BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the   )
Complaint Against   )
Paul Bankhead   )

SUMMARY OF FACTS AND STATEMENT OF FINDINGS

Complainant Bob Ream, Chairman of the Montana Democratic Party, filed a complaint against Paul Bankhead, a 1996 candidate for House District 72. The complaint alleges several violations related to Bankhead's campaign finance reports.

SUMMARY OF FACTS

1.   Paul Bankhead was a candidate for House District 72 in the November, 1996 general election.

2.   Bankhead filed periodic reports of contributions and expenditures (forms C-5) with the office of the Commissioner of Political Practices (Commissioner).

3.   Bankhead placed a number of campaign ads in the Sanders County Ledger (Ledger) and the Clark Fork Valley Press (Press) during his campaign and immediately after his election to office in November, 1996.

4.   On June 13, 1996, Bankhead incurred a debt of $22.00 to the Ledger for a campaign ad published on that date. Bankhead's C-5 for the reporting period covering May 19 to June 19, 1996, does not report this debt.

5.   During the reporting period from June 20 through October 19, 1996, Bankhead incurred the following debts for campaign ads published on the dates listed:

October 2, 1996	$60.20	(Press)
October 3, 1996	$57.75	(Ledger)
October 16, 1996	$39.60	(Press)
October 16, 1996	$82.00	(Press)
October 16, 1996	$82.00	(Press)
October 17, 1996	$24.75	(Ledger)
October 17, 1996	$74.25	(Ledger)
October 17, 1996	$70.13	(Ledger)

TOTALS:	$263.80	(Press)
	$226.88	(Ledger)
GRAND TOTAL:	$490.68	

Bankhead's C-5 for the reporting period from June 20 through October 19, 1996, lists an expenditure of $94.00 to the Ledger on September 19, 1996, for campaign ads. Records obtained from the Ledger show that Bankhead made a $94.00 payment on his account on September 20, 1996. Bankhead's C-5 does not list the debts owed to the Press and the Ledger.

6.   During the reporting period from October 20 through November 20, 1996, Bankhead incurred the following debts for campaign ads published on the dates listed:

October 23, 1996	$63.00	(Press)
October 23, 1996	$63.00	(Press)
October 24, 1996	$66.00	(Ledger)

2

October 24, 1996	$66.00	(Ledger)
October 30, 1996	$82.00	(Press)
October 30, 1996	$98.40	(Press)
October 30, 1996	$82.00	(Press)
October 31, 1996	$103.13	(Ledger)
October 31, 1996	$82.50	(Ledger)
October 31, 1996	$82.50	(Ledger)
November 13, 1996	$51.60	(Press)
November 14, 1996	$49.50	(Ledger)

TOTAL:	$440.00	(Press)
	$449.63	(Ledger)
GRAND TOTAL:	$889.63	

Bankhead's C-5 for the reporting period from October 20 through November 20, 1996, does not list any expenditures made to the Ledger or the Press for campaign ads. Records obtained from the Ledger and the Press show that Bankhead did not make any payments on his accounts during that period. Bankhead's C-5 for that reporting period does not list the debts owed to the Press and the Ledger.

7. Bankhead filed his closing C-5 report on September 5, 1997, reporting contributions and expenditures for the period from November 21, 1996 to August 8, 1997. The C-5 reports expenditures of $450.00 to the Press on December 1, 1996, 450.00 to the Ledger on December 1, 1996, and $235.15 to the Press on February 28, 1997, all for campaign ads. The closing C-5 did not list any unpaid debts, thus did not account for the

remaining $18.65 owed to the Press and the remaining $154.51 owed to the Ledger for the ads discussed above.[1]

8. In response to the complaint Bankhead contends that the campaign was not required to pay for ads at the time they were placed in the newspapers. He contends that his campaign properly reported every invoice received and expenditure made. He also contends that in November, 1996 he telephoned the office of the Commissioner of Political Practices (Commissioner) to discuss reporting requirements for campaign debts when no invoices had been received. A review of the Commissioner's office notes reveals there were conversations with the candidate on May 23, 1996, October 25, 1996, and March 13, 1997. There is no indication in those notes that reporting of debts or estimated debts was discussed.

9. The complaint suggests that Bankhead may have placed campaign ads in other, unidentified newspapers, and not reported them. The investigation did not disclose any evidence that Bankhead placed ads other than those discussed above.

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[1] The amounts of unpaid debts that should have been listed on the closing report are computed as follows. **Press**: $263.80 debt incurred during June 20 to October 19 reporting period; $440.00 debt incurred during October 20 to November 20 reporting period; for a total of $703.80 in debt. $685.15 paid during period covered by closing report. $703.80 - $685.15 = $18.65. **Ledger**: $22.00 debt incurred during May 19 to June 19 reporting period; $226.88 debt incurred during June 20 to October 19 reporting period, $94.00 payment on account during same period; $449.63 debt incurred during October 20 to November 20 reporting period; for a total of $604.51 in debt. $450.00 paid during period covered by closing report. $604.51 - $450.00 = $154.51.

10. The complaint alleges that sometime between December 1, 1996 and January 2, 1997 Bankhead may have loaned money to his campaign to cover an alleged deficit in his campaign fund account. A review of Bankhead's campaign account shows that the account maintained a positive balance during that period of time. The account balance on December 1, 1996 was $1,122.76, and the balance on December 31, 1996 was $28.42. $400.00 was deposited on January 2, 1997, bringing the account balance up to $428.42.

STATEMENT OF FINDINGS

Montana Code Annotated § 13-37-225 requires each candidate to file periodic reports of contributions and expenditures with the Commissioner and with the county election administrator. The Commissioner has designated these reports as C-5 reports. Montana Code Annotated § 13-37-230 requires C-5 reports to disclose detailed information regarding expenditures made by a candidate during each reporting period. The Commissioner has adopted Mont. Admin. R. 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.

Bankhead made payments on the invoices for the ads run in the Press and the Ledger in September, 1996 ($94.00 to the Ledger), December, 1996 ($450.00 to the Press and $450.00 to the Ledger), and February, 1997 ($235.15 to the Press). His C-5's properly

5

report those amounts as expenditures made during the appropriate reporting periods.

Subsection (6) of Montana Code Annotated § 13-37-230 requires C-5's to disclose "the amount and nature of debts and obligations owed by a political committee or candidate in the form prescribed by the commissioner." The Commissioner has adopted Mont. Admin. R. 44.10.535 to implement Montana Code Annotated § 13-37-230(6):

> **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.
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> (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.

Campaign ads were periodically placed in the Press and the Ledger, which resulted in debts being incurred on the dates the ads were placed. Bankhead's C-5's do not list the debts owed to the Press and Ledger.

The C-5 filed for the period from May 19 to June 19, 1996 should have listed a debt of $22.00 owed to the Ledger. The C-5 filed for the period from June 20 to October 19, 1996 should have listed a debt of $263.80 owed to the Press. That report

should also have listed a debt of $226.88 owed to the Ledger, as well as the previous debt of $22.00 owed to the Ledger, minus the $94.00 that was paid on the Ledger account on September 20, 1996. Thus, the C-5 for the period from June 20 to October 19 should have listed an outstanding debt of $154.88 owed to the Ledger. The C-5 filed for the period from October 20 to November 19, 1996 should have listed an additional debt of $440.00 owed to the Press and an additional debt of $449.63 owed to the Ledger (as well as the previous debts listed above, which remained unpaid). The closing C-5 report should have listed additional debt of $18.65 owed to the Press and $154.51 owed to the Ledger. (See Summary of Fact No. 7 and note 1.)
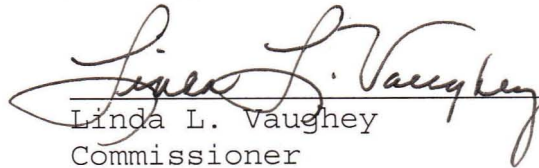
Candidates and political committees are required to disclose their debts, including when those debts are incurred, and to estimate debts if the exact amounts are not known. The public has a right to full disclosure of all debts and estimated debts incurred by a candidate during the appropriate reporting periods.

There is no evidence that Bankhead placed ads in other papers and failed to disclose expenditures or debts incurred for those ads. There is no evidence that Bankhead loaned money to the campaign to cover an alleged deficit in his campaign fund account.

CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is sufficient evidence to conclude that Paul Bankhead failed to comply with Montana campaign finance reporting and disclosure laws; therefore, the matter will be referred to the county attorney for his review and possible exercise of prosecutorial discretion pursuant to Montana Code Annotated § 13-37-124.

Dated this 10th day of September, 1999.

Linda L. Vaughey
Commissioner