

## MEMORANDUM

Exhibit No. 9Date 4-20-2015

Administration

Bill No. SR 53

TO: Senator Dee Brown, Chair, and Members, Senate State Administration

FROM: Ed Argenbright, Ed.D, Former Commissioner of Political Practices (1993-1998)

Linda Vaughey, Former Commissioner of Political Practices (1999-2004)

SUBJECT: Confirmation, Jonathan Motl as Commissioner of Political Practices

We respectfully object to the confirmation of current Commissioner Motl. Please consider the following.

The statutes and laws under jurisdiction of the Commissioner of Political Practices (CPP), while written carefully and with specificity, leave broad discretion with the commissioner. During our tenures we did our very best to clarify requirements for candidates, committees, and other independent organizations, including political parties. Our emphasis was on facilitation of compliance for those who are by law required to report campaign contributions and lobbying expenses while shining a light, for the benefit of the public, on influences exerted on elected officials and lobbyists.

Our experiences were similar in many respects. Many candidates are confused by the language of statutes and rules governing their campaign activities. With few exceptions candidates were willing and eager to comply. For the few who intentionally tried to game the system, our investigations, decisions, and subsequent fines were issued with an even hand, irrespective of political party. We applied the same judiciousness to activities of others within our jurisdiction - lobbyists and public employees.

Under Mr. Motl's direction, the culture of the office of CPP has changed. His approach to handling of complaints is, oft times, heavy-handed. For example, neither of us would have considered trying to remove an elected official from office due to an interpretation of a violation focused on the reporting of mailing cost separately from the total contractual obligation that was reported.

Additionally we are concerned with the law of the land as issued by the Supreme Court decision in Citizen's United. It is the law we must follow. Yet, a strict interpretation and enforcement of Montana statutes has great potential to run afoul of the court's ruling. Moving forward toward the next significant election cycle in 2016, the effects of the ruling allowing corporate contributions is filled with complex decisions and interpretations, i.e. the question of coordination between a committee or individual making the contribution and the candidate or the candidate's committee. Another aspect of the decision is issue advocacy. Will interested people continue to be able to express their opinions on issues of the day as long as they don't expressly advocate for or against a candidate?

Sunlight is imperative. We don't want our elected officials to be bought and paid for. That said, we have seen the damage to a campaign when, for political gain, charges are made—both official and in campaign literature. It is the *public* that needs to be aware of the interest and who will benefit. A punitive system fraught with pitfalls has a chilling effect on potential candidates. Do we want to discourage qualified people to file for the opportunity to serve in elected office?

The public is not well served by a commissioner whose goal is to strictly interpret and enforce laws, which come close to limiting our free speech as guaranteed by the bill of rights. The public is not well served by a commissioner whose interpretation and punitive enforcement might discourage qualified people entering the political arena. Our citizen's legislature is one we should be able to count on for the best representation possible.

We hope you will take our concerns under consideration. An appointee with a focus on facilitating compliance might be the agent to improve the confidence Montanans need in their elections.