

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of the Ethics	)	
Complaints Against Kim	)	<b>ORDER OF DISMISSAL</b>
Young and Jackie Ladner	)	

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Mike Hutchin filed separate ethics complaints against Kim Young and Jackie Ladner, both of whom are employees of the Lake County Appraisal Office (a Montana Department of Revenue office). Both complaints are based on very similar allegations and claim that the employees violated Montana Code Annotated § 2-2-121(3)(a). Based on the similarity of the allegations, the two complaints are hereby consolidated for purposes of this Order.

Montana Code Annotated § 2-2-121(3)(a) provides that, with limited exceptions, a public officer or public employee may not “use public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.” Montana Code Annotated § 2-2-121(3)(c) states that § 2-2-121(3) “is not intended to restrict the right of a public officer or public employee to express personal political views.”

Hutchin also filed two complaints against Young and Ladner claiming, based on the identical allegations as are set forth in the ethics complaints, that the two employees violated Montana Code Annotated § 13-35-226(4) of the Montana campaign practices laws. That statute provides:

A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the

passage of a ballot issue while on the job or at the place of employment.

However, subject to 2-2-121, this section does not restrict the right of a public employee to express personal political views.

Following an investigation, I issued a Summary of Facts and Statement of Findings, determining that there is insufficient evidence to justify a civil prosecution based on allegations that Young and Ladner violated Montana Code Annotated § 13-35-226(4).

Montana Code Annotated § 2-2-136 provides that a person alleging a violation of Title 2, chapter 2, part 1 by a state officer or a state employee may file a complaint with this office. Montana Code Annotated § 2-2-136(1)(b) authorizes dismissal of a complaint that “does not state a potential violation” of the ethics laws codified in Title 2, chapter 2, part 1. The language in Montana Code Annotated § 2-2-121(3)(a) describing certain acts that are in violation of the ethics laws is virtually identical to the language in Montana Code Annotated § 13-35-226(4) describing acts that are in violation of the campaign practices laws. As noted, based on the investigation of the campaign practices complaints filed by Hutchin, I determined that there is insufficient evidence to conclude that Young or Ladner violated Montana Code Annotated § 13-35-226(4). My decision in the campaign practices complaints leads me to conclude that the ethics complaints filed by Hutchin do not “state a potential violation” of the ethics laws.

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THEREFORE, IT IS HEREBY ORDERED that the complaints alleging that Kim Young and Jackie Ladner violated Montana Code Annotated § 2-2-121(3)(a) are DISMISSED.

Dated this \_\_\_\_\_ day of October, 2003.

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Linda L. Vaughey  
Commissioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14<sup>th</sup> day of October, 2003, the foregoing Decision of the Commissioner was served on the parties hereto, addressed to the parties as follows:

Certified U.S. Mail, Postage Prepaid  
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Certified U.S. Mail, Postage Prepaid  
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Dulcy L. Hubbert  
Program Supervisor  
Commissioner of Political Practices