

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Anderson v. Collins No. COPP 2021-CFP-017	DISMISSAL
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On July 26, 2021, DeAnna K. Anderson of Helena, Montana filed a campaign practices complaint against Wilmot Collins, also of Helena. The complaint alleges that candidate Collins failed to file certain required campaign finance reports, timely file a required campaign finance report, and failed to timely file his C-1A Statement of Candidate.

SUBSTANTIVE ISSUES ADDRESSED

Timely and proper filing of a State of Candidate and campaign finance reports.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: On March 31, 2021, Wilmot Collins filed a C-1A Statement of Candidate as a candidate for election to the position of Mayor in the City of Helena with the COPP. Under Reporting Status, candidate Collins certified that the campaign “Will spend more than \$500.00”. (Commissioner’s Records.)

Finding of Fact No. 1A: On March 29, 2021, candidate Collins, via an announcement sent via email, publicly announced his intention

to seek election to the office of Mayor in the City of Helena's 2021 municipal (city) elections.¹ (Commissioner's Records.)

Also on March 29, candidate Collins posted twice to Facebook his intention to run for the position of Mayor in the City of Helena. The first post ended by stating "Friends, I am asking for your support for my reelection campaign, and together we will continue to make Helena an even better place to live, work, and raise our families", while the second post included a link to contribute to candidate Collins' campaign through ActBlue.² No Facebook posts made by candidate Collins prior to March 29, 2021 mentioned any candidacy for election to office in the State of Montana or solicited campaign contributions for a candidacy to elected office. (Commissioner's Records.)

Finding of Fact No. 1B: On April 26, 2021, candidate Collins filed a Declaration for Nomination and Oath of Candidacy for Municipal Candidates with the Lewis & Clark County elections department. (Commissioner's Records.)

Finding of Fact No. 2: Candidates for election to municipal (city) office who certified that the campaign "Will spend more than \$500.00" had initial C-5 campaign finance reports due on or before Monday, June 21, 2021³. (Commissioner's Records.)

Finding of Fact No. 2A: June 20 as the initial finance report due date for municipal (city) candidates was established by HB 71, a bill passed by the 2021 Montana Legislature.⁴ HB 71 was signed into law by Governor Gianforte on April 8, 2021 and took effect upon signage. Those municipal (city) candidates who had registered as candidates or engaged in reportable contribution or expenditure activity prior to March 15, 2021 (the end of the reporting period) had campaign finance reports due on or before March 20, 2021. Due to HB 71's passage and implementation, municipal (city) candidates who had not registered as candidates or otherwise engaged in reportable contribution or expenditure

¹ https://helenair.com/news/local/helena-mayor-wilmot-collins-to-run-for-reelection/article_4fdcb4ff-74ba-5115-ae51-cfe0f890b8a8.html

² <https://www.facebook.com/MayorWilmotCollins> and <https://secure.actblue.com/donate/wc2021?fbclid=IwAR2BDTEQwwUqxxHs90dTN1UvXXau-M2faBB3g5-jOQQbHPIRCrW8875P2kU>

³ Because July 20 fell on a Sunday, the due date for this report was pushed back to Monday the 21st.

⁴ [http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=71&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20211&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=71&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

activity prior to March 15, 2021 did not have initial campaign finance reports due until June 20, 2021. (Commissioner's Records.)

Finding of Fact No. 3: Candidate Collins did not file a C-5 campaign finance report on or before June 21, 2021. (Commissioner's Records.)

Finding of Fact No. 3A: On June 18, 2021, candidate Collins filed a C-7 Notice of Pre-Election Contributions, dated March 1, 2021 through June 15, 2021. This C-7 report disclosed candidate Collins as receiving monetary contributions totaling \$11,682.00 in the primary election and \$50 in the general election. This C-7 was made publicly available on the CERS system immediately upon filing and posted to the COPP's hard copy search on June 18, 2021. (Commissioner's Records.)

Finding of Fact No. 3B: On June 18, 2021, candidate Collins filed a C-7E Notice of Pre-Election expenditures, dated March 1, 2021 through June 15, 2021. This C-7E report disclosed candidate Collins as making three (3) campaign expenditures in the primary election totaling \$3,970.91. One (1) expenditure, in the amount of \$110.00, was reported as made to candidate Collins and described as "Loan Repayment". This C-7E was made publicly available on the CERS system immediately upon filing and posted to the COPP's hard copy search on June 18, 2021. (Commissioner's Records.)

Finding of Fact No. 3C: On June 18, 2021, COPP Compliance Specialists contacted the Collins campaign about its C-7 and C-7E filings. The email pointed out to candidate Collins that he needed to file an initial C-5 campaign finance report to disclose campaign's contribution and expenditure activity by June 20, 2021 and provided guidance on how to file a C-5 report in the CERS system. The email added that "The C7 and C7E's are only for the short time before an election. The reason for the C7 and C7E's is because there is no C5 due close to an election (not until appx 15 days after an election) so the C7 and C7E allows the public to see what is happening closer to an election with the campaigns". (Commissioner's Records.)

Finding of Fact No. 4: On June 28, 2021, candidate Collins filed his initial C-5 campaign finance report, dated March 1, 2021 through June 15, 2021. This report disclosed candidate Collins as receiving monetary contributions totaling \$11,792.00 in the primary election, including a monetary loan of \$110.00 made by candidate Collins to his campaign (on the public version of the

report, this appears as a debt owed by the campaign to candidate Collins) described as “Filing Fee”, and \$50 in the general election. This report disclosed candidate Collins as making two (2) campaign expenditures in the primary election and one (1) payment on a reported debt, totaling \$3,970.91. This report was most recently amended on July 23, 2021. (Commissioner’s Records.)

Finding of Fact No. 5: On June 29, 2021, candidate Collins hand-delivered his response in this matter to the COPP. The response stated that candidate Collins received his first campaign contributions on March 26, 2021. An attached copy of an Excel spreadsheet compiled by the campaign to track contributions received lists March 26, 2021 as the date the earliest contributions were received by the campaign. The response also argues that under HB 71 candidate Collins’ first required C-5 campaign finance report was not due until June 20, 2021. (Commissioner’s Records.)

Finding of Fact No. 6: On July 18, 2021, candidate Collins timely filed a Periodic C-5 campaign finance report, dated June 16, 2021 through July 15, 2021. (Commissioner’s Records.)

DISCUSSION

Candidate Registration

The complainant alleges candidate Collins failed to timely file his C-1A Statement of Candidate with the COPP.

All candidates for election to a municipal (city) office are required to file a Statement of Candidate with the COPP “within 5 days of becoming a candidate”, Mont. Code Ann. §13-37-201(2)(a). Actions that would lead to one becoming a candidate include filing a declaration or petition for nomination as a candidate for public office, soliciting/receiving contributions, or making expenditures, Mont. Code Ann. §13-1-101(8). In other words, candidate Collins was required to file a Statement of Candidate with the COPP within 5 days of filing a declaration or petition for nomination as a candidate for public office,

soliciting/receiving contributions, or making expenditures, whichever came first.

Candidate Collins filed a Declaration for Nomination and Oath of Candidacy for Municipal Candidates with the Lewis & Clark County elections department on April 26, 2021 (FOF No. 1B). COPP cannot find evidence that candidate Collins solicited contributions to his campaign prior to his formal March 29, 2021 campaign announcement (FOF No. 1A). According to the Collins campaign, candidate Collins received his first campaign contribution on March 26, 2021, and COPP has no evidence to dispute this assertion (FOF No. 5). Finally, according to a C-7E Notice of Pre-Election Expenditures and C-5 campaign finance report filed by his campaign, candidate Collins made his first 2021 campaign expenditure on June 12, 2021.

Based on all available evidence in this matter, candidate Collins timely filed his C-1A Statement of Candidate with the COPP. Candidate Collins became a candidate by receiving a contribution on March 26, 2021 and filed his C-1A Statement of Candidate five (5) days later, on March 31, 2021 (FOF No. 1). By filing a Statement of Candidate with the COPP within five days of becoming a candidate, candidate Collins met the 5 day requirement to do so outlined under Mont. Code Ann. §13-37-201(2)(a). The allegation that candidate Collins failed to timely file his Statement of Candidate is hereby dismissed.

Campaign finance reports

This complaint also alleges that candidate Collins failed to file campaign finance reports in March, April, and May of 2020 and failed to timely file his June 2020 report.

The 2021 Montana Legislature passed House Bill 71, which established June 20 as the initial finance report due date for municipal (city) candidates and was made effective upon passage and approval. HB 71 was signed into law by Governor Gianforte and thus took effect on April 8, 2021. HB 71 amended the campaign finance reporting dates for municipal (city) candidates found under Mont. Code Ann. §13-37-226. Specifically, it holds that “A candidate for a municipal office who participates in an election held in an odd-numbered year shall file the reports required in subsection (1) on the 20th day of June, July, August, September, October, and November of the year of the election in which the candidate participates”⁵ (emphasis added).

All municipal (city) candidates whose contribution or expenditure activity exceeds \$500 are required to file periodic campaign finance reports with the COPP, 44.11.304, Administrative Rules of Montana. Prior to HB 71’s passage, 2021 municipal (city) candidates who certified campaign expenditures would exceed \$500 had initial campaign finance reports due on or before March 20, the same as any other candidate for election, Mont. Code Ann. §13-37-226(1)(b). As noted above, HB 71 changed the finance reporting dates for municipal (city) candidates.

⁵ <https://leg.mt.gov/bills/2021/sesslaws/ch0158.pdf>

Those municipal (city) candidates who had registered as candidates or engaged in reportable contribution or expenditure activity prior to March 15, 2021 (the end of the reporting period) had campaign finance reports due on or before March 20, 2021. Because of HB 71's April 8, 2021 effective date, municipal (city) candidates who had not registered as candidates or otherwise engaged in reportable contribution or expenditure activity prior to March 15, 2021 did not have initial campaign finance reports due until June 20, 2021. Because June 20 fell on a weekend, the June 20 report due date became Monday, June 21 per Mont. Code Ann. §1-1-307.

On his Statement of Candidate, candidate Collins certified that campaign expenditures would exceed \$500, meaning he was required to file periodic campaign finance reports (FOF No. 1). Candidate Collins became a candidate on March 26, 2021 by receiving a reportable contribution, and he timely filed his C-1A Statement of Candidate with the COPP on March 31. Since candidate Collins did not become a candidate until March 26, 2021, the provisions of HB 71 hold that his initial campaign finance report was due June 20, 2021. The allegation that candidate Collins failed to file a required finance report on or before March 20, 2021 is hereby dismissed.

Under HB 71, no 2021 municipal (city) candidates had finance reports due on April 20, 2021 or May 20, 2021. The allegation that candidate Collins failed to file required reports is hereby dismissed.

Candidate Collins did have a campaign finance report due on or before June 21, 2021. In this case, candidate Collins did not file a C-5 campaign

finance report on or before June 21, 2021 (FOF No. 3). Instead, on June 18, 2021, candidate Collins filed a C-7 Notice of Pre-Election Contributions⁶ dated March 1, 2021 through June 15, 2021 disclosing \$11,682.00 in primary election contributions and \$50 in general election contributions received by his campaign (FOF No. 3A). On June 18, 2021, candidate Collins also filed a C-7E Notice of Pre-Election Expenditures⁷ dated March 1, 2021 through June 15, 2021 disclosing \$3,970.91 in primary election expenditures made by the campaign (FOF No. 3B). Both the C7 and C7E June 18th reports were made available to the public on June 18, 2021 (FOF Nos. 3A, 3C).

Mont. Code Ann. §13-37-225(1)(a), states that candidates shall file with the commissioner “periodic electronic reports of contributions and expenditures made by or on the behalf of a candidate”. In this case, although candidate Collins utilized incorrect reporting forms (the C-7 to disclose contributions received and C-7E to disclose expenditures made instead of the C-5, which allows the candidate to disclose both), candidate Collins did file with the Commissioner electronic periodic reports of contributions received and expenditures made, and these reports were received and made public prior to June 21, 2021. As candidate Collins contribution and expenditure activity was

⁶ A C-7 Notice of Pre-Election Contributions is required to be filed within 2 business days of receiving a contribution of \$100 or more from a single source between the 15th day of the month preceding an election and the date of the election. The 2021 municipal (city) primary election will be held on September 14, 2021. Form C-7 does not allow candidates to disclose expenditures made.

⁷ A C-7E Notice of Pre-Election Expenditures is required to be filed within 2 business days of making an expenditure of \$100 or more between the 15th day of the month preceding an election and the date of the election. The 2021 municipal (city) primary election will be held on September 14, 2021. Form C-7E does not allow candidates to disclose contributions received.

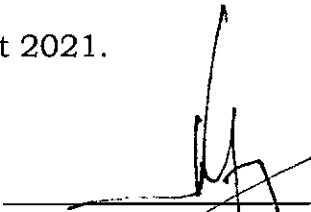
made available to the public in the proper timeframe, the allegation is hereby dismissed.

The Commissioner notes candidate Collins error in not utilizing the proper form creates confusion with the public. Future disclosure of contribution and expenditure information via C-7 or C-7E reports instead of the C-5 report (outside of the C-7/C-7E reporting period established under Mont. Code Ann. §13-37-226(1)(c) and (d), may result in a finding of a campaign finance violation by candidate Collins.

DECISION

The complaint is hereby dismissed.

DATED this 5th day of August 2021.



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