

SETTLEMENT AGREEMENT

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This settlement agreement is entered into by Jonathan R. ~~Montana~~ ^{Montana} ~~in his official~~ ^{in his official} 22 capacity as the current Montana Commissioner of Political Practices (hereinafter “the Commissioner”) and the following party: Montana Democratic Party (hereinafter “the 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 Respondent enter into this agreement to resolve this matter.

1. The Commissioner acknowledges that Mr. Steve Gibson, filed a Campaign Finance and Practices Complaint against the Montana Democratic Party for alleged violations of Montana’s campaign finance and practices laws on October 30, 2014. Mr. Gibson filed a second Campaign Finance and Practices Complaint against the Montana Democratic Party for alleged violations of Montana’s campaign finance and practices laws on November 3, 2014.
2. The Commissioner issued a Summary of Facts and Finding of Sufficient Evidence to Show a Violation of Montana’s Campaign Practices Act in a Decision dated November 25, 2014, *Gibson v. MDP*, COPP-2014-CFP-053 and a second Decision dated December 18, 2014, *Gibson v. MDP*, COPP-2014-CFP-062 (hereinafter “the Decisions”). The Decisions determined that the Respondent failed to comply with certain campaign finance and practices laws and administrative regulations.
3. The Commissioner notes the precedential nature of the Decisions, because they address a culture of acceptance of lump sum reporting at the time the reports were made, even if the reports in violation of Montana law and regulation.
4. The Commissioner specifically notes that the Respondent is not the only political committee offender who engaged in lump sum reporting and thereby failed to properly itemize expenditures, or failed to provide fair notice of campaign materials to opposing candidates.
5. As such, the Commissioner, through this and similar settlements, is drawing a line in time. Allegations of reporting violations which failed to properly itemize by candidate the amount that a political committee spent, including political party committees, ending with the 2014 election cycle, will be treated with the same principal of mitigation as is being exercised by the Commissioner in this Settlement Agreement.

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6. Any future violations by candidates, political and ballot issue committees will follow the normal settlement procedures and evaluation by which the Commissioner determines a reasonable settlement on behalf of the people of Montana, and will not be subject to mitigation.
7. The Commissioner determines that political committees will have had adequate notice through the Decisions issued in this and similar matters, as well as through the publication of this and similar Settlement Agreements. The political committees should have adequate time to understand and to be in compliance with the law from 2015 on.
8. If a candidate, political committee, or ballot issue committee fails to properly itemize or provide fair notice in the future, the Commissioner will apply our normal settlement standards in making a determination of whether to litigate or settle a matter, and the civil fines assessed will be far greater in monetary value.
9. The Respondent acknowledges that they have read and understand the Commissioner's decisions issued in the above referenced cause.
10. The Respondent acknowledges the findings of fact contained in the Decisions and admits that they failed to timely file two 24 hour 2014 campaign finance report with the Office of the Commissioner of Political Practices (COPP), thereby providing late notice to Mr. Gibson of expenditures opposing his candidacy. The failure to timely report and disclose contributions and expenditures to the COPP was a violation of Mont. Code. Ann. §13-37-226.
11. The Respondent acknowledges the findings of fact contained in the Decisions and admits that they failed to properly itemize and disclose the specific amount spent on fliers in Mr. Gibson's legislative campaign during the 2014 election cycle. The failure to properly itemize by candidate the expenditures made against each candidate was a violation of Mont. Code. Ann. §13-37-225 and Mont. Admin. R. 44.10.531.
12. The Respondent acknowledges the findings of fact contained in the Decisions and admits that they failed to provide timely notice to Mr. Gibson of campaign material that was mailed on October 28, 2014. The Respondent provided Mr. Gibson with notice of the flyer on the following day, October 29, 2014. Failure to provide fair campaign notice was a violation of Mont. Code Ann. § 13-35-402.

13. The Commissioner acknowledges that the Respondent has corrected the lump sum disclosure, and has subsequently itemized the name of the candidate supported, the amount spent, and the date the money was spent, and the full name and address of the vendor from whom the campaign mailers were ordered.
14. 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 \$200.00 by the Respondent, fully and finally resolves all of the issues as set forth in the Decisions.
15. Simultaneously with the return of the executed settlement agreement the Respondent will remit to the Commissioner \$200.00, 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.
16. 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 Decisions, based on the matters discussed in the Decisions.
17. The Respondent enters into this agreement to avoid litigation and to resolve and settle this dispute with the Commissioner. It is understood and agreed that the payment of the civil fine referenced above, and execution of this settlement agreement by the Respondent is accepted as the sole consideration for full satisfaction and compromise of what may be disputed claims.
18. 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 Decisions.
19. 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.

20. This settlement agreement, consisting of 4 pages, sets forth the entire agreement that has been reached between the Commissioner and the Respondent regarding the Decisions in this matter. 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

9/30/15
Dated



Montana Democratic Party
By their attorney, Peter Michael Meloy

9/30/15
Dated

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COMMISSIONER OF
POLITICAL PRACTICES