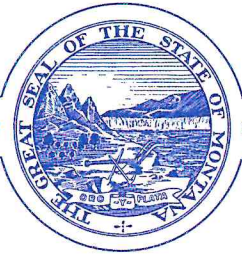


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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April 13, 2023

James Kephart
827 W. Mercury St.
Butte, MT 59701

Subject: Complaints received March 16, 2023; *Kephart v Scow/Butte Silver Bow Democratic Central Committee, COPP-2023-CFP-001; Kephart v. Scow, COPP-2023-CFP-REJ-001*; and request for public information

James,

I hope you are well. This letter acknowledges the receipt of your formal Campaign Finance and Practices (CFP) complaints, hand delivered to this Office on March 16, 2023.

Your first CFP complaint alleging violation of Montana laws governing the reporting of certain campaign finance information related to Montana elections, *Kephart v. Scow/Butte Silver Bow Democratic Central Committee, COPP-2023-CFP-001*. I determined that his complaint conforms to the basic requirements of 44.11.106 ARM. Basically, you have met the requirement that a written notarized complaint within the jurisdiction of COPP was either hand delivered or sent to us by certified mail. Consequently, a letter and copy of your first complaint is being sent to the respondent listed above requesting that they provide a written response to this office and retain pertinent records pending further investigation of this matter.

I will review any additional materials relevant to the complaint, including the response, for any deficiencies pursuant to 44.11.106 ARM, law, and prior relevant rulings and reserve the right to dismiss the complaint upon this initial inquiry. If this occurs, I will notify you and provide a basis for the dismissal. Alternatively, upon this further review, I may determine that a formal investigation is warranted. If an investigation is conducted, a summary of facts and statement of findings will be prepared, and a copy will be sent to you. This generally forms the basis as to whether the matter is going to be pursued further, which then involves referring the matter to the local county attorney.

I am returning your second complaint, *Kephart v. Scow, COPP-2023-CFP-REJ-002*, to you because allegations COPP would pursue under our

jurisdiction and authority. As described above, in accepting your first complaint, any person meeting the basic requirements is entitled and encouraged to submit complaints to COPP for review. Doing so is not an “abuse of process.” In fact, by law, I, or in this case Commissioner Mangan, have a legal duty to consider alleged violations of election laws when properly submitted complaints are submitted. See, Mont. Code Ann. §13-37-111. The motivation of the complainant is not a designated factor relevant to my consideration of a properly submitted complaint.

The specific matter you are labeling as an “abuse of process”- *Scow v. Kephart*, COPP-2022-CFP-028- was a formal CFP complaint received by this Office. My immediate predecessor, Commissioner Mangan, considered the complaint, ultimately determining that it alleged violations of certain campaign finance and practices laws under his jurisdiction as Commissioner. As required under Mont. Code Ann. §13-37-111, Commissioner Mangan investigated the allegations presented in the complaint and, at the conclusion of this investigation, issued a Sufficiency Decision determining that certain campaign finance and practices laws had indeed been violated. This fulfilled Commissioner Mangan’s legally imposed obligation, and my determining otherwise using a standard that does not legally exist would only achieve absurd results and undermine citizen confidence in COPP actions, which were properly enforced pursuant to law.

As to your public records request, all formal CFP complaints received by COPP are relatively routine; COPP accepted and investigated 58 formal CFP complaints in election year 2020, 25 in election year 2021, and 33 in election year 2022. All formal CFP complaints accepted and investigated by COPP are made available on our agency’s website, www.politicalpractices.mt.gov. Similarly, any final agency determination is posted on our website at the time it is reached. COPP under Commissioner Mangan did not classify or otherwise label complaints based on type or number of allegations, nor was any investigation conducted differently for those reasons. This is our response to your public information request. If you are unable to access the information on the public website and would like the information on disc or in another format, please make that request. We are happy to accommodate you regarding any public records you seek.

Regards,



Chris J. Gallus
Commissioner of Political Practices