

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Dick v. Edmunds No. COPP 2012-CFP-037	DISMISSAL OF COMPLAINTS
Andrews v. Edmunds No. COPP 2012-CFP-039	

In October of 2012, Ted Dick, a resident of Helena, Montana, and Dave Andrews of Missoula, Montana each filed a complaint with the COPP against Champ Edmunds, a resident of Missoula, Montana, alleging Mr. Edmunds violated Montana campaign finance and practice laws during his 2012 campaign for election as Representative to the Montana legislature from House District 100 (HD100).

SUBSTANTIVE ISSUES ADDRESSED

The substantive area of campaign finance law addressed by this decision is that of appropriate responsive behavior to changes in judicial interpretation of Montana's campaign practice laws.

FINDING OF FACTS

The foundational facts necessary for this Decision is as follows:

Finding of Fact No. 1: In 2012 Candidates Champ Edmunds and David Andrews passed through the HD 100 primary election uncontested and were nominated as the Republican and Democratic Party candidate, respectively, for election to the Montana legislature from HD 100. (Montana Secretary of State (SOS) website - Elections).

Finding of Fact No. 2: In the 2012 general election Candidate Edmunds defeated Candidate Andrews by a vote of 2,606 to 2,049 and was elected as Representative to the Montana legislature from HD 100. (SOS website - Elections).

DISCUSSION

The complaint alleges that Candidate Edmunds accepted two certain campaign contributions in amounts that caused the donors to exceed the contribution amounts allowed by Montana law.

Finding of Fact No. 3: Candidate Edmunds' campaign finance reports show two October 6, 2012 contributions in the aggregate amount of \$1,000 from Geoff Goble and \$200 from Michael Priske. (Commissioner's records).

Under Montana law in place at the start of the 2012 campaign cycle an individual was limited to a maximum contribution of \$160 to a candidate for election to the Montana legislature 44.10.338 ARM, 2012.¹

The 2012 general election took place on November 6, 2012. A month prior to the general election (on October 3, 2012) Montana's contribution limit laws were enjoined² as unconstitutional by an Order issued by a federal judge. *Lair v. Murry*, CV-12-12-H-CCL U.S. District Court, for District of Montana. That

¹ Candidate Edmunds was entitled to only one limit since he did not have a contested HD 100 primary election.

² "Enjoined" is term used to mean a court prohibited a certain action, in this case it prohibited enforcement of Montana's campaign contribution limits.

Federal Court Order prohibited enforcement of Montana laws limiting the amount of money that could be contributed to the campaigns of 2012 candidates for Montana public office. The Federal Court Order allowed a flood of over-the-limit money to pour into a number of 2012 Montana candidate campaigns, including the campaign of Candidate Edmunds, and it touched off a firestorm of litigation in both federal and state district courts.

The following litigation sequence needs to be discussed because it places in context the Commissioner's final dismissal, through this Decision, of the complaint concerning campaign contributions received by the Edmunds' campaign. The October 3, 2012 Order by the Montana Federal District Court was immediately appealed to the 9th Circuit and on October 9, 2012 the 9th Circuit temporarily stayed³ the Montana District Court Order. The 9th Circuit's stay restored Montana's laws setting campaign contribution limits, including the contribution limits applicable to Candidate Edmunds' campaign for the Montana legislature. On October 16, 2012 the Ninth Circuit motions panel issued its opinion staying the Federal Court's Order for the duration of the appeal.

On May 26, 2015 the Ninth circuit merits panel issued its opinion (as amended and reissued on September 1, 2015). Those opinions reversed and remanded the *Lair* matter to the Montana United States District Court. On May 17, 2016 the Montana United States District Court, under the current case caption (*Lair v. Motl*, CV12-12-H-CCL), issued its order again striking

³ "Stayed" means the 9th Circuit suspended the Federal District Order, leaving it of no effect unless later restored.

Montana's contribution limits. In particular, as to this Decision, the District Court's Order struck 13-37-216(1) MCA (2011) applying limits to individuals.

The individual contribution limits statutory language struck by the District Court's Order was enacted by a November 1994 initiative vote by the people of Montana. On May 18, 2016 the Commissioner responded to the District Court's Order by reinstating the pre-initiative individual contribution limits, adjusted for inflation. The reinstated individual contribution limits are of a different amount than the contribution limits in place during the 2012 election.


DECISION

This Commissioner, having duly considered the litigation listed above, as specially applied to the matters raised in the Complaint⁴, hereby determines that the litigation in this particular Matter has reached a point where, regardless of any eventual final and differing resolution by an appellate court, basic justice requires that Candidate Edmunds be released from any consequence of his 2012 election activity. While there is substantial public interest in, regardless of time taken, making sure that the legal determinations in this Matter are thoroughly reviewed and decided, Candidate Edmunds, as a former candidate, is entitled to finality as to the determination of any campaign practice violation. Under the litigation governing this Matter, appeals have not been exhausted and therefore there is no final determination of the proper

⁴ This Decision is limited to the facts and circumstances set out above and does not provide authority for candidates in 2016 elections to act without regard to contribution limits as those limits are reinstated from pre-existing law or by litigation.

individual contribution limit for 2012 elections. Given the timing limits of a campaign practice complaint, justice requires a dismissal of the complaint against Candidate Edmunds. The Commissioner hereby dismisses this complaint in full.

DATED this 14th day of May, 2016.



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