

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Adams v. Montana Democratic Party No. COPP 2015-CFP-006	DISMISSAL OF COMPLAINT
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On May 18, 2015, Timothy Adams, of Bozeman, Montana filed a complaint against the Montana Democratic Party (MDP) for failing to properly register and act as a political committee.

DISCUSSION

A political committee, whether an independent, political party, ballot or incidental committee, is required to timely register (§13-37-201 MCA) and timely file reports of campaign contributions and/or expenditures (§§13-37-225, 226 MCA). The Complaint asserts that the MDP has failed to form a proper political party committee to report and disclose contributions and expenditures related to the campaigns of Democrats running for positions in the Montana state legislature.

The initial findings of fact necessary for this Decision are as follows:

Finding of Fact No. 1: The MDP is registered as a political party political committee, doing so by filing a C-2 form with the COPP. (Commissioner's records).

Finding of Fact No. 2: The most recent C-2 form filed by the MDP is dated August 18, 2015. The form lists "[t]o elect Democratic Candidates in the State of Montana" as the political committee purpose. (Commissioner's records).

Finding of Fact No. 3: The last C-6 form filed by the MDP political committee was for the 11/20/2014 to 12/31/2014 time period and it lists expenditures for both MDP general staff costs as well as specific expenditures for specific candidates, including legislative candidates. (Commissioner's records).

The MDP is registered as a political committee. (FOF NO. 1.) The Complaint, however, alleges that the COPP should require a separate political committee registration for the Montana Democratic Party Legislative Campaign Committee. The MDP responds, through counsel, that it has chosen to report and disclose its election activity, including legislative campaign activity, through the MDP. A review of the MDP registration and campaign finance reports (FOF Nos. 2 and 3) demonstrates registration and reporting consistent with the assertions of MDP legal counsel.

There is no reason in law for a separate political committee registration as sought by the Complaint. There is no registration distinction in Montana law of the type sought by the Complaint. A political committee is allowed to function consistent with its purpose so long as it fully reports and discloses. Further, political party committee contribution limits are in the aggregate,

giving no incentive one way or the other for multiple political party committees.
(44.10.338 ARM.)

Likewise there is no practical reason to require a separate political committee registration. The MDP political committee includes legislative campaigns under its purpose and reports legislative campaign expenditures. Accordingly, the Commissioner hereby rejects and dismisses this Complaint.

In dismissing this Complaint the Commissioner notes that reporting and disclosure by a political party involves a nuanced analysis exempting some of values reported from the contribution limits applicable to political parties. That nuanced analysis is required in order to accommodate the unrestricted associational rights of a party in use of its paid professional staff to advance the party's interest in supporting candidates, while still requiring reporting and disclosure of the value of that activity. This distinction is defined in a 2014 COPP advisory opinion, *Welch (Particular Definition of Contribution)* COPP-2014-AO-009.

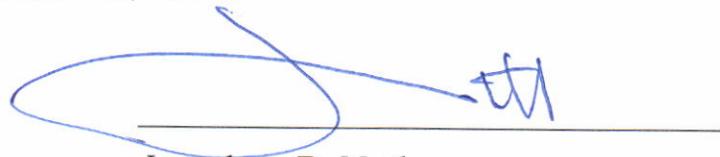
In 2015 the COPP incorporated this *Welch* distinction into a new administrative rule, 44.11.225(3) ARM which reads, in operative part, as follows:

(3) For the purposes of determining compliance with political party contribution limits established pursuant to 13-37-216, MCA, a "contribution" does not include a coordinated expenditure made solely by a political party committee in the form of provision of personal services by paid staff of the political party that benefit the associational interest of the political party but also constitute reportable election activity benefitting a particular candidate of the same political party.

The practical effect of the *Welch* opinion and the above quoted ARM is that particular paid personal services provided by a political party do not count toward the party's contribution limit but must be reported and disclosed.

With the above in mind, the Commissioner notes that this Complaint puts the finger on a gap in the effectiveness of Montana's system of reporting, disclosure and transparency. In the past the COPP has dealt with the nuances of political party association rights by treating political party paid staff services as though they were not contributions. (See *Welch* discussion.) Beginning with the 2016 elections 44.11.225(3) ARM will require the full reporting and disclosure of the value that a political party provides a Montana candidate, whether in cash or paid personal services. The gap in reporting and disclosure should be closed.

DATED this 18th day of December, 2015.



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