

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES
STATE OF MONTANA

In the Matter of:)	
)	
MISSOULA COUNTY)	
REPUBLICAN CENTRAL COMMITTEE,)	SUMMARY OF FACTS,
)	STATEMENT OF FINDINGS
vs.)	and
)	ORDER OF DISMISSAL
MISSOULA COUNTY)	
DEMOCRATIC CENTRAL COMMITTEE.)	
)	

INTRODUCTION

On October 5, 2011, the Missoula County Republican Central Committee (hereafter "Republicans") filed a complaint with the Office of the Commissioner of Political Practices (hereafter "COPP") against the Missoula County Democratic Central Committee (hereafter "Democrats"), alleging violations of 13-35-225 and 13-35-301, MCA.

On October 17, 2011 the Democrats responded by indicating the Republican's complaint does not state a claim for violation of any statutory provisions and therefore must be dismissed.

Based upon an investigation into the allegations by the Republicans and the response to this complaint by the Democrats, COPP enters the following Statement of Facts, Statement of findings and Order of Dismissal.

STATEMENT OF FACTS

The Republicans complaint is with regard to a September 23, 2011, email distributed by the Democrats, to its members stating;

"Specific violations of 13-35-225 occurred when citing the voting record of Lyn Hellegaard: They voted no on replacing the city's outdated zoning ordinance ... 'the public record (see attached Exhibit "B") reflects Lyn Hellegaard in fact voted approval of the new Title 20 zoning ordinance on October 5, 2009."

"Specific violations of 13-35-301 occurred when stating: 'Two members of City Council voted no on that ordinance, bowing to extreme rhetoric from a group called itself 'Not My Bathroom.' The public record (See attached Exhibit "C") reflects that neither Hellegaard nor Mitchell mentioned the group 'Not My Bathroom' in their statements as to why they would not support the ordinance as written. 'They voted no on every budget during their four years on Council, refusing to fund even the most basic city services and never even offering constructive criticism that would have made the budgets something they'd be willing to support.' The public record does in fact (See attached Exhibit "D-1" and "D-2") show many suggested cuts were presented to create a budget that would be supportable."

COPP's investigation confirmed with Charlie Olinger, Chair of the Republicans, that Olinger was not on the mailing list for the Democrats and, in fact, he could not recall how he came to have possession of the email.

The email communication of September 23, 2011 was from the Democrats to its members. The email was not distributed to individuals who were not members of the Democrats.

STATEMENT OF FINDINGS

13-35-225(1), MCA, requires "all communications advocating the success or defeat of a candidate ... must clearly and conspicuously include the attribution 'paid for by' followed by the name and address of the person who made or financed the expenditure for the communication."

13-1-101(11)(b)(iv), MCA, states "expenditure" does not mean "the cost of any communication by any membership organization or corporation to its members or stockholders or employees." There is a similar exemption for the term "Contribution." 13-1-101(7)(b)(iii), MCA. The communication from the Democrats to its members is clearly exempted by statute. The fact that a member may have re-distributed the email to someone outside the intended membership does not invalidate the exemption. See In the Matter of the Complaint Against the Montana Education Association – Montana Federation of Teachers, and the Bozeman Education Association, Oct. 2006.

The Code of Fair Campaign Practices is codified in §§ 13-35-301 and 302, MCA. A candidate may voluntarily subscribe to the Code of Fair Campaign Practices. COPP has the responsibility to prepare a form that sets forth the Code of Fair Campaign Practices and send a copy of the form to each candidate required by law to file additional reports and other information with the Commissioner's office.

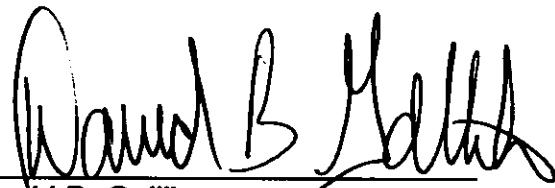
A candidate's failure or refusal to sign the C-3 form is not a violation of the election laws. 13-35-302, MCA. COPP has no authority to take any action if a candidate is alleged to have violated the Code. (See In the Matter of the Complaints Against John Vincent Amended Summary of Facts and Statement of Findings ((2008); Matter of the Complaint Against Brian Close, et al., Summary of Facts and Statement of Findings (2005); Matter of the Complaint Against Terry Utter, Summary of Facts and Statement of Findings (1995).)

ORDER OF DISMISSAL

Based upon the investigation by COPP, the above Statement of Facts and Statement of Findings, the Democrats did not violate Montana's campaign practices and

finance laws, as alleged in the Republican's Complaint. Accordingly, Republican's Complaint is dismissed.

DATED this 4th day of November, 2011.



David B. Gallik
Commissioner of Political Practices