

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of the Complaint    )    **SUMMARY OF FACTS**  
Against Joe Skinner and            )            **AND**  
Ringling 5                            )    **STATEMENT OF FINDINGS**

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Dennis Hardin filed a complaint against Joe Skinner and the musical group known as Ringling 5, alleging they violated Montana campaign finance and practices laws and rules.

**SUMMARY OF FACTS**

1. Joe Skinner was a candidate for the Gallatin County Commission in 2010.
2. Skinner filed periodic reports of contributions and expenditures (forms C-5) with the office of the Commissioner of Political Practices (COPP).
3. Ringling 5 is the name of a musical group consisting of seven men who reside in or near the small town of Ringling, in Meagher County, Montana. West of the Crazy's Publishing, LLC, is a company that owns the rights to Ringling 5. The officers of the company are Larry Lovely and Donald Seifert. Lovely and Seifert are also members of Ringling 5.
4. The complaint alleges that Skinner failed to report an in-kind contribution for the writing, production, performance, equipment use, and ongoing rights to use music specially created for the candidate by the Ringling 5 music group. According to the complaint Skinner used the music on his campaign

website and in campaign ads, referring to the music as "Joe's campaign song."

The complaint also alleges that Ringling 5 failed to register as an incidental political committee and failed to report contributions and expenditures.

5. Skinner purchased two jingles from Ringling 5, to be used in campaign ads. Skinner reported part of the expense he paid for the jingles on a C-5 campaign finance report filed on May 26, 2010, as follows:

**Schedule B – Expenditures**

Eubank Creative  
Megan Eubank  
Livingston, MT 59047  
Ad Design – 5/11/2010 -- \$500

Peak Recording & Sound, Inc.  
Bozeman, MT 59771  
Studio Recording of Ads – 5/13/2010 -- \$400

The ads were designed, produced, and recorded between May 11 and May 13, 2010. The C-5 filed by Skinner covered the reporting period running from the pre-primary to May 23, 2010.

6. Lovely and Seifert incurred expenses related to travel to and from the recording studio in Bozeman, as well as for their equipment that was used during the production and recording of the ads. Neither Lovely nor Seifert requested reimbursement from Skinner or his campaign for those expenses. Deb Stober provided services including script writing and tag reading for the ads. She also did not request reimbursement for her services. None of the expenses were reported on the C-5 that Skinner filed on May 26, 2010.

7. Skinner filed a second C-5 campaign finance report on June 25, 2010 reporting the following contributions and expenditures:

**Schedule A – Receipts:**

Larry Lovely  
Wilsall, MT 59086  
In-kind \$49.50 – mileage to recording studio

Don Seifert, Bozeman, MT  
In-kind \$54.90 – mileage & equipment usage for ad recording

Deb Stober, Bozeman, MT  
In-kind \$71.25 – tag reading and script writing

**Schedule B – Expenditures:**

West of the Crazy's Publishing, LLC  
Wilsall, MT 59086 – 6/18/2010 -- \$100 – licensing of two radio ads

Affect Media – 5/24/10 -- \$1,500

This report accounted for the expenses associated with the creation and production of the ads using the jingles that were not reported on the C-5 filed on May 26, 2010.

**STATEMENT OF FINDINGS**

Mont. Code Ann. § 13-37-225 requires each candidate to file periodic reports of contributions and expenditures with COPP and with the county election administrator. COPP has designated these reports as C-5 reports. Mont. Code Ann. § 13-37-230 requires C-5 reports to disclose detailed information regarding expenditures made by a candidate during each reporting period. COPP has adopted ARM 44.10.531 to clarify reporting requirements for expenditures:

**EXPENDITURES, REPORTING** (1) An expenditure is made on the date payment is made, or in the case of an in-kind expenditure, on the date the consideration is given.

(2) An expenditure shall be reported on the date and for the reporting period during which it is made.

Skinner made payments for the design and recording of the ads at the time they were produced, and properly reported those amounts as expenditures on the C-5 he filed on May 26, 2010.

Mont. Code Ann. § 13-37-230(1)(f) requires a C-5 to disclose “the amount and nature of debts and obligations owed by a political committee or candidate in the form prescribed by the commissioner.” COPP has adopted ARM 44.10.535 to implement Mont. Code Ann. § 13-37-230(1)(f):

**DEBTS AND OBLIGATIONS OWED BY A CANDIDATE OR POLITICAL COMMITTEE, REPORTING**

(1) Pursuant to section 13-37-230(6), MCA, each report required by section 13-37-226, MCA, shall disclose all debts and obligations owed by a candidate or political committee. Debts and obligations shall continue to be reported so long as they remain outstanding.

(2) A reporting candidate or political committee shall report the full name and mailing address (occupation and principal place of business, if any) of each person to whom a debt or obligation is owed at the end of a reporting period, including the amount, date contracted, and nature of each debt and obligation owed to each person. If the exact amount of a debt or obligation is not known, the estimated amount owed shall be reported.

At the time the ads were produced, Lovely, Seifert and Stober had performed services and incurred expenses that were not reimbursed by Skinner or his campaign. These were debts or obligations that were not disclosed on the C-5 that Skinner filed on May 26, 2010. Since Lovely, Seifert and Stober did not seek reimbursement from the campaign, Skinner properly reported these amounts as in-kind contributions on the C-5 he filed on June 25, 2010. However, Skinner should have at least provided an estimate of those debts or obligations on his May 26, 2010 C-5 report.

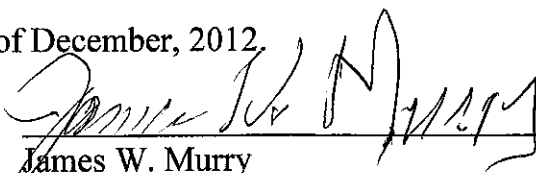
The complaint alleges that Ringling 5 became a political committee that was required to register with COPP and file reports of contributions and expenditures. The definition of "political committee" includes a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure to support a candidate. Lovely and Seifert volunteered their time to produce two campaign jingles, and did not thereby become a political committee with reporting requirements. See Mont. Code Ann. § 13-1-101(7)(b)(i), which excludes from the definition of "contribution" services provided without compensation by individuals volunteering a portion of their time on behalf of a candidate. And, Skinner paid West of the Crazies Publishing, LLC for licensing of the two jingles. This business transaction did not result in either Ringling 5 or West of the Crazies Publishing, LLC becoming a political committee

Candidates and political committees are required to disclose their debts, including when those debts are incurred, and to estimate debts if the exact amounts are not known. The public has a right to full disclosure of all debts and estimated debts incurred by a candidate during the appropriate reporting periods. Mont. Code Ann. § 13-35-124(1) requires the Commissioner to notify the county attorney “[w]henver the Commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution . . . .” The determination of whether a prosecution is justified must take into account the law and the particular factual circumstances of each case. Based on the particular circumstances in this case, and in consideration of the amount of a potential civil penalty that could be imposed and the costs associated with a prosecution, I have determined that it would not be in the best interests of the State of Montana to pursue a civil prosecution.

**CONCLUSION**

There is sufficient evidence to conclude that Skinner failed to timely disclose debts or obligations amounting to less than \$200. The debts or obligations were fully disclosed on the next report filed by Skinner. As explained above, in view of the circumstances I have decided not to pursue a civil prosecution.

Dated this 17<sup>th</sup> day of December, 2012.

  
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James W. Murry  
Commissioner of Political Practices