



Montana Legislative Services Division
Office of Research and Policy Analysis

EXHIBIT 2
DATE 3/26/15
HB 594
PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

March 23, 2015

TO: Rep. Art Wittich
FROM: Sheri S. Scurr, Research Analyst
RE: Commissioner of Political Practices Decisions Concerning Frivolous Complaints
Information Request #3902

This memorandum responds to your request for research concerning what decisions have been issued by the Commissioner of Political Practices (COPP) that involve the dismissal of a complaint as frivolous.

The data I collected was with respect to the 2014 complaints. Prior to 2014, the Commissioner may have dismissed complaints for reasons akin to "frivolous", but standards for determining what constitutes a frivolous complaint were not developed until February 2014. In the COPP developed a list of "indica" for determining what constitutes a frivolous complaint in the *Lansgaard v. Peterson* decision, COPP 2014-CFP-008 and then applied those standards in 6 subsequent decisions.

In 2014, the COPP accepted 81 of 95 complaints. The 14 complaints that were not accepted were rejected primarily on the basis that the matter was not within the COPP's jurisdiction. Of the 81 complaints accepted, 21 were dismissed completely for being frivolous and 3 were partially as frivolous.

The 21 complete dismissals were published in the following decisions:

- *Lansgaard v. Peterson* COPP 2014-CFP-008 (this is the decision setting forth the indica of a frivolous complaint);
- *Lansgaard v. 18 Legislative Candidates* COPP 2014-CFP-006;
- *Lansgaard v. Brown* COPP 2014-CFP-010; and
- *Wells v. Lowy* COPP 2014-CFP-049.

The 3 partial dismissals were published in the following decisions:

- *Ponte v. Montana Base* 2014-CFP-012;
- *O'Neill v. Hansen* 2014-CFP-048; and
- *Kenat v. VanDyk* 2014-CFP-004.

I have attached copies of each of these decisions.

(more)

The following is an outline summary of the COPP's indica of a frivolous complaint, which developed primarily from the COPP's outline in the *Lansgaard v. Peterson* decision. The COPP noted in that decision that each of these indica would be applied on a case-by-case basis, that future cases may present facts that allow for additional indica, and that each of these indica may stand alone or together.

- The complaint demands an interpretation of law that restricts the base level participation of a contributor in a Montana political campaign that is contrary to the policy for participation set forth in the law.
- The complaint demands and interpretation of law that increases the disclosure burden on individuals beyond the scope/policy set forth in the law.
- The complaint is regarding a campaign error that was promptly corrected.
- The complaint focus on a minor technical error, such as providing a partial address or a partial disclosure of a contributor's employer.
- The complaint is without merit on it face because there is no credible support in policy or in law.

I hope this information is responsive to your request. If you need additional information or have questions about this material, please do not hesitate to contact me at 444-3596 or sscurr@mt.gov.

#