

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Leas v. Collins No. COPP 2021-CFP-019	FINDING OF SUFFICIENT FACTS TO SUPPORT A CAMPAIGN PRACTICE ACT VIOLATION
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On August 3, 2021, Aaron James Leas of East Helena, Montana filed a campaign practices complaint against Wilmot Collins, also of Helena. The complaint alleges that candidate Collins accepted campaign contributions from an individual contributor that exceeded Montana's applicable contribution limits.

SUBSTANTIVE ISSUES ADDRESSED

Campaign contribution exceeding Montana contribution limit.

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. (Commissioner's Records.)

Finding of Fact No. 2: 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 four (4) separate monetary contributions for the primary election from an individual contributor named Rossini Clark, totaling \$250.00. (Commissioner's Records.)

Finding of Fact No. 3: On June 28, 2021, candidate Collins filed his initial C-5 campaign finance report, dated March 1, 2021 through June 15, 2021. This C-5 report disclosed candidate Collins as receiving four (4) separate monetary contributions for the primary election from an individual contributor named Rossini Clark, totaling \$250.00. This report did not disclose any campaign expenditures made to contributor Rossini Clark as over-contributions limit refunds. This report was most recently amended on July 23, 2021. (Commissioner's Records.)

Finding of Fact No. 4: On July 18, 2021, candidate filed a periodic C-5 campaign finance report, dated June 16, 2021 through July 15, 2021. This report did not disclose any campaign expenditures made to contributor Rossini Clark as over-contributions limit refunds. This report was most recently amended on July 23, 2021. (Commissioner's Records.)

Finding of Fact No. 5: The City of Helena will not be holding a 2021 municipal (city) primary election. Candidates for election to a municipal (city) office in the City of Helena will only participate in the November 2, 2021 general election. (Commissioner's Records.)

Finding of Fact No. 6: On August 9, 2021, candidate Collins hand-delivered his response in this matter to the COPP. The response stated that candidate Collins "did receive 4 donations for Rossini Clark through ActBlue. The contributions totaled \$250.00 which is over the campaign limit...We will send him a refund check of \$70.00". A copy of a check written by the Collins campaign to Rossini Clark in the amount of \$70.00 for "overlimit refund" was also included with this response. The check was dated August 6, 2021. (Commissioner's Records.)

DISCUSSION

The complaint alleges Wilmot Collins accepted campaign contributions that exceed Montana's established limits. Specifically, candidate Collins accepted \$250.00 from contributor Rossini Clark despite the \$180.00 contribution limit for individual contributors.

Montana's campaign contribution limits are established under Mont. Code Ann. §13-37-216, with the amount adjusted every other year by the

Commissioner of Political Practices “by multiplying each limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the year in which a general election is held by the consumer price index for June 2002”. Adjusted limits are published by the Commissioner of Political Practices for each biennium as an Administrative Rule. For the 2020 and 2021 elections, the individual contribution limit for candidates seeking election to any office other than a statewide office was set at \$180.00 per election, 44.11.227(1)(c), ARM.

Montana’s contribution limits apply per election, with an election being defined as “the general election or a primary election that involves two or more candidates for the same nomination. If there is not a contested primary, there is only one election to which the contribution limits apply. If there is a contested primary, then there are two elections to which the contribution limits apply”, Mont. Code Ann. §13-37-216(5). The City of Helena will not be holding a municipal primary election in 2021, meaning any candidate seeking elected office in the City of Helena will only be participating in one (1) election, the municipal general election (FOF No. 5). Those candidates could accept a maximum contribution of \$180.00 from an individual contributor.

Wilmot Collins registered as a candidate for election to a municipal office in the City of Helena with the COPP (FOF No. 1). Candidates seeking election to a municipal office in the City of Helena’s 2021 municipal election can accept a maximum contribution of \$180.00 from an individual contributor.

On both a C-7 Notice of Pre-Election Contributions filed on June 18, 2021 and a C-5 campaign finance report filed on June 28, 2021, candidate Collins disclosed accepting campaign contributions in the amount of \$250.00 from an individual named Rossini Clark (FOF Nos. 2, 3). The campaign did not disclose any expenditures reimbursing Rossini Clark for providing contributions that exceeded Montana's \$180.00 limit on campaign finance reports filed with the COPP prior to receipt of this complaint (FOF Nos. 3, 4).

Candidate Collins' response indicates the campaign was aware it had accepted monetary contributions in the amount of \$250.00 from Rossini Clark, an amount that exceeded Montana's campaign contribution limits (FOF No. 6). Candidate Collins's response also included a copy of a refund check it had written to Rossini Clark in the amount \$70.00, the amount by which his contributions had exceeded Montana's \$180.00 limit. This check was dated August 6, 2021 by the campaign.

In this matter, candidate Collins accepted monetary contributions from individual contributor Rossini Clark that totaled \$250.00, exceeding the \$180.00 campaign contribution limit by \$70.00. By accepting campaign contributions that exceeded \$180.00 from an individual contributor, candidate Collins violated Montana's contribution limits as established under Mont. Code Ann. §13-37-216 and published for election years 2020 and 2021 under 44.11.227(1)(c), ARM.

Sufficiency Finding No. 1: Candidate Collins accepted contributions in excess of \$180.00 from one contributor in the amount of \$70.00.

There are sufficient facts to show candidate Collins violated Montana campaign finance law through the acceptance of an over the limit campaign contribution.

The Commissioner notes candidate Collins has taken appropriate action to remedy the violation by returning the over limits contribution amount of \$70.00 to the contributor upon receipt of the complaint.

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 Wilmont Collins 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).

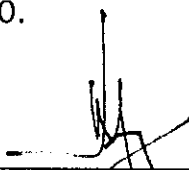
Because there is a finding of violation and a determination that *de minimis* and excusable neglect theories are not applicable to the above Sufficiency Findings, a civil fine is justified. Mont. Code Ann. § 13-37-124. The Commissioner hereby issues a “sufficient evidence” Finding and Decision justifying a civil fine or civil prosecution of Wilmont Collins. 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. § 13-37-216. *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 10th day of August 2020.



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