

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of Don Hart's	)	<b>SUMMARY OF FACTS, STATEMENT OF FINDINGS AND CONCLUSION</b>
Complaint Against Steve Bullock	)	
	)	

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Bozeman resident Don Hart ("Hart") submitted a complaint on September 24, 2012, alleging Steve Bullock ("Bullock") violated § 13-37-207, MCA by failing to deposit twenty-eight political action committee (PAC) contribution checks before the end of the fifth business day after they were received. Commissioner James W. Murry recused himself pursuant to §13-37-111, MCA, and the undersigned was appointed Deputy Commissioner for purposes of resolving this complaint.

For the reasons noted below, the Deputy Commissioner concludes the apparent rubric through which Hart alleged violations is based on misunderstanding of the practical reality of the disbursement and receipt of campaign contributions and the recording of such disbursement and receipt on federal and state reporting forms. Hart apparently compared "disbursement" dates of contributions as listed by PACs on Federal Election Commission (FEC) forms to dates listed on Montana forms relating to receipt of contributions. Because the "five-day rule" of § 13-37-207, MCA runs from the date the campaign received a contribution, not the date of "disbursement" by the PAC for FEC purposes, comparing those dates does not establish a violation. However, it

appears that one of the contribution checks at issue was not deposited within five days of receipt, indicating there is sufficient evidence to conclude the Bullock Campaign violated Montana Code Annotated § 13-37-207 with respect to that single check.

### **SUMMARY OF FACTS**

Hart's complaint alleges that twenty-eight PAC contributions were not deposited within five days of receipt as required by Montana law. Attached to the complaint were various Federal Election Commission (FEC) forms relating to some of the contributions and showing dates of disbursement of campaign contributions. In responding to the complaint, the Bullock campaign pointed out that Hart evidently compared dates of disbursements as shown on FEC reports to dates listed by the Bullock campaign on the C-5 reports filed with the Montana Commissioner of Political Practices relating to the same contributions. As noted by the Bullock campaign, the assumption that a violation exists if these two dates are not close in time is based on flawed logic. A disbursement is made by a PAC when it writes a check to a candidate's campaign, but there is no requirement that the check be immediately delivered to the candidate and numerous reasons actual receipt of the check may be delayed. These include delays in the ordinary course of business of the individuals involved in the PAC between issuance of a check and sending of a check, mailing delays, and/or the PAC's desire for personal delivery of the check to the candidate at some particular event or meeting.

The Commissioner's investigator visited the office of the Bullock campaign and verified the manner through which contributions were processed. Investigation revealed the Bullock Campaign maintained a record of the receipt date and deposit date of each contribution received. Although the complaint alleged twenty-eight instances of

violation, there were only fourteen PACs involved and only twenty checks actually at issue. In other words, eight of the contributions listed by Hart were duplicates.

Of the twenty contributions referenced in the complaint, investigation indicated that nineteen were deposited within five days. One check from EchoStar Corporation and DISH Network Corporation PAC (EchoStar DISH Network PAC) was not deposited by the end of the fifth business day after the Bullock Campaign received it. This \$600 contribution was disbursed by the PAC on April 20, 2011, received by the Bullock Campaign on May 12, 2011, and deposited on May 31, 2011.

### **STATEMENT OF FINDINGS**

Montana Code Annotated § 13-37-207(1) requires a campaign to deposit contributions before the end of the fifth day “following their receipt.” The statute provides:

**13-37-207. Deposit of contributions -- statement of campaign treasurer.** (1) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or political committee must be deposited prior to the end of the fifth business day following their receipt, Sundays and holidays excluded, in a checking account, share draft account, share checking account, or negotiable order of withdrawal account in a campaign depository designated pursuant to 13-37-205.

Administrative Rule 44.10.511 of the Commissioner of Political Practices provides that “a contribution becomes a contribution on the date it is received” (subsection (1)) and that the contribution “shall be reported for the reporting period for which it is received” (subsection (4)).

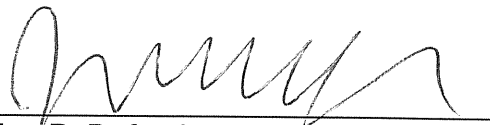
Investigation indicates the Bullock Campaign was not in compliance with § 13-37-207, MCA with respect to the single check from EchoStar DISH Network PAC. Hart’s allegations are not supported with respect to the other nineteen checks. Section

13-37-207, MCA, makes clear the five-day period begins to run after the contribution check is "received" by the campaign, regardless of the date on which it was "disbursed" by the contributor.

### **CONCLUSION**

There is sufficient evidence to conclude the Bullock Campaign violated Montana Code Annotated § 13-37-207 by failing to deposit a \$600 contribution check within five business days after its receipt.

DATED this 23rd day of November, 2012.



Jay P. Dufrechou  
Deputy Commissioner of Political Practices