

SETTLEMENT AGREEMENT

This settlement agreement is entered into by Jonathan R. Motl, in his official capacity as the current Montana Commissioner of Political Practices (hereinafter “the Commissioner”) and the following party: Terry (T. J.) McDermott (“Respondent”).

Montana law authorizes the Commissioner to file an action in district court in order to seek a civil penalty for violation of Montana’s campaign finance and practices laws and rules, §§13-37-124 and 13-37-128 Mont. Code Ann. In order to avoid litigation, the Commissioner and the Respondents enter into this agreement to resolve this matter.

1. A campaign practice complaint was filed against Respondents on August 20, 2014 concerning the Respondent’s actions taken during Montana’s primary election campaign. The Commissioner issued a Decision responding to the Complaint, dated October 8, 2014.
2. The Decision documents prepared by the Commissioner are posted for public viewing on the COPP website under *Clark v. T. J. McDermott* No. COPP-2014-CFP-033B. The reader of this Settlement Agreement is directed to these documents for a summary and description of the issues resolved by this Settlement Agreement.
3. The Respondent acknowledges that he has read and understands the Commissioner’s Decision issued in this Matter.
4. The Commissioner has asserted an issue of improper campaign activity, particularly acceptance of unreported and undisclosed in-kind value by a candidate.
5. This Matter is settled under the following terms:
 - a. The Respondent agrees to pay the amount of \$936.61, that being 70% of the value of in-kind services identified in the Decision in this Matter, as a civil fine to resolve this Matter.
 - b. The Commissioner applies mitigation to offset additional fines based on additional issues identified in the Decision in this Matter, including Respondent’s use of office space and on failure to report the detail of particular expenses. Mitigation is applied by the Commissioner based on three factors:

- i. The in-kind activity identified in this Matter was part of an embedded and practiced political culture exercised by some Missoula area businesses. That political culture intended and promoted a valuable social component through in-kind activity --- that is facilitating a community gathering of people to hear from and potentially support a candidate for public office. That culture, however, failed to recognize the accompanying duty to report and disclose campaign activity. The Commissioner accepts that Respondent was inadvertently caught up in the culture, including its deficiencies. The Commissioner does not assert that this Matter involved a planned, unreported system of corporate contributions.
 - ii. The Respondent has acted forthrightly and fully cooperated during any investigation or discussion of this Matter.
 - iii. Respondent recognizes that it is important for those seeking public office to participate in educational programs related to campaign finance and reporting, as offered by the Commissioner. The Respondent has pledged his support of and willingness to participate in a continuing legal education (CLE) program to be offered in Missoula on the topic of the role of attorneys involved in campaigns involving ballot issues or candidates. The CLE will be held in the fall of 2017 or spring of 2018 in advance of 2018 elections.
- c. The Commissioner settles this Matter based on his determination that Respondent's actions were negligent and not deliberate as to any violation of Montana's Campaign Finance and Practice Laws. It is understood and agreed that the payment of the civil fine referenced above, and execution of this settlement agreement by the Respondents is accepted as the sole consideration for full satisfaction and compromise of what are disputed claims.
6. The Commissioner and the Respondent agree that execution of this settlement agreement by both parties, and a payment of a civil fine in the amount of \$936.61, cash plus the pledge of cooperation as to the CLE by the Respondent, fully and finally resolves all of the issues as set forth in the Decision. The Commissioner acknowledges that this settlement is by agreement and does not involve adjudication.
7. Simultaneously with the return of the executed settlement agreement the Respondent will remit to the Commissioner \$936.61, on a check made out to:

"Commissioner of Political Practices" and mailed to the Office of the Commissioner of Political Practices, 1209 8th Avenue, P.O. Box 202401, Helena, Montana, 59620.

8. In consideration of payment of the civil fine referenced above, the Commissioner agrees not to pursue any further administrative or court proceedings against the Respondent or other persons that may be named or unnamed in the Decision, based on the matters discussed in the Decision and in this Settlement Agreement.
9. The Commissioner and the Respondent fully and forever release and discharge each other and their respective officials, officers, members, employees, successors, assigns, agents, ostensible agents, attorneys, and representatives from any and all actions, claims, causes of action, demands, expenses, damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the matters investigated by the Commissioner and summarized in the Decision and in this Settlement Agreement.
10. The Commissioner and the Respondent agree that the executed Settlement Agreement is a public document and will be made available to members of the public.
11. This settlement agreement, consisting of 3 pages, sets forth the entire agreement that has been reached between the Commissioner and the Respondent. No modification or amendment of this agreement will be effective unless both parties complete a subsequent written statement that is signed by both parties.



Jonathan R. Motl
Commissioner of Political Practices

2-24-17

Dated



T. J. McDermott

2-24-17

Dated