

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Center for Media and Democracy v. Convention of States Political Fund and Conservative Action for America/Richard Johnson No. COPP 2022-CFP-017A & B	DISMISSAL
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On August 5, 2022, the Center for Media and Democracy of Madison, WI filed campaign practices complaint/s against Convention of States Political Fund (CoSPF) and Conservative Action for America/Richard Johnson. The complaint alleged that CoSPF and Conservative Action for America/Richard Johnson violated applicable Montana campaign finance law by receiving (CoSPF) or making (Conservative Action for America/Richard Johnson) a contribution in a name other than that of the individual providing the funds.

SUBSTANTIVE ISSUES ADDRESSED

Making a contribution in a name other than that of the individual providing the funds.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Convention of States Political Fund (CoSPF) is a nonresident political committee that has made reportable election expenditures in Montana. CoSPF provided a copy of its Michigan Committee Statement of Organization with the COPP on

July 20, 2022. An individual named Richard Johnson is listed as the committee Treasurer. (Commissioner's Records.)

Finding of Fact No. 1A: CoSPF also provided COPP with a copy of a Michigan July quarterly committee finance report on July 20, 2022. Covering a period of April 20, 2022 through July 20, 2022, this report disclosed CoSPF as receiving four (4) monetary contributions from contributor Conservative Action for America during that period, totaling \$350,000.00 (see Table 1). (Commissioner's Records.)

Table 1: Contributions received by CoSPF from Conservative Action for America as disclosed on the Michigan July quarterly report

	Date of Contribution	Amount of Contribution
Conservative Action for America	05/02/2022	\$50,000.00
Conservative Action for America	05/20/2022	\$100,000.00
Conservative Action for America	05/24/2022	\$100,000.00
Conservative Action for America	07/19/2022	\$100,000.00
		\$350,000.00

Finding of Fact No. 1B: On July 13, 2022, CoSPF filed form 8872, the Political Organization Report of Contributions and Expenditures, with the Internal Revenue Service (IRS).¹ Covering a period of April 1, 2022 through June 30, 2022, this filing disclosed CoSPF as receiving three (3) monetary contributions from contributor Conservative Action for America during that period (see Table 2). (Commissioner's Records.)

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https://forms.irs.gov/app/pod/basicSearch/search?_eventId_displayForm=true&formId=132839&formtype=e8872&execution=e1s3

Table 2: Contributions received by CoSPF from Conservative Action for America as disclosed on the committee's July 13, 2022 form 8827, filed with the IRS

	Date of Contribution	Amount of Contribution
Conservative Action for America	05/02/2022	\$50,000.00
Conservative Action for America	05/20/2022	\$100,000.00
Conservative Action for America	05/24/2022	\$100,000.00

Finding of Fact No. 2: Conservative Action for America, Inc. is registered with the Arizona Corporation Commission as a Domestic Nonprofit Corporation in that state.² Richard Johnson is listed as the Director. (Commissioner's Records.)

Finding of Fact No. 3: On August 26, 2022, Mike B. Wittenwyler of Godfrey & Kahn, S.C. provided COPP with a formal response on behalf of CoSPF and Conservative Action for America/Richard Johnson. The response argues that CoSPF accurately disclosed all contributors on the finance report provided to COPP, noting that the contributors disclosed on the state of Michigan July quarterly report "have also been publicly disclosed on...periodic reports filed with the IRS". (Commissioner's Records.)

Finding of Fact No. 4: The Commissioner accepted the CoSPF's Michigan statement of organization and committee finance reports as a non-resident committee in the matter of COPP-2022-CFP-011 *Dailey v. Convention of States Political Fund* on July 20, 2022. (Commissioner's Records.)

² <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=23322616>

DISCUSSION

The complainant in this matter asserts that each of Convention of States Political Fund (CoSPF) and Conservative Action for America/Richard Johnson have violated applicable Montana campaign finance law by receiving (CoSPF) or making (Conservative Action for America/Richard Johnson) a contribution in a name other than that of the individual providing the funds.

Specifically, the complainant alleges violations of Mont. Code Ann. §13-37-217(1), which stipulates that a contributor “may not make a contribution of the person's own money or of another person's money to any other person in connection with any election in any other name than that of the person who in truth supplies the money” and that the recipient of a contribution (such as a political committee, in CoSPF’s case) “may not knowingly receive a contribution or enter or cause the contribution to be entered in the person's accounts or records in another name than that of the person by whom it was actually furnished”.

On a July Quarterly committee finance report filed in the state of Michigan, CoSPF disclosed its receipt of four (4) monetary contributions from contributor Conservative Action for America (FOF No. 1A). On July 20, 2022, CoSPF provided a copy of this Michigan report, accepted by the COPP, in the matter of COPP-2022-CFP-011, *Dailey v. Convention of States Political Fund* (FOF No. 4). Using form 8872 filed with the Internal Revenue Service (IRS) for a similar reporting period, CoSPF again disclosed receipt of monetary contributions from Conservative Action for America (FOF No. 1B). CoSPF’s

formal response to this complaint asserts that the listing of Conservative Action for America as a contributor on filings made with the state of Michigan, the state of Montana, and to the IRS was accurate, as they were the source of contributions CoSPF received (FOF No. 3).

CoSPF's filing/s with the identified state and federal jurisdictions consistently disclose Conservative Action for America as a source of contributions received. The State of Arizona Corporation Commission lists Conservative Action for America, Inc. as a registered domestic nonprofit corporation in good standing (FOF No. 2). A contribution to a political committee made by a "person" (including another political committee) is not considered an expenditure if the funds are not "used or intended for use in making independent expenditures or in producing electioneering communications", Mont Code Ann. §§ 13-1-101(19)(a)(iii) and (30). In this case, the Commissioner has no evidence that the contributions provided to CoSPF by Conservative Action for America, Inc. were provided specifically for use in making independent expenditures in Montana or for producing electioneering communications in Montana. The Commissioner notes Conservative Action for America made contributions to Convention of States Political Fund, a political committee organized under the laws of Michigan. Michigan has its own laws and rules that political committees must follow for reporting and disclosing contributions received from out-of-state committees³.

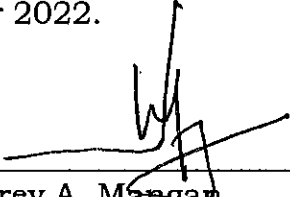
³ [Michigan Elections - Disclosure Division - - Appendices \(mertsplus.com\)](https://mertsplus.com)

The Commissioner has been unable to find evidence of, nor has the Complainant provided evidence of, Conservative Action for America making expenditures in Montana elections or soliciting contributions to spend on elections in Montana. Without that evidence, Montana does not have jurisdiction over Conservative Action for America as a political committee. There is no information available at this time to determine CoSPF has violated Montana campaign finance law as alleged in the Complaint in this matter, as they reported the source of their funds from a registered, active, in good standing 501(c)(4) nonprofit corporation. COPP determines that CoSPF properly and appropriately named Conservative Action for America as the contributor on the Michigan committee finance report provided to COPP. The complaint is hereby dismissed.

DECISION

The Complaint is hereby dismissed.

DATED this 21st day of September 2022.



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