019. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. (Commissioner's Records.)

Finding of Fact No. 6: On March 20, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated January 1, 2020 through March 15, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 7: On April 20, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated March 16, 2020 through April 15, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. (Commissioner's Records.)

Finding of Fact No. 8: On May 20, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated April 16, 2020 through May 14, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 9: On June 22, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated May 15, 2020 through June 15, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 10: On August 20, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated June 16, 2020 through August 15, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 11: On September 21, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated August 16, 2020 through September 15, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 12: On October 20, 2020, candidate Knudsen filed a periodic C-5 campaign finance report, dated September 16, 2020 through October 14, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. This report was most recently amended on December 29, 2020. (Commissioner's Records.)

Finding of Fact No. 13: On November 20, 2020, candidate Knudsen filed a closing C-5 campaign finance report, dated October 15, 2020 through November 15, 2020. This report did not disclose any contributions received, either monetary or in-kind, from RAGA or RAGA Action Fund. (Commissioner's Records.)

Finding of Fact No. 14: On copies of federal finance reports filed with the FEC and C-7E Notice of Pre-Election Expenditures filed with the COPP, RAGA Action Fund did not disclose any contributions, either monetary or in-kind, made by the committee to candidate Knudsen's campaign. (Commissioner's Records.)

Finding of Fact No. 15: On March 3, 2021, candidate Knudsen, through Jake Eaton, provided the COPP with his response to this complaint. The response denied the suggestion that RAGA had coordinated any Montana expenditures with candidate Knudsen, noting that all expenditures cited in the complaint "are ads produced and paid for by the Republican Attorneys General Association, not AFM [candidate Knudsen's campaign]. AFM had nothing to do with the production or distribution of the ads in question". The response goes on to state that "Simply put AFM did not coordinate with RAGA" on the paid Facebook ads "or any other expenditure". (Commissioner's Records.)

Finding of Fact No. 16: On February 19, 2021, RAGA and RAGA Action Fund, through counsel Dickinson Wright PLLC, provided the COPP with its response to this complaint. The response stated that RAGA itself made no reportable expenditures in the State of Montana's 2020 elections- all spending, it stated, was done by RAGA Action Fund, "RAGA's affiliated Super PAC". The response also denied that any of RAGA Action Fund's "expenditures in Montana were done "in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, or at the request of suggestion of, or with the express consent"" of the Knudsen campaign. (Commissioner's Records.)

## DISCUSSION

### *Coordination*

The complaint alleges that candidate Knudsen coordinated paid Facebook ads intended to benefit his campaign with the Republican Attorneys General Association (RAGA) and/or a related entity named RAGA Action Fund in in violation of Montana campaign finance law.

Mont. Code Ann. §13-1-101(10) defines the term coordinated:

"Coordinated", including any variations of the term, means made in cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or political committee or an agent of a candidate or political committee

44.11.602, ARM. Subsection (1) states that:

A "coordinated expenditure" means any election communication, electioneering communication, or reportable election activity that is made by a person in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, at the request or suggestion of, or with the express prior consent of a candidate or an agent of the candidate. The coordination of an expenditure need not require agreement, cooperation, consultation, request, or consent on every term necessary for the particular coordinated expenditure, but only requires proof of one element, such as content, price, or timing, to be met as a fact of a coordinated expenditure.

It is important to note that coordination itself is NOT a violation of Montana campaign finance law. In the event an activity is coordinated between a candidate for election and a political committee, each entity would be required to disclose the activity on the relevant finance report filed with the COPP. All coordinated activity "shall be treated and reported as an in-kind contribution from and expenditure by the person funding, facilitating, or engaging in" the activity, 44.11.602(5), ARM. Coordinated activities would be

subject to Montana's contribution limits but are not by themselves a violation of any Montana campaign finance rule or law.

Austin Knudsen ran as the Republican candidate for election to the office of Attorney General in Montana's 2020 General election (FOF No. 1). RAGA is a national political organization dedicated to the election of Republican attorneys general across the United States; RAGA Action Fund is a federally registered political committee directly affiliated with RAGA at large (FOF Nos. 2, 16). Candidate Knudsen did not report receiving any contributions, either monetary or in-kind, from RAGA or RAGA Action Fund (FOF Nos. 3-13). Neither RAGA nor RAGA Action Fund disclosed making any contributions, either monetary or in-kind, to candidate Knudsen (FOF Nos. 2, 14).

The only materials this complaint references as evidence of coordination between candidate Knudsen and RAGA were paid Facebook ads launched on RAGA's official profile directly mentioning candidate Knudsen and/or his Democratic general election opponent Raph Graybill. COPP review was able to determine that eight-seven (87) paid Facebook ads on RAGA's profile directly mentioned candidate Knudsen and/or candidate Graybill (FOF No. 2). Each ad included an attribution message indicating it had been paid for by RAGA Action Fund.

Candidate Knudsen, in his response to this complaint, denied all accusations of coordination between his campaign and RGA, stating that his campaign "had nothing to do with the production or distribution of the ads in question" (FOF No. 15). RAGA itself denied making any Montana expenditures,

explaining that all Montana expenditure activity was conducted by RAGA Action Fund, “RAGA’s affiliated Super PAC” (FOF No. 16). Their response goes on to argue that no Montana expenditures made by RAGA Action Fund was done “in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, or at the request of suggestion of, or with the express consent” of the Knudsen campaign. Based on their relevant registration statements, Candidate Knudsen’s campaign did not share any officers with RAGA Action Fund (FOF Nos. 1, 2).

In determining if coordination has occurred, COPP can consider if a candidate or individuals associated with that candidate’s campaign have “made or participated in any discussion or in making any decision regarding the content, timing, location, media, intended audience, volume of distribution, or frequency of placement” of materials finance by an outside entity, 44.11.602(2)(e), ARM. COPP has no evidence to dispute candidate Knudsen’s or RAGA Action Fund’s denials that such conversations occurred regarding the specific materials noted in this complaint.

In this matter, COPP could find no evidence to support the claim that the specific paid Facebook ads noted by the complainant were coordinated between candidate Knudsen and RAGA or RAGA Action Fund. While the ads were produced and distributed by RAGA Action Fund, COPP has no evidence to suggest that they were done in “cooperation with, in consultation with, at the request of, or with the express prior consent of” candidate Knudsen or his campaign, Mont. Code Ann. §13-1-101(10). The allegation that candidate

Knudsen coordinated certain campaign activities with RAGA or RAGA Action Fund in violation of Montana campaign finance law is hereby dismissed.

*Reporting Contributions Received and Contribution Limits*

The complainant in this matter also alleges that candidate Knudsen failed to properly report these paid Facebook ads as in-kind contributions received by his campaign, and that the value of these contributions exceeded the amount candidate Knudsen was allowed to accept under Montana's campaign contribution limits.

§13-1-101(9), Mont. Code Ann. defines a contribution as:

(a) "Contribution" means:

(i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot issue;

(ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

(iii) the receipt by a political committee of funds transferred from another political committee; or

(iv) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) The term does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual.

(c) This definition does not apply to Title 13, chapter 37, part 6.



All paid Facebook ads referenced in this complaint were distributed via RAGA's official Facebook page, and each included an attribution message indicating it had been paid for by RAGA Action Fund. COPP considers RAGA Action Fund the entity responsible for financing these ads.

Hypothetically, were the ads to be deemed coordinated between candidate Knudsen and RAGA Action Fund, candidate Knudsen would be required to disclose each as an in-kind contribution received from RAGA Action Fund on finance reports filed with the COPP, §13-1-101(9)(a)(ii), Mont. Code Ann., and their value would count towards the relevant campaign contribution limits. However, as noted in Part One of this Discussion, COPP has no evidence that these ads were coordinated between RAGA Action Fund and candidate Knudsen.

All available evidence and statements made by the respondents to this matter indicate the ads qualify as independent expenditures made by RAGA Action Fund, Mont. Code Ann §13-1-101(25). An independent expenditure made by an entity other than a candidate or candidate's campaign would not qualify as a contribution received by that candidate because the candidate did not receive an "advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value", nor was the expenditure coordinated, Mont. Code Ann §13-1-101(9). Further, relevant campaign finance rules clearly state that "the candidate or political committee benefitting from" an independent expenditure "does not have to report the expenditure", 44.11.502(8)(c), ARM.

The Commissioner finds the identified Facebook ads in this matter were independent expenditures conducted solely by RAGA Action Fund, the specific paid Facebook ads in question would not qualify as contributions received by candidate Knudsen under Montana campaign finance law. Candidate Knudsen would not be under any obligation to report them as contributions received. The allegation that candidate Knudsen failed to report these paid Facebook ads as contributions received is hereby dismissed.

The allegation that candidate Knudsen violated Montana's campaign contribution limits through the acceptance of these ads as an in-kind contribution is hereby dismissed.

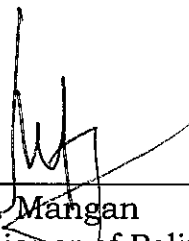
*Prohibited Contributions*

The final allegation made in this complaint against candidate Knudsen is that, by accepting in-kind contributions from RAGA/RAGA Action Fund, candidate Knudsen accepted contributions from a prohibited source. As noted, the specific paid Facebook ads referenced in this complaint would qualify as independent expenditures made by RAGA Action Fund rather than contributions made to candidate Knudsen's campaign. Because no campaign contribution was received by candidate Knudsen, the allegation that the campaign accepted contributions from a prohibited source is hereby dismissed.

**DECISION**

The complaint is hereby dismissed.

DATED this 12<sup>th</sup> day of July 2021.



---

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