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June 3, 2024

Chris Gallus
Montana Commissioner of Political Practices
1209 8th Ave
PO Box 202401
Helena, MT 59601

Dear Commissioner Gallus:

We are writing to submit a combined response to the complaint filed against us by Darin Gaub. The complaint is frivolous and meritless. As such, we would ask you to dismiss the complaint.

The complaint alleges we have engaged in a coordinated campaign with two different political action committees. The allegations are false.

ARM 44.11.602 defines “coordination” as “any election communication, electioneering communication, or reportable election activity that is made by a person in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, at the request or suggestion of, or with the express prior consent of a candidate or an agent of the candidate.” We have not communicated with any political action committees, requested independent expenditures by any political action committees, or coordinated with the any political action committee with respect to the messaging or timing of any independent expenditures.

In his complaint, Mr. Gaub alleges a number of “facts.” Our response to each paragraph is as follows:

1. Paragraph 1 alleges there are mailers with photographs of the Governor and us. Being photographed with the Governor is not evidence of coordination. We are free to have photographs taken with the Governor or any other elected official. Moreover, it is well established the use of a photograph, even a photograph provided by a campaign, is not coordination. It is not uncommon for candidates, including candidates for federal office, to make photographs and video available for use by others. These photographs and video are frequently used by third parties for independent expenditures. The mailer involving Rep. Binkley shows a photograph of Rep. Binkley at a bill signing ceremony. A

bill signing ceremony is a public event. The photograph of Mr. McMurray occurred when he visited the Governor. There is nothing impermissible about getting photographed while meeting with the Governor. Merely because someone obtains possession of a photograph taken with the Governor and uses it in an independent expenditure does not mean we have engaged in coordination.

2. Paragraphs 2 and 3 do not refer to us.
3. Paragraph 4 mentions the presence of a photograph on a Facebook page. Posting a photograph on a Facebook page that was provided by a third party, who was neither the MT United (Montana United) PAC or the Montanans for Fair Taxation PAC, does not, in any way, meet the definition of coordination.
4. Paragraphs 5 and 6 refer to the photographs by Mr. McMurray. Again, the use of a photograph is not evidence of coordination with a PAC. Mr. McMurray is free to get photographs taken with the Governor.
5. The second paragraph 6 does not refer to us.
6. Paragraph 7 discusses the receipt of contributions. We have both received contributions and those contributions have been reported in our C-5 reports. Any assertion that the contributions have not been reported by us is false.
7. Paragraph 8 does not refer to us.

In summary, we would ask you to dismiss this action. The complaint, as a basic threshold matter, fails to even meet the standard for a COPP complaint. It does not mention any statutes or administrative regulations which we allegedly violated and it fails to present any facts showing coordination or illegal campaign activity. In our opinion, this complaint is frivolous and meritless and should be dismissed.

Please let us know if you need any additional information or documentation.

Sincerely,

Michelle Binkley

/s/ Kyle McMurray
Kyle McMurray