

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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August 6, 2014

Senator Dee Brown
Chairperson
State Administration and Veterans' Affairs Interim Committee
PO Box 201706
Helena, MT 59620-1706

Dear Senator Brown and Committee Members:

Mary Baker, I and other members of the COPP staff will be present at 8:30 AM on August 15, 2014 for the SAVA committee review of the COPP. The first two of the following items are a written response to the SAVA agenda items. The second two items are information summaries the Office thought may be of interest to the SAVA members.

1. Update on Docket Since June 5, 2014

This letter is dated August 6, 2014. There may be changes in the following numbers because of additional work or activity by the August 15 date of the SAVA meeting. Since June 5, 2014 to August 6, 2014 the following applies:

- .2 new campaign practice complaints were filed
- . 8 new sufficiency Decisions were made and published.
- . 26 complaints are now on Docket, down from 32 at June 5 SAVA.
- .1 ethics complaint has been filed.

The most recent sufficiency Decision was dated July 16, 2014. During the past three weeks all three COPP enforcement staff (Motl, MacNaughton and Sanddal) have worked full time on enforcement litigation, primarily in organizing and producing the COPP's discovery responses. All complaints dealing with 2010 campaign issues have now been resolved by sufficiency Decisions.

2. COPP Legislative Proposals

A brief summary of the COPP's legislative proposals, adjusted to the requested format, accompanies this letter.

3. Enforcement Litigation Update

The COPP is actively engaged in litigation in 9 district court cases, seeking enforcement of the underlying COPP sufficiency decision. One of the cases [*COPP v. Miller* No. CDV-2014-062] has progressed to a scheduling Order with a trial date of May 2015. All 9 cases are in active discovery or motion disputes with 5 Orders (dealing with venue and jurisdiction) having been issued to date. The COPP has finished its basic document production (about 30,000 pages of documents) relating to the 9 cases.

4. Budget

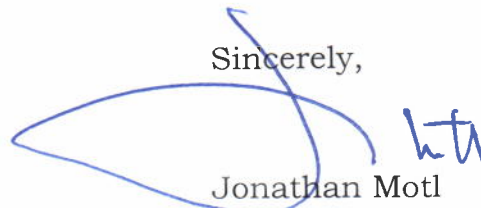
The COPP finished the 2013-2014 fiscal year within budget, spending \$483,451.81 of its budget allocation of \$487,322.00.

5. CERS

The COPP's campaign electronic reporting system (CERS) was launched and successfully used by some campaigns for 2014 primary campaign finance reporting. Expanded CERS use has the promise of substantial transparency benefit to the public. The COPP has declared this effort (funded by a special allocation from the 2013 legislature) a success, crediting Mary Baker and Kym Trujillo for the work leading to the success.

Please be informed that several COPP staff may attend the August 15, 2014 SAVA meeting. The SAVA committee met with the COPP staff at its first hearing on the COPP and staff have remained very interested in the SAVA's on-going review of the COPP. This SAVA meeting seemed an appropriate and efficient opportunity for COPP staff, in addition to Mary and I, to be present during committee discussions.

Sincerely,



Jonathan Motl
Commissioner of Political Practices
State of Montana

Submitted by the COPP (Commissioner Motl) to SAVA for Review at its August 15, 2014 meeting

PROPOSAL NO. 1 Expanded Electronic Filing	Amending §13-37-226(2), (3), and (5).	Add the word "electronically" after the word "reports" in each of the specified subsections
PROPOSAL No. 2 Delete Local Filing	Amending §13-37-225(1) and(3).	Delete the requirement of any report filing with an election administrator of a county.
PROPOSAL No. 3 Add "Electioneering" Definition	Amending §13-1-101	Add an "electioneering" definition to Title 13 that defines any purchase, payment (etc) of any form of communication that mentions a candidate by name within 60 days of an election as an expenditure that must be reported and disclosed, with accompanying political committee registration. This is law nuanced with constitutional considerations and will require careful drafting.
PROPOSAL No. 4 Delete Certain language in Contribution Definition	Amending §13-1-101(7)(a)(iii)	Delete words "other than a candidate or political committee."
PROPOSAL No. 5 Exempt in-kind personal services by a political party	Amending §13-37-216(5)	Add "In-kind personal services provided by a political party organization are not included in the limits set by subsection (3)."
PROPOSAL No. 6 Expand election day to voting days	Amending 13-35-211(1)	Strike " in which an election is being held " and put in its place "in which voting on an election is taking place"
PROPOSAL No. 7 Robo calls as a campaign practice violation	Amending 45-8-216	Add a new subsection (4) reading "A person engaged in an activity described in subsection (1)(e) during any 60 day period before an election addressed by the activity becomes a political committee that must attribute as defined by 13-35-225, become certified under 13-37- 201 and report under 13-37-225. Failure to do so is a violation of

		title 13, chapters 35 and 37.”
PROPOSAL No. 8 Authority to Deputize COPP in-house counsel	Amending 13-37-111(6)(b)(i)	Change to “may not be an employee, <u>other than attorney, employed by</u> of the office of the commissioner...”
Proposal No. 9 Conform to court ruling	13-35-231 MCA	Change to “A political party may not endorse, contribute to or make an expenditure to support of oppose a judicial candidate.”
PROPOSAL No. 10 Add additional reporting periods	13-37-226(3)(4)(5)	Add a May 1 and Oct. 1 reporting date at each subsection.
PROPOSAL No. 11 Allow retention of cost recovery	13-37-129	Add as last sentence: “However, any amount recovered by the commissioner as a recovery of the cost of litigation may be retained by the commissioner as a litigation fund for future enforcement actions.”
ROPOSAL No. 12 Add Sign Placement as campaign practice consideration	Title13,chapter 35	Add new statute that requires a candidate receive permission of property owner before placing a political sign on private property and further requiring a candidate to place signs in conformance with all state, local and national highway safety and local planning laws. The violation of this section would be a campaign practice violation.