

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Rodda v. Bennett No. COPP 2014-CFP-013	DISMISSAL OF A PORTION OF COMPLAINT AS FRIVOLOUS
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On April 9, 2014, Lolo, Montana resident Mike Rodda filed a complaint with the Commissioner of Political Practices (COPP) against Bryce Bennett of Missoula, Montana, a member of the Montana Legislature from House District 92 (HD 92). The Complaint alleges that Representative Bennett violated Montana campaign practice law by failing to disclose and report certain contribution information. A portion of the Complaint is hereby dismissed as frivolous.

**FINDING OF FACT**

The foundational fact necessary for this Decision is that the Complaint is based solely on information derived from reports filed with the Commissioner of Political Practices offices. The Commissioner can, as set out below, dispose of part of this complaint without any further review.

Discussion

The Complaint alleges that Candidate Bennett's 2010 campaign finance reports were deficient for failure to disclose addresses of three contributors. A

candidate is required to disclose the “mailing address” of each contributor.

§13-37-229(2) MCA.

Candidate Bennett initially omitted the address of the three contributors identified in the complaint, but then contemporaneously (that is in 2010) corrected this omission by adding the addresses of these contributors. (Commissioner’s records). This sort of correction is allowed under Montana law as the Commissioner’s office is directed by statute to inspect each report filed (§13-37-121(1) MCA) and work with each candidate to make these corrections. A complaint will be dismissed as frivolous if it is directed to “a campaign error that has been promptly corrected by the campaign.” *Landsgaard v. Peterson*, COPP-2014-CFP-008. This portion of the complaint in this Matter is dismissed as frivolous.

The Complaint next turns to Candidate Bennett’s 2012 campaign claiming the campaign accepted excess contributions from two contributors. In 2012 a candidate for legislature could accept up to \$160 from a single contributor.<sup>1</sup> The Complaint claims a \$40 excess contribution by each of two contributors. A review of campaign records does not, by itself, defeat the claim that the Bennett campaign may have taken the excess contribution. This portion of the complaint is retained for a response by Candidate Bennett.

#### Disqualification of Commissioner

The complainant requests that Commissioner Motl disqualify himself in this Matter because of association through his past representation of the student

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<sup>1</sup> See §13-37-216 MCA (2010 code) with amounts adjusted for inflation by 44.10.338 ARM.

group, the Montana Public Interest Research Group, MontPIRG. The MontPIRG group is Bennett's current employer. The complainant does not mention another associational relationship, that is that Representative Bennett sits as vice-chair of the 2014 interim legislative committee charged with oversight review of the Commissioner's Office.

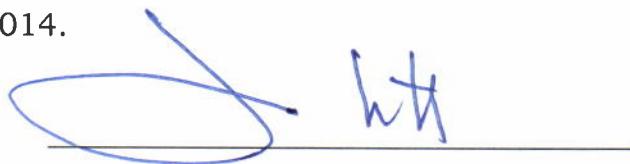
The Commissioner declines to disqualify himself. The issues raised in this Matter (a potential excess contribution amount of \$80) are very minor. Further the excess amounts (if such be the case) are fully disclosed so the error is one of accounting and does not involve a breach of the public trust. The COPP budget is limited and any disqualification is costly as the Commissioner is required to retain outside counsel to prepare the Decision. Accordingly, the Commissioner must necessarily confine conflict disqualifications to those conflicts based on familial conflict or economic conflict [§13-37-108(6) MCA], rather than just an associational tie. The Commissioner has no relationship by family or economics (other than as a state employee) to Candidate Bennett. The Commissioner, while in prior private practice of law, did not represent Mr. Bennett. The Commissioner is not required to, and declines to, disqualify himself based on an associational relationship.

### **PARTIAL DECISION**

The Commissioner has limited discretion when making the determination as to an unlawful campaign practice. In most cases the Commissioner must follow a process requiring that the Commissioner ("shall investigate," See, § 13-

37-111(2)(a) MCA) investigate any alleged violation of campaign practices law. However, “no investigation shall be required if a complaint is frivolous on its face....” 44.10.307(3)(3)(a) ARM. Here a portion of the complaint is frivolous on its face and requires no investigation as it is dismissed as frivolous. The remainder will be sent to Candidate Bennett for his response.

DATED this 14<sup>th</sup> day of April, 2014.

A handwritten signature in blue ink, appearing to read "Jonathan R. Motl", is written over a blue oval. To the right of the signature is a handwritten "wth".

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