

Cook, Scott

From: Mangan, Jeff
Sent: Monday, October 24, 2022 7:15 AM
To: Cook, Scott
Subject: FW: [EXTERNAL] Re: COPP-2022-CFP-022 and 023
Attachments: 2022-10-21 - MontPIRG Response - 023 - final.pdf; 2022-10-21 - FMF Response - 022 - final.pdf

Jeffrey A. Mangan
Commissioner of Political Practices
1209 Eight Avenue
P.O. Box 202401
Helena, Montana 59620-2401
Direct Line - 406-444-4622
jeff.mangan@mt.gov

<http://politicalpractices.mt.gov/>

This e-mail is for the sole use of the intended recipient(s) and contains information that is confidential and/or legally privileged. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, or taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you have received this e-mail in error, please notify the sender immediately by reply e-mail, and destroy all copies of the original message. This email does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available are for general informational purposes only.

From: Rylee Sommers-Flanagan <rylee@uppersevenlaw.com>
Sent: Friday, October 21, 2022 5:46 PM
To: Mangan, Jeff <Jeff.Mangan@mt.gov>
Cc: MacNaughton, Jaime <JMacNaughton@mt.gov>; James, Austin <Austin.James@mt.gov>; Niki Zupanic <niki@uppersevenlaw.com>
Subject: [EXTERNAL] Re: COPP-2022-CFP-022 and 023

Dear Commissioner Mangan,

Please find attached responses to the Secretary's complaints against both Montana Public Information Research Group ("MontPIRG") in *Secretary of State v. MontPIRG*, COPP-2022-CFP-023, and Forward Montana and Forward Montana Foundation in *Secretary of State v. Forward Montana*, COPP-2022-CFP-022.

These response letters have also been mailed to your office today by certified mail.

Many thanks,
Rylee

Rylee Sommers-Flanagan
she/her/hers
Founder & Executive Director
Upper Seven Law
406-396-3373
rylee@uppersevenlaw.com

CONFIDENTIALITY NOTICE: This message and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to which it was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this message and any accompanying documents is strictly prohibited. If you have received this message in error, please contact the sender immediately and delete the message. Thank you.

On Fri, Oct 21, 2022 at 12:31 PM Rylee Sommers-Flanagan <rylee@uppersevenlaw.com> wrote:

Dear Commissioner Mangan,

My colleague Niki Zupanic and I represent respondents Forward Montana (COPP-2022-CFP-023) and MontPIRG (COPP-2022-CFP-023) in relation to the complaints filed this morning by the Montana Secretary of State's Office.

We are reaching out to let you know that we will be responding to each complaint by letter within the next 24 hours.

Many thanks,
Rylee

Rylee Sommers-Flanagan
she/her/hers
Founder & Executive Director
Upper Seven Law
406-396-3373
rylee@uppersevenlaw.com

CONFIDENTIALITY NOTICE: This message and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to which it was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this message and any accompanying documents is strictly prohibited. If you have received this message in error, please contact the sender immediately and delete the message. Thank you.



UPPER SEVEN LAW
1 N. LAST CHANCE GULCH, SUITE 5
HELENA, MT 59601

HOLD THE POWERFUL ACCOUNTABLE

October 21, 2022

VIA CERTIFIED MAIL AND EMAIL

Jeffrey A. Mangan
Commissioner of Political Practices
1209 Eighth Avenue
P.O. Box 202401
Helena, MT 59620-2401

Re: *Secretary of State v. Forward Montana*, COPP-2022-CFP-022;
complaint received October 21, 2022

Dear Commissioner Mangan,

The undersigned counsel submits this response on behalf of Forward Montana and Forward Montana Foundation in connection with *Secretary of State v. Forward Montana*, COPP-2022-CFP-022.

Though the complaint names Forward Montana, attachments to the complaint show 1) voter registration application drop boxes operated by Forward Montana Foundation and 2) the business card of Billings field manager Pari Kemmick, which refers to the Forward Montana Foundation website. Forward Montana Foundation is a 503(c)(3) organization that educates, engages, and organizes young Montanans to shape their democracy to improve their lives and the lives of their fellow Montanans. Over the last decade, Forward Montana Foundation has, consistent with applicable law, operated drop boxes to collect voter registration applications across Montana. Forward Montana Foundation staff and volunteers monitor these drop boxes and either mail or hand deliver applications to correct county election offices. For each drop box, Forward Montana Foundation staff tracks the number of applications received and the date they are delivered to election offices. Drop boxes are removed when the regular registration period has elapsed.

The Secretary's complaint is meritless. Forward Montana has not, at any time, "mailed and advised applicants to mail a voter registration to an address other than the county election administrator's address" in violation of § 13-25-604, MCA. The Secretary's complaint offers no evidence to support such an allegation. The photo attachments accompanying the Secretary's complaint contain no address, let alone an incorrect mailing address.

In failing to identify any even plausible violation of § 13-25-604, the Secretary's complaint describes no facts that could give rise to a violation. Indeed, the complaint fails to give notice of the particular conduct that is or could be the subject of the complaint, leaving Forward Montana and Forward Montana Foundation guessing as to whether any concern exists that they could address.

Beyond dismissing the Secretary's complaint, you should assess fees against the Secretary.

The Secretary does not appear to have made any effort to clarify the issue about which she now complains. Consistent with its usual practices statewide, Forward Montana Foundation removed the drop boxes pictured on October 11, 2022, to avoid receiving any voter registration applications after the regular registration period had elapsed. The Secretary has made no attempt to reach out to Forward Montana Foundation to express concern or provide instruction relating to the drop boxes in question.

Moreover, Forward Montana Foundation is currently a party in a lawsuit against the Secretary of State's Office, challenging the constitutionality of several laws passed during the 2021 legislative session that restrict access to ballots and stifle voting. The Secretary filed her complaint against Forward Montana and Forward Montana Foundation on the same day that she filed complaints against co-plaintiffs Montana Public Interest Research Group ("MontPIRG") and the ACLU of Montana and the ACLU of Montana Foundation ("ACLU").

On September 21, 2022, the Montana Supreme Court upheld a preliminary injunction that prevented enforcement of the challenged laws while the case remained pending before the district court. Shortly thereafter, on September 30, 2022, the Yellowstone County District Court issued a final decision declaring four election laws unconstitutional and permanently enjoining them. Two of these four laws were particular priorities of the Secretary's Office. In the last two weeks, Forward Montana Foundation has, alongside its co-plaintiffs, advocated for enforcement of the court's order. While the Secretary ultimately agreed to update her website with accurate information about the availability of Election Day Registration and accurate summaries of identification that can be used at the polls, these changes were made only under threat of a temporary restraining order. The Secretary also distributed similar misinformation in the Voter Information Packet that was distributed to all registered voters—and their households—on October 11.

The contents of the Secretary's complaint against Forward Montana cannot justify investigation. And the complaint appears to be an attempt to punish or retaliate against Forward Montana Foundation for its participation in the recent lawsuit. The Secretary should not be allowed to abuse the complaint process in this manner. This office has admonished complainants who abuse the complaint process in the past.

Even meritless complaints that are resolved quickly expend taxpayer time and resources and undermine the legitimacy of the process.

Forward Montana and Forward Montana Foundation look forward to your prompt resolution of this matter. Please do not hesitate to be in touch with any questions.

Many thanks,



Rylee Sommers Flanagan
Executive Director
(406) 396-3373



Niki Zupanic
Staff Attorney

cc:
Austin James
austin.james@mt.gov