

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaint Against Joe Horn)))	SUMMARY OF FACTS, STATEMENT OF FINDINGS AND CONCLUSION
--	-------------	---

Glen Meier filed a complaint with the Commissioner of Political Practices (COPP) alleging Joe Horn violated Montana Campaign Practices law. The complaint alleges Horn failed to file campaign finance reports related to Horn's 2010 candidacy for Valley County Sheriff/Coroner.

SUMMARY OF FACTS

1. Glen Meier (Meier) and Joe Horn (Horn) were opposing candidates for the nonpartisan position of Valley County Sheriff/Coroner in the 2010 election cycle.
2. Glen Meier was the successful candidate in that election and currently serves as the Valley County Sheriff/Coroner.
3. On December 15, 2010, Meier filed a complaint alleging that Horn violated state campaign laws (§ 13-37-226, MCA), when he failed to file his 2010 campaign finance reports as required by law.
4. The reports, to be filed on COPP Form C-5, are to be filed with COPP and the Clerk and Recorder (Clerk and Recorder) in which the candidate is a resident.
5. The 2010 primary election was held June 8, 2010. The 2010 general election was held November 2, 2010.
6. Montana law requires a candidate for Sheriff/Coroner to file a campaign finance report 12 days before and 20 days after an election.
7. Pursuant to § 13-37-226(3)(a), MCA, Horn's pre-primary campaign finance report was due May 27, 2010. Horn filed his pre-primary campaign finance report with the Clerk and Recorder on January 13, 2011, and with COPP on January 14, 2011. Horn's report was 232 days late.
8. Pursuant to § 13-37-226(3)(c), MCA, Horn's post-primary campaign finance report was due June 28, 2010. Horn filed his post-primary election finance report with the Clerk and

Recorder on January 13, 2011, and with COPP on January 14, 2011. Horn's report was 200 days late.

9. Pursuant to § 13-37-226(3)(a), MCA, Horn's pre-general campaign finance report was due October 21, 2010. Horn filed his pre-general election finance report with the Clerk and Recorder on January 13, 2011, and with COPP on January 14, 2011. Horn's report was 85 days late.
10. Pursuant to § 13-37-226(3)(c), MCA, Horn's post general campaign finance report was due November 22, 2010. Horn filed his post-general election finance report with the Clerk and Recorder on January 13, 2011, and with COPP on January 14, 2011. Horn's report was 53 days late.
11. Candidates for Sheriff/Coroner are subject to campaign contribution limits set forth in § 13-37-216(1)(a)(iii), MCA, which was \$160 per individual per election in 2010.
12. During this agency's investigation of Meier's complaint, it was discovered that Horn accepted campaign contributions from four (4) individuals, each in excess of the \$160 contribution limit.
13. Ray Yoss contributed \$500 to Horn's campaign; Paul Monson contributed \$200; Janice Lawrence contributed \$500; and John Reinert contributed a total of \$200 – the first contribution was \$150, and the second was \$50.
14. Horn filed a closing report on March 7, 2011. Attached to the report was a copy of refund checks from Horn's personal account, dated February 17, 2011, as follows: \$340 each to Ray Yoss and Janice Lawrence, and \$40 to Paul Monson. There was no indication of a \$40 refund to Reinert. The refunds were not listed in the closing report.
15. As a candidate for Sheriff/Coroner, Horn received contributions in excess of \$500, the minimum for reporting requirements set forth in § 13-37-226(4), MCA. Candidates for *any public office* (i.e., Sheriff/Coroner) *other than* for a state district office, legislature, public service commission or district court judge shall file reports specified in § 13-37-226(3), MCA.

STATEMENT OF FINDINGS

16. Section 13-37-226, MCA, establishes deadlines for filing campaign finance reports for various types of candidates and political committees. Subsections (3) and (4) state:

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

- (a) on the 12th day preceding the date on which an election is held;
- (b) within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3)(b) must be made by mail or by electronic communication to the commissioner and the election administrator of the appropriate county pursuant to 13-37-225.
- (c) not more than 20 days after the date of the election; and
- (d) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

17. Section 13-37-225(1), MCA, provides:

Except as provided in 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this chapter must be filed with the commissioner and with the election administrator of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports must be filed with the election administrator of the county in which the election is to be held or, if the election is to be held in more than one county, with the election administrator in the county that the commissioner specifies.

18. Section 13-37-226(1)(a)(iii), MCA, provides:

Subject to adjustment as provided for in subsection (4), aggregate contributions for each election in a campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as follows: (iii) for a candidate for any other public office, not to exceed \$130¹.

19. The adjustment for the 2010 election cycle, in accordance with § 13-37-216(4), MCA, is a maximum individual contribution to a candidate for Sheriff/Coroner (any other public office) is not to exceed \$160.

¹ Applying the consumer price index from June 2009, as required in subsection (4), yielded an individual contribution limit of \$160 for the 2010 campaign cycle.

20. Horn violated § 13-37-226, MCA, with the late filing of his pre-primary election, post-primary election, pre-general election and post-general election campaign finance reports with the Commissioner of Political Practices.
21. Horn violated § 13-37-225(1), MCA, with the late filing of his campaign finance reports with the county election administrator of Valley County, the county in which Horn was a resident.
22. Horn violated § 13-37-216(1)(a)(iii), MCA, by accepting campaign contributions from four individuals in excess of the \$160 maximum individual contribution per election. Horn refunded the amount in excess of the maximum contribution to three of the four individuals.

CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings there is sufficient evidence to conclude Joe Horn failed to file election reports within the time provided by Montana law, failed to file copies of the election reports with the appropriate county election administrator, and accepted contributions over the allowable limit. A civil penalty is warranted under § 13-37-128(1), MCA.

DATED this 22nd day of August, 2011.



David B. Gallik
Commissioner of Political Practices