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NANCY SWEENEY
CLERK DISTRICT COURT

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BY *[Signature]*
CLERK

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

The COMMISSIONER OF POLITICAL
PRACTICES FOR THE STATE OF
MONTANA, through JONATHAN R.
MOTL, acting in his official capacity as the
Commissioner of Political Practices,

Plaintiff,

v.

MONTANA PROLIFE COALITION and
DR. ANNIE BUKACEK,

Defendant.

Cause No. *ADV-2016-213*

COMPLAINT

.00

**MIKE MENAHAN
PRESIDING JUDGE**

Jonathan R. Motl, in his official capacity as Commissioner of Political Practices of the State of Montana (Commissioner), for his cause of action against the Defendants, Montana Prolife Coalition and Dr. Annie Bukacek, and alleges as follows:

PARTIES

1. Jonathan R. Motl, is the duly appointed Commissioner of Political Practices for the State of Montana (hereinafter Commissioner).
2. Defendant, Montana Prolife Coalition (hereinafter MPLC) was at all times relevant organization registered with the Montana Secretary of State.

3. Defendant, Dr. Annie Bukacek (hereinafter Dr. Bukacek) is an individual and resident of Montana.

JURISDICTION

4. The paragraphs set forth above are realleged and incorporated as if set forth fully herein.

5. The Commissioner has issued a certain Decision finding sufficient facts to show a campaign practice violation by the above Defendants: *Tutdvet v. Roberts, et al.* COPP-2012-CFP-047, *Welch v. Western Tradition Partnership*, COPP-2014-CFP-015, and *Welch v. National Right to Work*, COPP-2014-CFP-016 (hereinafter Sufficiency Decision).

6. This Sufficiency Decision was “noticed to” (Mont. Code Ann. § 13-37-124(1))¹ the County Attorney of Lewis and Clark County.

7. The Sufficiency Decision was returned to the Commissioner by the County Attorney after which authority to initiate judicial action is vested in the Commissioner: “[i]f the county attorney fails to initiate the appropriate civil or criminal action within 30 days after receiving notification of the alleged violation, the commissioner may then initiate appropriate legal action”, Mont. Code Ann. § 13-37-124(1).

8. The Commissioner, under authority granted by statute, files this action and a State of Montana district court has jurisdiction: “[a]ll [campaign practice] prosecutions must be brought in the state district court...” Mont. Code Ann. §13-37-113.

9. The above named defendants are subject to the jurisdiction of this Court.

¹ The COPP notes that Montana's Campaign Practices Act and the COPP's Administrative Rules have undergone recent revision due to the 2015 Legislature's enactment of the Disclose Act. The statutes and administrative rules in place during the 2012 election cycle will be referenced and used for this enforcement action.

VENUE

10. The Commissioner has authority to bring this Complaint (*see above*) and the Commissioner chose to bring this action in Lewis and Clark County. Montana law establishes venue for this Complaint before the Court of the 1st Judicial District, Lewis and Clark County: "...[a]ll prosecutions must be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County", Mont. Code Ann. § 13-37-113, emphasis added.

Factual Allegations

11. The paragraphs set forth above are realleged and incorporated as if set forth fully herein.

12. The above Defendants engaged in 2012 campaign activity in Montana elections related to the Republican primary election contest between Senator Bruce Tutvedt and Rollan Roberts II, Senate District 3.

13. The Commissioner determined in the Decision that sufficient facts existed to show that the Defendant violated the Montana Campaign Practices Act by engaging in direct mail election activity through the production and mailing of a letter to Montana voters with the violations including the following particulars:

- a. The Montana Prolife Coalition/Dr. Bukacek letter supported the election of Candidate Roberts and opposed Candidate Tutvedt.
- b. The letter constituted an election expense.
- c. The Montana Prolife Coalition was required to register, file, disclose, and report all election expenses with the COPP as required by Montana's Campaign Finance and Practices laws, Title 13, Montana

Code Annotated, chapters 35 and 37, and associated Administrative Rules of Montana.

14. The Sufficiency Decision in *Tutdvet v. Roberts, et al.* COPP-2012-CFP-047, *Welch v. Western Tradition Partnership*, COPP-2014-CFP-015, and *Welch v. National Right to Work*, COPP-2014-CFP-016, determined that sufficient facts existed to show that:

- a. The MPLC was a political committee required to register and report their campaign activity with the Office of the Commissioner of Political Practices, Mont Code Ann. § 13-37-201 and all associated Administrative Rules.
- b. That the election expense made by MPLC was an expenditure “expressly advocating for the success or defeat of a candidate”, Admin. R. Mont. 44.10.323.
- c. That contributions to and the expenditures of a political committee must be reported to the public pursuant to the provisions of Mont Code Ann. §§ 13-37-225, 226, 228, 229 and 230 and all associated Administrative Rules.
- d. That the MPLC failed to register as a political committee pursuant to the provisions of Mont. Code Ann. § 13-37-201; and
- e. That the MPLC failed to report and disclose election contributions and expenses pursuant to the provisions of Mont. Code An. §§ 13-37-229 and 230.
- f. That the MPLC failed to properly attribute the letter as required by Mont. Code Ann. § 13-35-225.

Failed to register,
Failed to report/disclose,
Failed to properly attribute

15. The Sufficiency Decision in *Tutdvet v. Roberts, et al.* COPP-2012-CFP-047, *Welch v. Western Tradition Partnership*, COPP-2014-CFP-015, and *Welch v. National Right to Work*, COPP-2014-CFP-016, is incorporated by reference and attached hereto as Exhibit 1.

VIOLATIONS OF MONTANA'S CAMPAIGN FINANCE AND PRACTICES ACT

16. The paragraphs set forth above are realleged and incorporated as if set forth fully herein.

17. As a political committee, MPLC had an obligation to comply with the provisions of, Montana Code Annotated, Title 13, chapters 35 and 37, and the associated Administrative Rules of Montana. The MPLC failed to meet its obligations in the following ways:

1. Failure to Register

18. The paragraphs set forth above are realleged and incorporated as if set forth fully herein.

19. The MPLC failed its duty to file an organizational statement with the Office of the Commissioner of Political Practices within 5 days after making an expenditure in the 2012 Montana election cycle, pursuant to Mont. Code Ann. § 13-37-201 and all associated Administrative Rules.

20. The failure of the MPLC to register as a political committee is a violation of Mont. Code Ann. § 13-37-201. This violation warrants a civil penalty against Montana Prolife Coalition pursuant to Mont. Code Ann. § 13-37-128.

2. Failure to Report and Disclose

21. The paragraphs set forth above are realleged and incorporated as if set forth fully herein.

22. As a political committee, the MPLC had an obligation to maintain current and accurate campaign accounts disclosing campaign contributions and expenditures, Mont. Code Ann. § 13-37-201, *et. seq.* and Mont. Admin. R. 44.20.501, *et seq.*

23. The Montana ProLife Coalition violated the above statutory provisions and associated administrative rules by failing to fully report campaign activity in Montana's 2012 election cycle which supported or opposed the a candidate for office, Mont. Code Ann. §§ 13-37-229 and 230.

24. The COPP requests the court to enter a joint and several a civil penalty judgment against the Montana ProLife Coalition in the amount of \$500 or three times the amount of the violation for each separate failure to report, whichever is greater, in accordance with Mont. Code Ann § 13-37-128(1).

3. Failure to Attribute

25. The paragraphs set forth above are realleged and incorporated as if set forth fully herein.

26. As a political committee the Montana ProLife Coalition and as an individual Dr. Bukacek had an obligation to attribute election materials pursuant to Mont. Code Ann. § 13-35-225.

27. The Montana ProLife Coalition and/or Dr. Annie Bukacek violated the above statutory provisions and associated administrative rules by failing to properly attribute campaign activity in Montana's 2012 election cycle, Mont. Code Ann. §13-35-225.

28. The COPP requests the court to enter a joint and several a civil penalty judgment against the Montana ProLife Coalition and Dr. Bukacek in the amount of \$500

or three times the amount of the violation for each separate failure to attribute, whichever is greater, in accordance with Mont. Code Ann § 13-37-128(1).

4. Reservation

29. The information and evidence that the Commissioner discovered during his investigation in support of his Sufficiency Decision, only revealed an independent expenditure by Montana ProLife Coalition and/or Dr. Anne Bukackek, without any evidence of coordination with a candidate.

30. The Commissioner hereby reserves the right to change the allegations and requests for relief in this Complaint should evidence be found through discovery in this matter that Montana ProLife Coalition and/or Dr. Anne Bukackek participated in illegal coordination with a candidate, Mont. Code Ann. § 13-35-227 and Mont. Admin R. 44.10.323, and 513. .

PRAYER FOR RELIEF

Wherefore, the Commissioner of Political Practices, in his official capacity, respectfully requests the Court to enter a joint and several judgment against the Montana ProLife Coalition and Dr. Annie Bukacek as follows:

1. For each separate violation Montana's Campaign Finance and Practices laws, Title 13, Montana Code Annotated, chapters 35 and 37, and associated Administrative Rules of Montana:

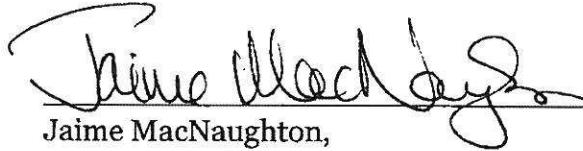
- a. Failure to register as a political committee, and
- b. failures to report and disclose contributions and expenditures, and
- c. Failure to attribute election material,

as set out herein above, that a joint and several civil penalty be assessed against the named Montana ProLife Coalition and Dr. Annie Bukacek in an amount equal to three times the amount each violation as shown at trial, or \$500 whichever is greater; and

2. The costs incurred by the Office of the Commissioner of Political Practices in bringing this action; and

3. For such other and further relief as the Court may deem just and appropriate.

Respectfully submitted this 8th day of March, 2016.



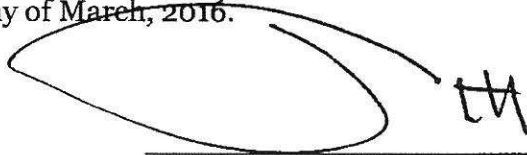
Jaime MacNaughton,
Attorney for the Commissioner of Political Practices

VERIFICATION

State of Montana)
 : ss
County of Lewis and Clark)

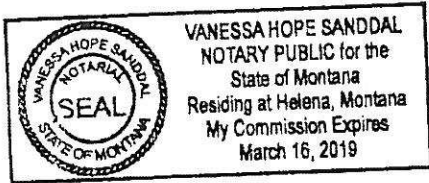
Jonathan R. Motl, in his official capacity as the Commissioner of Political Practices for the State of Montana, being first duly sworn, upon oath, deposes and says as follows: I am the Plaintiff in the foregoing Complaint. I have read the foregoing Complaint and the Findings of Sufficient Evidence to Show a Violation of Montana's Campaign Practices Act in *Tutdvet v. Roberts, et al.* COPP-2012-CFP-047, *Welch v. Western Tradition Partnership*, COPP-2014-CFP-015, and *Welch v. National Right to Work*, COPP-2014-CFP-016, attached hereto as Exhibit 1, the facts of the matter contained therein are true, correct and complete to the best of my knowledge and belief.

Dated this 8th day of March, 2016.



Jonathan R. Motl, Plaintiff
Commissioner of Political Practices

Signed and sworn to (or affirmed) before me this 8th day of March, 2016.



Vanessa Hope Sanddal
Vanessa Hope Sanddal
Notary Public for the State of Montana
Residing at Helena, Montana
My Commission Expires MARCH 16, 2019