

THE STATE OF MONTANA

Commissioner of Political Practices
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Ethics

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Gary Marbut
Complete Mailing Address P.O. Box 16016
Missoula, Montana 59808
Phone Numbers: Work 406-549-1252 Home Same

Person or organization against whom complaint is brought (Respondent):

Complete Name Friends of Kimberly Dudik
Complete Mailing Address P.O. Box 16712
Missoula, Montana 59808
Phone Numbers: Work 406-239-5771 Home

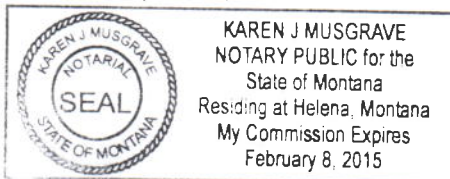
Please complete the second page of this form
and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

State of Montana, County of Lewis and Clark

I, Gary Marbut, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

(SEAL)



Signature of Complainant
Royal A. Davis, Attorney for Gary Marbut
Subscribed and sworn to before me this 3rd day of December, 2014.
Notary Public

My Commission Expires: 2/8/2015

Statement of facts:

Describe in detail the alleged violation(s), including pertinent dates, and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

House District 94 Candidate Kimberly Dudik filed a campaign finance report covering the period from June 19 to October 18, 2014, thence from October 19, to November 18, 2014. These reports contain apparent omissions.

The stated omissions are in regard to the design and printing expense of two different mailings.

Please see Mr. Marbut's letter which is attached hereto and made a part hereof by reference for a more complete explanation of this complaint.

Complaints must be:

- signed
- notarized
- delivered to the Commissioner in person or by certified mail.

Commissioner Motl,

Complaint for enforcement of 13-37-123. M.C.A., failure to report campaign expense.

House District 94 candidate Kimberly Dudik filed a campaign finance report covering the period from June 19, 2014 to October 18, 2014, and another covering the period from October 19, 2014 to November 18, 2014. Those reports contain apparent omissions of consequence.

The reports disclose payments made to The Directory in total for \$800.75 for the earlier reporting period, and \$618.21 for the latter period. One may confidently suppose those payments were for handling and mailing of the campaign postcard about which a Complaint was previously filed concerning inadequacy of the party identifier, and for another mailed during the second reporting period (attached). Montana law requires candidates to report not only paid bills, but known obligations. The reports in question show no expense or debt for design or for printing for either postcard.

The Directory charges right at \$.30 per postcard for handling and postage for local postcards. Dividing the \$800.75 plus \$618.21 (\$1,418.96) Directory charge by \$.30 suggests that at least 4,729 postcards were printed. Printing of that many (probably at least 5,000), four color postcards would likely cost between \$500 and \$1,000, 20% or more of the candidate's disclosed receipts. These postcards did not simply materialize out of thin air.

When the COPP office was queried about the error from the earlier reporting period and asked how this was possible, office staff contacted the candidate with that question. The candidate is said to have responded, "I have complied with the law."

Given the candidate's response, and the timing and logic of this situation, one must either believe that the postcards in question were designed and printed after they were mailed and after the cutoff date for the report, or that the candidate was not honest in the phone interview with COPP staff.

It is indeed difficult to accept an argument that the postcards in question were designed and printed after they were mailed, so that the design and mailing expense occurred after the cutoff dates for the reports. It is also difficult to imagine that the candidate was unaware that there would be any charge for printing the postcards.

It is possible the postcard design and printing was done for the candidate without charge, as an in-kind donation. If so, that value should have shown up on the campaign finance report as an in-kind donation, hopefully not from an incorporated entity, which would be illegal. However, there is no such in-kind contribution disclosed on the report.

No amended report addressing these significant omissions has been posted to the COPP Website.

Commissioner Motl, I lecture new candidates that, although it is a royal pain in the neck, a distraction, and a consumption of valuable campaign time, candidates **MUST** learn and comply with campaign finance laws and regulations, both to be honest with voters, and also to be above criticism as being outlaws.

Further, all candidates should be subject to the same interpretation of the rules, and the same level of enforcement scrutiny and discretion.

Finally, since candidate Dudik is a licensed and practicing attorney, she should be held to the high end of whatever standard is applied. She's not too stupid to understand the rules or fill out the forms correctly, only possibly neglectful, or perhaps even arrogant to think that careful compliance with the rules doesn't apply to her or that the fix is already in place to cover any of her reporting errors. Her reported Treasurer for her campaign is a sitting Montana State Senator, who should also be quite familiar with Montana campaign finance report laws. The candidate and her Treasurer should not be given a pass, attributing this omission to a simple bookkeeping error or oversight. All candidates should be required to follow the rules, the same rules, and in the same way.

Did candidate Dudik violate Montana campaign finance law, and what will you do about it if she has?

I'll await your examination of the record and law, and your decision in this matter.

Sincerely,

Gary Marbut
Independent Candidate
Montana House District 94