

THE STATE OF MONTANA

Commissioner of Political Practices
1205 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
Phone: 406-444-2942
Fax: 406-444-1643
www.politicalpractices.mt.gov

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COMMISSIONER OF
POLITICAL PRACTICES

2012 APR 27 A 11:22

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CERTIFIED MAIL

UPS

SIGNED/NOTARIZED

1

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Campaign Finance and Practices

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Edwin X Berry

Complete Mailing Address 439 Grand Drive #147

Phone Numbers: Work 407-471-1464 Home _____

Person or organization against whom complaint is brought (Respondent):

Complete Name Robert T. Fanning, Jr.

Complete Mailing Address PO Box 7

Pray, MT 59065

Phone Numbers: Work 406-570-1570 Home 312-570-1570

Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

State of Montana, County of FLATHEAD

I, EDWIN X BERRY, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

Signature of Complainant

Subscribed and sworn to before me this 26 day of
April, 2012.

Ryan Petersen
Notary Public



My Commission Expires:

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

A. I believe candidate Robert T. Fanning has violated the following Montana Code Annotated statutes:

- 13-37-208. Treasurer to keep records. (1) (b).
- 13-37-215. Petty cash funds allowed. (1) (a) and (2).
- 13-37-225. Reports of contributions and expenditures required.
- 13-37-226. Time for filing reports.
- 13-37-230. Disclosure of expenditures made.

B. I allege candidate Robert T. Fanning is guilty of these violations:

- 1. Not keeping his campaign account current as required by 13-37-208.
- 2. Reimbursing himself for personal expenses not approved by 13-37-215.
- 3. Not properly filing reports as required by 13-37-225.
- 4. Not filing campaign reports on time as required by 13-37-226.
- 5. Not properly disclosing expenditures as required by 13-37-230.

C. Evidence:

- 1. Your records show the candidate has not met the requirements of 13-37-208, 13-37-225, and 13-37-226.
- 2. While I served as Fanning's campaign manager, I noted the candidate's reported expenses through December 31 of \$6,142 was significantly higher than my estimate. I suspect the candidate paid himself more than the legal or ethical amount. Below is my email of January 23, 2012, where I challenged this large expense and the reply by Fanning. Fanning refused to disclose his campaign expense accounting to Chuck Baldwin or me. He refused to join our scheduled conference call on January 24 to discuss his expense accounting. I resigned as campaign manager on January 25.
- 3. Below is a copy of my invoice to the candidate for campaign expenses I paid for the campaign. It says NO PAYMENT DUE. Fanning was supposed to report this as my personal \$1000 donation to his campaign.

Complaints must be:

- signed
- notarized
- delivered in person or by certified mail.

Exhibit A. Emails about the \$6,142 expense total

From: Dr Ed [mailto:dr@edberrry.com]

Sent: Monday, January 23, 2012 11:37 AM

To: Chuck Baldwin; Robert Fanning

Cc: tim@fanning-baldwin.com; Kristina Manley

Subject: FW: Campaign Finance Report - a big ass problem

Bob and Chuck,

The PDF shows, as Carroll states below, that Bob made subtraction error in his campaign financial report. This will require an amendment soon, but it is worse than that.

1. (Deleted because irrelevant).
2. Bob did not file Schedule A, which is normally done. I believe he must file Schedule A in order to protect us. Frankly, I am concerned about the details of how our expenses were calculated. How did we possibly make \$6,142 in expenditures? I have a feeling when the details are revealed we will look very bad and it will kill any possibility of getting future donations.
3. It is one thing that I am contributing all of my time to supporting our campaign. It is quite another that I may be risking being involved in or connected to a Campaign Finance violation investigation. I cannot afford this risk!

From: Robert Fanning [mailto:bruisernd73@gmail.com]

Sent: Monday, January 23, 2012 2:57 PM

To: Kristina Uriz

Cc: Dr Ed; Chuck Baldwin; tim@fanning-baldwin.com

Subject: Re: FW: Campaign Finance Report - a big ass problem

When the 1,000 paid back to ed and the 1,238 paid back to Nancy is taken into account how bad does it look.

This high drama stuff makes me puke.

Look up "proportionality of response "

The "subtraction error " was the phone bill

Exhibit B: Email and Invoice for expenses paid. No Payment Due.

From: Ed [mailto:[edberrry.com](mailto:ed@edberrry.com)]
Sent: Sunday, February 05, 2012 10:41 AM
To: Robert Fanning
Cc: Robert Fanning; bob@fanning-baldwin.com; Kristina Uriz
Subject: Final Invoice for your records. No payment due

Bob,

Attached is my invoice for expenses I paid for Fanning-Baldwin for December and January to date.

No payment is due.

You may decide how you wish to treat these expenses paid by Ed Berry for the Fanning-Baldwin campaign.

Sincerely,

Ed

INVOICE**INVOICE # 11203**
DATE: FEBRUARY 5, 2012

439 Grand Ave #147
Bigfork, MT 59911
406.471.1464
ed@climatephyscs.com

TO Robert Fanning
Fanning-Baldwin
PO Box 7
Pray, MT 59065

PERSON	JOB	PAYMENT TERMS	DUUE DATE
Ed Berry	Fanning-Baldwin Expenses	NO PAYMENT DUE	NONE

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	Domain fanning4governor.com	11.95	11.95
3	Domains bobfanning2012.com, .net, .org	11.95	35.85
3	Domains fanning-baldwin2012.com, .net, .org	11.95	35.85
3	Domains fanningbaldwin.com, .net, .org	11.95	35.85
3	Domains fanningbaldwin2012.com, .net, .org	11.95	35.85
1	Shipping 2 boxes to Elias, 1 to Scott	27.09	27.09
1	3 Engraved name tags	28.50	28.50
1	500 Door Hangers, Kalispell Copy Center	80.96	80.96
1	100 Posters, O'Neil Printing	174.00	174.00
1	2 Banners, LA Printing	163.57	163.57
1	2000 Bumper Stickers, LA Printing	273.45	273.45
1	Box and paper, Office Max	25.88	25.88
1	Restaurant, Echo Lake Cafe, Dec 12	32.00	32.00
1	MailChimp	20.00	20.00
		SUBTOTAL	980.80
		MISC	19.20
		TOTAL	\$1000.00

Edwin X Berry, PhD

RECEIVED
COMMISSIONER OF
POLITICAL PRACTICES
April 30, 2012

Commissioner of Political Practices
1205 Eighth Avenue
Helena, MT 59620-2401

2012 MAY - 1 A 11: 50
POSTMARKED

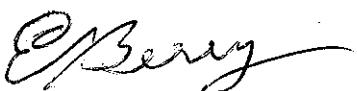
APR 30 2012

Re: Berry v. Fanning

Dear Commissioner,

Please add my enclosed Exhibits C, D, and E to my complaint against Robert Fanning.

Thank you,



Edwin X Berry, PhD

439 Grand Ave #147
Bigfork, MT 59911

406-471-1464

406.471.1464
ed@climatephysics.com

439 Grand Ave #147
Bigfork, MT 59911

Exhibit C: Expenses reported by Robert Fanning

Expenditure Name	City	State	Date	Amount
Nancy Willette			12/03/2011	\$850.00
Unknown			12/08/2011	\$1,950.00
All Serve Tire			12/09/2011	\$115.50
Unknown			12/12/2011	\$995.22
First Interstate Bank	Bozeman	MT	12/13/2011	\$18.00
I90			12/15/2011	\$130.34
Mountain View Productions			12/15/2011	\$100.00
Sykes			12/15/2011	\$570.00
Walmart			12/15/2011	\$50.15
Barnes and Noble			12/20/2011	\$21.95
Century Link Telephones			12/21/2011	\$108.10
Verizon Wireless			12/21/2011	\$238.10
Western Drug			12/22/2011	\$54.31
Murdochs			12/26/2011	\$45.46
Town Pump			12/26/2011	\$60.00
Town and Country			12/26/2011	\$39.04
Pay Pal			12/28/2011	\$83.36
Unkown			12/29/2011	\$100.00
Uptown Cafe			01/05/2012	\$15.15
Park Elect Coop			02/03/2012	\$245.49
CenturyTel			02/04/2012	\$62.41
All Serve Tire			02/10/2012	\$780.00
Radio Shack			02/21/2012	\$145.00
Wispwest			02/21/2012	\$49.00

Discussion:

1. What is the "**Unknown**" expense on 12/08/2011 in the amount of \$1950.00? This is the large personal expense I suspected in Exhibit A. Even "Uptown Cafe" is identified.
2. There are 2 "**All Serve Tire**" expenses totaling \$895.50. Is Fanning buying new tires for his truck from his campaign account?
3. **Western Drug** expense in the amount of \$54.31. Is Fanning buying his medication from his campaign account?
4. "**Park Elect Corp**" expense of \$245.49. Is Fanning paying his electric bill from his campaign funds?
6. The "**unknown**" on 12/12/2011 in the amount of \$995.22 is the reimbursement to me for campaign expenses I paid in November. See Exhibit D.

Exhibit D: My invoice to Fanning for November 2011 expenses. This is the "unknown" Fanning expense listed on 12/12/2011.

INVOICE					
		INVOICE # 11203 DATE: DEC 3, 2011			
439 Grand Ave #147 Bigfork, MT 59911 406.471.1464 ed@climatephyscs.com					
 TO Robert Fanning Fanning-Baldwin PO Box 7 Pray, MT 59065					
PERSON	JOB	PAYMENT TERMS	DUUE DATE		
Ed Berry	Fanning-Baldwin Expenses	Due on receipt			
QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL		
1	New Fanning-Baldwin.com account with BlueHost.com	252.35	252.35		
3	Domains bobfanning.com, .net, .org	10.00	30.00		
3	Domains fanning2012.com, .net, .org	10.00	30.00		
3	Domains fanning-baldwin.com, .net, .org	10.00	30.00		
1	Red Lion 11/21/11, payment on Visa 5711	652.87	652.87		
		SUBTOTAL	\$995.22		
		SALES TAX	0		
		TOTAL	\$995.22		

Exhibit E. Shows list of contributors Reported by treasurer Bob Fanning. This includes donations via online Piryx account only. This does not include donation by check by Rex Nichols in the amount of \$1000, or donation in kind by Ed Berry in the amount of \$1000, or donations by cash at December 13 fundraiser in Kalispell, or donations via online PayPal account (where Ed Berry donated \$20) before we changed to the Piryx account. Therefore, Fanning has not reported approximately \$2600 to \$3000 in donations. What did Robert Fanning do with this money?

Contributor Name	City	State	Date	Amount
Arthur Hollowell	Joliet	MT	11/22/2011	\$100.00
Arthur Hollowell	Joliet	MT	01/03/2012	\$50.00
Brett Weiss	Wyandotte	MI	11/27/2011	\$100.00
Bud Martin	Corvallis	MT	02/17/2012	\$100.00
Casper Offut	Bozeman	MT	01/20/2012	\$100.00
Chad Wagner	Williamsburg	OH	11/21/2011	\$50.00
Charles Milla	Benbrook	TX	11/21/2011	\$100.00
Christopher Lown	Darien	IL	11/30/2011	\$100.00
Christopher Williams	Emigrant	MT	01/28/2012	\$100.00
Connie Terry	Snohomish	WA	01/19/2012	\$100.00
Dan Jackowiak	Las Vegas	NV	11/21/2011	\$100.00
David Speer	Whitefish	MT	02/02/2012	\$250.00
David Speer	Whitefish	MT	02/14/2012	\$250.00
David Speer	Whitefish	MT	03/05/2012	\$100.00
Earlene Gibbs			11/21/2011	\$100.00
Eric Johnson			11/21/2011	\$50.00
Eric Johnson			11/21/2011	\$50.00
First Interstate Bank	Bozeman	MT	11/17/2011	\$0.34
Frances Gettys			11/21/2011	\$50.00
Frederick Hammel	Kalispell	MT	12/06/2011	\$50.00
Jack Faw			11/21/2011	\$50.00
James Fox	Cheapeake	VA	11/21/2011	\$10.00
James Fox	Cheapeake	VA	11/30/2011	\$20.00
James Fox	Cheapeake	VA	12/16/2011	\$5.00
James Fox	Cheapeake	VA	12/31/2011	\$5.00
James Fox	Cheapeake	VA	01/15/2012	\$10.00
James Piorek			11/21/2011	\$50.00
Jim Johnson	Troy	MT	03/04/2012	\$100.00
Jim Misiura	Lancaster	CA	11/20/2011	\$250.00
John Plante			11/21/2011	\$50.00
Karen Calisterio	Tensed	ID	12/28/2011	\$100.00
Kathryn Isenberger			11/21/2011	\$50.00
Kevin Montano	Bozeman	MT	02/11/2012	\$50.00
Leilani Jones	Stanley	ID	12/26/2011	\$50.00
Mae Woo	Billings	MT	11/20/2011	\$100.00
Mae Woo	Billings	MT	02/15/2012	\$100.00

Mark Irwin	Lahoma	OK	11/21/2011	\$500.00
Marlina Robins	Oklahoma	OK	11/30/2011	\$50.00
Mary Fanning	Winnetka	IL	11/24/2011	\$500.00
Patrick Jensen	Missoula	MT	02/17/2012	\$400.00
Paul Epstein			11/21/2011	\$250.00
Paul Stramer	Eureka	MT	11/21/2011	\$50.00
Paul Stramer	Eureka	MT	11/21/2011	\$50.00
Rena Wetherelt	Stevensville	MT	02/17/2012	\$100.00
Renee Evans	Sandia Parl	NM	01/28/2012	\$100.00
Renee Haley			11/21/2011	\$50.00
Robert Campbell	Cranberry	PA	12/31/2011	\$25.00
Robert Campbell	Cranberry	PA	01/28/2012	\$25.00
Robert Eoff			11/21/2011	\$50.00
Rodney Johnson	Anacortes	WA	11/21/2011	\$100.00
Roger Dwyer	Kalispell	MT	11/21/2011	\$500.00
Ron Johnson	Guilford	CT	01/28/2012	\$500.00
Russell Barnett	Columbia Falls	MT	11/27/2011	\$250.00
Scott Rockholm	Sandpoint	ID	01/28/2012	\$50.00
Tarey Mayn	Billings	MT	02/10/2012	\$100.00
Thomas Remington	Largo	FL	01/27/2012	\$50.00
Thomas Welsh	Sioux City	IA	12/08/2011	\$50.00
Timothy Fanning	Manhattan	CA	11/29/2011	\$100.00
Tom Fanning	Park Ridge	IL	12/28/2011	\$250.00
Tom Power			11/21/2011	\$100.00
Tom Robbins			11/21/2011	\$50.00
William Heffern			11/21/2011	\$100.00
William Scott	Sioux Falls	SD	12/27/2011	\$50.00