

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Molloy v. Doctors for a Healthy Montana No. COPP 2020-CFP-011	DISMISSAL OF ALLEGATION OF VIOLATION
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On May 8, 2020, James Molloy of Helena, MT filed a campaign practices complaint against Doctors for a Healthy Montana, a registered Independent political committee. The complaint alleged that the name Doctors for a Healthy Montana fails to identify the economic or other special interest of a majority of the committee’s contributors as required, and that the committee failed to appropriately report in-kind contributions received from The Political Company.

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: Doctors for a Healthy Montana filed a C-2 Statement of Organization as an Independent Political Committee with the COPP on February 24, 2020. Matt Regier was named as the committee’s Treasurer. The C-2 was most recently amended on April 3, 2020; under the Purpose of Committee section, the committee indicates its Support for candidates Jennifer Carlson, Caleb Hinkle, Jed Hinkle, and Greg DeVries and Opposition to candidates Joel Kruatter, Eric Moore, Nancy Balance, and Bruce Grubbs. (Commissioner’s Records).

Finding of Fact No. 1A: The Political Company is “a full service public affairs and political consulting firm” based out of Billings, Montana that states it can help campaigns “with everything from issue education and fundraising to securing key endorsements”.

The Political Company is currently registered as a Domestic Limited Liability Company in the State of Montana with the Secretary of State. (Commissioner's Records).

Finding of Fact No. 2: On March 29, 2020, Doctors for a Healthy Montana timely filed their initial C-6 committee finance report, dated January 1 through March 25, 2020. This report disclosed Doctors for a Healthy Montana as receiving four contributions of \$35 or more from individuals during this time period. The contributors had listed occupations of Retired, Physician, Retired, and Construction. One additional contribution of \$30 was reported as being received from an individual whose occupation was listed as Physician.¹ This report did not disclose any expenditures made by Doctors for a Healthy Montana to The Political Company. Doctors for a Healthy Montana did report making four expenditures during this period meant to oppose candidates Joel Kruatter and Bruce Grubbs and support candidates Hinkle (both Jediah and Caleb) and Greg DeVries totaling \$3,930.54 (see Table 1). The committee did not report making any contributions, either monetary or in-kind, to candidates Jediah Hinkle, Caleb Hinkle, or DeVries during this period. (Commissioner's Records).

Finding of Fact No. 2A: On May 10, 2019, Joel Krautter filed a C-1 Statement of Candidate as a Republican candidate for House District 35 in Richland County with the COPP. (Commissioner's Records).

Finding of Fact No. 2B: On January 30, 2020, Brandon Ler filed a C-1 Statement of Candidate as a Republican candidate for House District 35 in Richland County with the COPP. (Commissioner's Records).

Finding of Fact No. 2C: On April 13, 2019, Bruce Grubbs filed a C-1 Statement of Candidate as a Republican candidate for House District 68 in Gallatin County with the COPP. (Commissioner's Records).

Finding of Fact No. 2D: On November 11, 2019, Caleb Hinkle filed a C-1 Statement of Candidate as a Republican candidate for House District 68 in Gallatin County with the COPP. Candidate Hinkle has not reported receiving any contributions, either cash or In-

¹ Because the contribution was less than \$35, this contributor's name, occupation, and employer information is not available on the public version of this report.

Kind, from Doctors for a Healthy Montana. (Commissioner's Records).

Finding of Fact No. 2E: On July 12, 2020, Jedediah Hinkle filed a C-1 Statement of Candidate as a Republican candidate for House District 67 in Gallatin County with the COPP. Candidate Hinkle has not reported receiving any contributions, either cash or In-Kind, from Doctors for a Healthy Montana. (Commissioner's Records).

Finding of Fact No. 2F: On January 14, 2020, Greg DeVries filed a C-1 Statement of Candidate as a Republican candidate for House District 75 in Jefferson County with the COPP. Candidate DeVries has not reported receiving any contributions, either cash or In-Kind, from Doctors for a Healthy Montana. (Commissioner's Records).

Finding of Fact No. 3: On April 30, 2020, Doctors for a Healthy Montana timely filed a Periodic C-6 committee finance report, dated March 26 through April 25, 2020. This report disclosed Doctors for a Healthy Montana as receiving four contributions of \$35 or more from individuals during this time period; three of these individuals had not previously contributed to the committee. These three new contributors had listed occupations of Physical Therapist, Retired Doctor, and Manager (of an apartment complex). The name provided for the Physical Therapist included the title of Dr. This report disclosed one expenditure totaling \$717.09 made by Doctors for a Healthy Montana to The Political Company, dated April 13. The Purpose provided was "8.5x5.5 mailers, oppose Rep. Grubbs HD 68 support of funding for abortions", Platform was listed as "mailers", Quantity "1,635 mailers and postage" and Purpose "Bruce Grubbs supported \$862 million a year to expand Medicaid the pays for abortions, Front shows on the website from All Families Health Clinic, advertising Medicaid funded abortions". Doctors for a Healthy Montana reported making seven additional expenditures meant to oppose candidates Krautter, Grubbs, Nancy Ballance, and Frederick Moore or to support candidate DeVries totaling \$1,921.76. The committee did not report making any contributions, either monetary or in-kind, to candidate DeVries during this period. (Commissioner's Records).

Finding of Fact No. 3A: On April 29, 2019, Nancy Ballance filed a C-1 Statement of Candidate as a Republican candidate for Senate District 44 in Ravalli County with the COPP. (Commissioner's Records).

Finding of Fact No. 3B: On August 7, 2020, Theresa Manzella filed a C-1 Statement of Candidate as a Republican candidate for Senate District 44 in Ravalli County with the COPP. (Commissioner's Records).

Finding of Fact No. 3C: On January 30, 2020, Frederick Moore filed a C-1 Statement of Candidate as a Republican candidate for House District 37 in Custer County with the COPP. (Commissioner's Records).

Finding of Fact No. 3D: On February 11, 2020, Jerry Schillinger filed a C-1 Statement of Candidate as a candidate for House District 37 in McCone County with the COPP. Candidate Schillinger's January 16, 2020 filing with the Secretary of State indicated he was running for HD 37 as a Republican. (Commissioner's Records).

Finding of Fact No. 4: On May 15, 2020, Doctors for a Healthy Montana (via Matthew Monforton) emailed their official response to the COPP. The response included a sworn and signed affidavit provided by Jake Eaton, President of the Political Company. The affidavit stated that "I am familiar with the mailings that The Political Company produced and mailed on behalf of Doctors for a Healthy Montana" and that "One of those mailings involved the production and mailing of 8.5 x 5.5 postcards to voters in HD68 referencing Rep. Bruce Grubbs", for which Doctors for a Healthy Montana was charged \$717.09, "which amounts to \$0.4385 per piece". The affidavit broke down the costs as \$390.09 (\$0.2385 per piece- the rate available for "bulk mail postage and is available to anyone with a bulk mail permit provided by the U.S. Postal Service") for postage and \$327.00 (\$0.20 per piece) for printing and addressing. The affidavit also states that "The Political Company has never made an undisclosed contribution to Doctors for a Healthy Montana". (Commissioner's Records).

Finding of Fact No. 5: On May 29, 2020, Doctors for a Healthy Montana timely filed a periodic C-6 committee finance report, dated April 26 through May 24, 2020. This report did not disclose Doctors for a Healthy Montana as receiving any contributions during this time period. This report did not disclose any expenditures made by Doctors for a Healthy Montana to The Political Company. Doctors for a Healthy Montana did report making to (2) total expenditures during this period, including various expenditures meant to oppose candidates Krautter and Moore totaling \$394.00. (Commissioner's Records).

Finding of Fact No. 6: On June 29, 2020, Doctors for a Healthy Montana timely filed a periodic C-6 committee finance report, dated May 25 through June 25, 2020. This report did not disclose Doctors for a Healthy Montana as receiving any contributions during this time period. This report did not disclose any expenditures made by Doctors for a Healthy Montana to The Political Company. Doctors for a Healthy Montana did report making one (1) expenditure during this time period meant to oppose candidate Moore, totaling \$194.00. (Commissioner's Records).

DISCUSSION

The Commissioner examines the allegations in this matter.

The Complainant alleges the name Doctors for a Healthy Montana (DFHMT) fails to identify the committee's economic or special interest as required under Montana campaign finance law. This issue was considered in the case of *Krautter v. Doctors for a Healthy Montana*, COPP-2020-CFP-006. Ultimately, the US District Court found the statute unconstitutional in *Doctors for a Healthy Montana v. Fox* in August of 2020. Mont. Code Ann. § 13-37-210 was repealed in 2021. The allegation is hereby dismissed.

The second allegation raised by the Complainant is that DFHMT failed to disclose in-kind contributions provided to the committee by The Political Company. Specifically, the Complainant writes:

On its most recent disclosure report, the committee [DFHMT] reports an expenditure to The Political Company...The cost charged for the production and postage associated with 1,635 8.5x5.5. mailers attacking Bruce Grubbs is \$717.09...These rates are definitely not fair market value...In my political experience I would estimate that there is more than \$2,000 in undisclosed in-kind contributions from The Political Company related to this one mailer alone

On its April 30 committee finance report, DFHMT reported making one expenditure of \$717.09 to The Political Company for the purchase of 1,635 postcards opposing candidate Bruce Grubbs (FOF No. 2). The signed and sworn affidavit from The Political Company President Jake Eaton confirms this transaction occurred, and that DFHMT reported the expenditure using the correct amount charged (FOF No. 5). The affidavit breaks this transaction down. The Political Company charged DFHMT \$390.09 for postage costs on the 1,635 postcards (\$0.2385 per piece), the rate Mr. Eaton states “is for bulk mail postage and is available to anyone with a bulk mail permit provided by the U.S. Postal Service”. The other \$327.00 (\$.20 per piece) was for printing and addressing. Mr. Eaton states that these rates are “well within the normal market value for a postcard of this type”.

To support this argument, Mr. Eaton provided cost figures for materials similar to those created for DFHMT he obtained from an internet search of Postcards.com, Printing for Less, and Printing Center USA. Each of these three entities supplies printed materials similar to those offered by The Political Company, including postcards, and offer to bulk mail completed material directly for the customer. The COPP reviewed each of these three competitors pricing in comparison to The Political Company in an attempt to independently determine the approximate amount each would charge to produce and mail material similar to the DFHMT postcards.

Using the postcards.com website, the COPP determined the approximate printing cost for a 9” x 6” postcard (the closest size the service offers) as \$0.075

per piece. Multiplying this figure by the 1,635 mailers ordered by DFHMT, the entire printing cost from postcards.com comes out to approximately \$122.63. Postcards.com does not appear to offer direct mailing of printed materials ordered through its site, making comparisons to the rates offered by The Political Company difficult. The cheapest available postage stamp for a postcard listed on the United States Postal Service (USPS) website is \$0.35 apiece. Manually mailing 1,635 postcards printed by postcards.com using a \$0.35 stamp on each would cost \$572.25, which leaves the total cost to print through postcards.com and manually mail the material no lower than \$694.88.

Through the Printing for Less website, the COPP determined the printing cost of 1,635 8.5" x 5.5" postcards to be \$480.37, or \$0.29 per piece. If the items are not bulk mailed directly by Printing for Less but sent to whoever made the order instead, a Shipping and Handling fee of \$31.78 is also charged, raising the overall price to \$512.15, or \$0.313 per piece. Manual mailing using \$0.35 postcard stamps purchased through the USPS would make the total cost \$1,084.40. Printed items can be bulk mailed directly by Printing for Less; the bulk mailing of 1,635 postcards would cost \$649.66, or \$0.40 per piece (no separate Shipping and Handling fee is included if bulk mailing directly through the site). The total cost of ordering and bulk mailing 1,635 postcards through Printing for Less would come out to \$1,130.03.

The Printingcenterusa.com website indicated it would cost \$225.80 for the printing of 1,635 8.5" x 5.5" postcards, a cost of \$0.14 per piece. This includes a \$50.00 off Promo Code automatically being applied; without the

\$50.00 discount, printing cost works out to \$275.80, or \$0.17 per piece.

Printed items can be bulk mailed directly through printingcenterusa.com, with the cost of mailing 1,635 postcards listed as \$540.40, or \$0.33 per piece. The total cost of printing and bulk mailing 1,635 postcards through printingcenterusa.com would be \$766.20 (\$816.50 if the \$50 off Promo Code is not applied).

The COPP Investigator also spoke with Action Print of Helena, MT to obtain an estimate based on the information found in this matter. Action Print stated that the printing and addressing of 1,635 double sided, full color 8.5" x 5.5" postcards would likely cost between \$680-\$700.00. \$680.00 as the total cost of printing/addressing would mean each individual piece cost \$0.42. Action Print stated that a bulk mailing using their bulk mailing license would cost an additional \$0.28 per piece, or \$457.80 for all 1,635 postcards. The total cost comes out to approximately \$1,157.80 for Action Print to print, address, and bulk mail a postcard similar to DFHMT's.

Based on the comparison between the rates The Political Company charged DFHMT and the rates charged by the above-mentioned competitors, it appears The Political Company's fall within market value range. The rate charged by The Political Company for printing and postage (\$0.20 per piece) was actually higher than the printing cost per piece estimated by either postcards.com (\$0.075 per piece) or printingcenterusa.com (\$0.14-\$0.17 per piece). The cost for bulk mailing charged by The Political Company using the rates available via their bulk mail permit (\$0.2385 per piece) is certainly lower

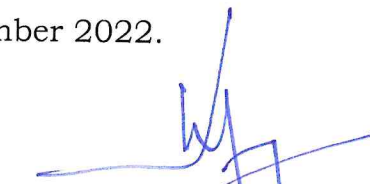
than the rate Action Print stated they would charge using their bulk mail permit (\$0.28 per piece). The price difference per piece of approximately \$.04 each would suggest The Political Company appears to be on the lower end of the market spectrum.

As DFHMT appears to have paid market value for both the printing/addressing and bulk mailing of the postcards through The Political Company, the activity would not qualify as an in-kind contribution made by The Political Company to the committee. DFHMT was only obligated to report the activity as an expenditure made of \$717.09, which it did in a timely fashion on the relevant committee finance report. The allegation that DFHMT received an in-kind contribution from The Political Company that it failed to properly report is dismissed.

DECISION

The Complaint is hereby dismissed.

DATED this 30th day of December 2022.



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