

**BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)**

<b>RICHARD MCCULLOCH</b>  v.  <b>WAYNE DUDLEY</b>	<b>COPP-2023-CFP-022</b>  <b>DISMISSAL</b>
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**COMPLAINT**

On October 23, 2023, Richard McCulloch of Colstrip, MT filed a campaign practices complaint against Wayne Dudley, also of Colstrip. The complaint alleged that candidate Dudley failed to properly Amend his C-1A Statement of Candidate filed with COPP to disclose that campaign expenditures exceeded \$500.00 and failed to file campaign finance reports disclosing these campaign expenditures.

**ISSUES**

Local candidate registration requirements, Montana Code Annotated (MCA) § 13-37-201 and Administrative Rules of Montana (ARM) 44.11.303 and 304; filing of campaign finance reports by local candidates, MCA § 13-37-226 and ARM 44.11.304; “paid for by” attribution requirements, MCA § 13-35-225.

**SUMMARY OF RELEVANT FACTS**

The facts necessary for a determination in this matter are as follows:

Finding of Fact No. 1: Wayne Dudley filed a C-1A Statement of Candidate as candidate for election to a City Alderman position in the City of Colstrip with COPP on April 27, 2023. Under Reporting Status, candidate Dudley indicated that his campaign “Will spend less than \$500.00”. (Commissioner’s Records).

Finding of Fact No. 2: On November 1, 2023, COPP contacted candidate Dudley via email message to notify him of this complaint and request he provide a written response to the allegations presented. This correspondence also noted that the campaign yard signs referenced in this complaint did not appear to include the “paid for by” attribution message, and therefore notified him of Montana’s attribution requirements and requested he add attribution to any unattributed signs. COPP did not receive any response from candidate Dudley to this message. (Commissioner’s Records).

Finding of Fact No. 3: On November 28, 2023, COPP again contacted candidate Dudley, via email message and traditional mail, to notify him of this complaint and request he provide a written response to the allegations presented. (Commissioner’s Records).

Finding of Fact No. 4: On December 2, 2023, candidate Dudley, via email message, provided COPP with a formal written response to this complaint. The response included a copy of an invoice received by his campaign from vendor UZ Marketing for its purchase of 75 18”x24” yard signs at a total cost of \$353.31. The response indicated that this was the only campaign expenditure made by candidate Dudley. (Commissioner’s Records).

Finding of Fact No. 5: On December 13, 2023, candidate Dudley emailed COPP on two (2) occasions to provide pictures of the campaign yard signs, which included an attribution message of “Paid for by Wayne Dudley p.o. box 1 colstrip, MT 59323”. In a phone call later that day, candidate Dudley stated that this “paid for by” attribution message was included on all campaign yard signs from the time of purchase. (Commissioner’s Records).

## **DISCUSSION**

This complaint alleges that 2023 municipal candidate Wayne Dudley failed to properly amend a C-1A Statement of Candidate filed with COPP to disclose that campaign expenditures had exceeded \$500.00, and additionally failed to properly file campaign finance reports disclosing these expenditures. I consider each allegation.

### Local candidate registration

On the C-1A Statement of Candidate filed with COPP on April 27, Mr. Dudley indicated that his campaign “Will spend less than \$500.00” (FoF No. 1). There is no question that Mr. Dudley timely and appropriately filed as a candidate, pursuant to MCA § 13-37-201. As a candidate seeking election to a municipal office in the City of Colstrip, Mr. Dudley properly qualifies as a local candidate.

Local candidates who anticipate receiving contributions or making expenditures of less than \$500.00 “shall file an affidavit of such intent at the time the statement of candidate” is filed, 44.11.304(1), Administrative Rules of Montana (ARM). If the local candidate receives contributions or makes expenditures exceeding \$500.00, they are then required to file an amended version of their Statement of Candidate within 5 business days of this occurrence to disclose this “material change in information”, ARM 44.11.303(2).

In this matter, Mr. Dudley provided notice that campaign contributions received and expenditures made by his campaign would remain below \$500.00 on his C-1A Statement of Candidate (FoF No. 1). In his December 2 response, Mr. Dudley provided COPP with an invoice providing necessary information about his purchase of the campaign yard signs this

complaint refers to. Specifically, the invoice from vendor UZ Marketing indicates that Mr. Dudley purchased 75 campaign yard signs from that vendor at a total cost of \$353.31 (FoF No. 4). Mr. Dudley's response indicated that this yard sign purchase from UZ Marketing was the only expenditure made by his campaign.

As a local candidate whose campaign expenditures totaled less than \$500.00, Mr. Dudley appropriately indicated his reporting status to COPP on the original C-1A Statement of Candidate. As campaign expenditures did not exceed \$500.00, Mr. Dudley was not required to amend his Statement of Candidate. Because no "material change previously submitted in a statement of candidate" filed by Mr. Dudley occurred, he was not obligated to file an amended such document with COPP in the manner the complaining party here asserts, 44.11.303(2), ARM. The allegation that he failed to do so is therefore dismissed.

#### Local candidate reporting

Under Montana election law, candidates seeking election to a local office such as Mr. Dudley are required to file campaign finance reports ("shall file") "only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign exceeds \$500", MCA § 13-35-226(5). This is also reflected in 44.11.304(1), ARM, which exempts local candidates from filing finance reports with COPP if contributions and expenditures are under \$500.00. If the local candidate receives contributions or makes expenditures exceeding \$500.00, they are then required begin filing finance reports with COPP disclosing contributions received and expenditures made within 5 business days of this occurring, 44.11.304(2), ARM.

In this matter, candidate Dudley's campaign expenditures totaled \$353.31, below the \$500.00 threshold compelling reporting (FoF No. 4). As a local candidate whose expenditures totaled less than \$500.00, Mr. Dudley was specifically exempted from filing campaign finance reports, MCA § 13-37-226(5) and 44.11.304(1), ARM. The allegation that Mr. Dudley failed to properly file campaign finance reports is therefore dismissed.

#### Attribution

In reviewing this complaint prior to acceptance, COPP staff also determined that Mr. Dudley's campaign yard signs may not have included the "paid for by" attribution message required on all election communications under MCA § 13-35-225. For that reason, this Office pointed out Montana's "paid for by" attribution requirements to Mr. Dudley and requested that

he add the message to all unattributed yard signs when notifying him of this complaint (FoF No. 2). Notice of potentially unattributed material such as was provided to candidate Dudley is standard and intended to provide the candidate an opportunity to bring any unattributed or potentially unattributed material into compliance with MCA § 13-35-225.

In this case, on December 13, 2023, candidate Dudley emailed COPP additional pictures of his campaign yard signs, with these pictures clearly showing a “paid for by” attribution message was included (FoF No. 5). Later that day, COPP was able to speak with Mr. Dudley, who confirmed that the attribution message of “Paid for by Wayne Dudley p.o. box 1 colstrip, MT 59323” had been included on all yard signs from the time of purchase (FoF No. 5). As candidate Dudley did include the full attribution message on all campaign yard signs, COPP considers this potential issue fully and appropriately resolved.

DATED this 21st day of December, 2023.

/s/ Chris J. Gallus

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