

State Administration and Veterans Affairs Interim Committee
Hon. Dee Brown, Chair
Box 201706
Helena, MT 59620-1706

Dear Members of the Interim Committee:

My name is Dave Skinner, from Kalispell. In real life, I'm a freelance writer, not quite a journalist. For now, I'm the token conservative opinionist for the Flathead Beacon, and write for several regional Paper Age glossy magazines you've probably never heard of.

Over the years, I've developed an interest in politics, and especially the fiscal kabuki that comes with politics at all levels. I spend a lot of time trying to figure out who is hiding the political salami. After all, money drives politics, and learning who has "invested" in an election outcome tells far more about the real issues in play than any political ad. People only give serious money when they're seriously motivated, ya know.

Part of watching the campaign kabuki is observing how Montana's minor-league, second-rate "professional" journalists report on the dance and dancers. I have been disappointed and frustrated by both ineptitude and bias on the part of our media "watchdogs" – I wish they would do a decent job so I wouldn't have to spend so much time dredging up the rest of the story.

In fact, a couple of years ago in the wake of Dave Gallik's resignation under fire, my frustration led me to do something really stupid: I applied for the COPP position. I applied not to actually get the job, but raise a stink about Montana's dysfunctional campaign oversight system, and how far behind the power curve it leaves Montana voters. No – I never even got called for an interview. True to form, the best candidate, emphatically NOT me, didn't get selected.

It is my understanding the Committee is considering recommendation for new laws governing the operations of the Commissioner of Political Practices Office under HJR1 authority. Obviously, given the revolving-door nature of the past several Commissioners and the fact that the Senate has not seen fit to confirm the past two, there are issues. But what are the real issues?

Commissioner Motl has done much to clear the backlog of complaints, but he has left some in the hopper that illustrate jointly and severally the problems facing the office. So, without getting into the specifics of the WIP/ATP related cases and the means by which the Commissioner acquired the evidence upon which he is basing his rulings and revisions, I would like to go over some of the older cases remaining, some of which have common threads, and all of which illustrate possible lines of inquiry in how to make the Political Practices office work better for Montana citizens.

To begin, five open cases are on hold, stayed by a Ninth Circuit injunction against federal Judge James Lovell's order of October 3, 2012 finding Montana's campaign limit statutes unconstitutional. Lovell's ruling was appealed to the Ninth Circuit October 9, and the Ninth issued a stay pending a hearing and ruling. These five complaints were filed (again, in a five-day time frame) over contributions made during the five day "unlimited" window, all by Democrats against Republicans.

Several other unresolved complaints from 2012 remain in the commissioner's in-box. The oldest, moldiest and stalest is:

Greenwood-Montana GOP versus Wright, filed February 1, 2012:

This one surprises me, as it appears a pretty simple matter of rotten record-keeping by the campaign treasurer of a relatively small state-level PAC, Montana Hunters and Anglers, with a tiny donor base, that made only a little ripple on the political ocean.

In short, in reporting the contributions of the handful of donors, MH&A PAC treasurer Beau Wright utterly butchered the name and address of MHAPAC's largest single donor (\$5,000 out of a total \$7,165 raised), one "S.P. Conrad" of Louisiana, whom Mr. Bowen Greenwood discovered does not exist. However, Greenwood was able to reasonably conclude the actual donor is actually Conrad S. P. Williams, III, a politically-active attorney in Louisiana.

Given that Montana law requires full and accurate reporting of all contributions over \$35, this mis-identification was quite the bookkeeping mistake by Mr. Wright. At a minimum, a timely ruling from the Commissioner stating that perhaps Mr. Wright isn't talented enough to be a campaign treasurer any more might be forthcoming, forthwith.

It may interest you to know that a week or so prior to the complaint being filed against Mr. Wright, he had applied for the vacant position of Montana Commissioner of Political Practices that had opened with the resignation of COPP David B. Gallik, an irony duly noted in the complaint filed by Greenwood-Montana GOP.

And there's some other interesting contextual aspects to the Greenwood complaint I will relate later.

Reid v. Dept of Justice and Bullock, filed October 17, 2012:

The DOJ reported testifying-lobbying on 12 bills, five as "informational" during the 2011 legislative session. However, the 161-page complaint, mostly short-form hearing minutes, alleges the Department of Justice (under then-Attorney General Steve Bullock) actually participated, as sponsor, opponent or proponent for at least 43 bills.

From the looks of the complaint packet, someone put a lot of time into tracking the lobbying of just one of many state-level agencies that devote considerable resources of staff time and salaries toward a presence in the legislative process. If the complaint is substantiated, then perhaps further inquiry into the level of lobbying by other state agencies is warranted – if only to find out if DOJ is an anomaly, or worse, if such high levels of lobbying is normal for all state government agencies, and underreporting of same is business as usual.

Essman vs. Patients and Families United, filed October 25, 2012:

PFU was actually a front for Patients for Reform Not Repeal, which in turn was almost solely supported (\$34,750, or 91% of all funding) by the Foundation for Constitutional Protection, an Austin, Texas "domestic nonprofit corporation" that exists to fund pro-pot initiatives in several states, or did, it is now inactive as of February 2013. Matthew M. Kleinman, Michael Kleinman (reported by Cannabis Culture as a "Texas head shop owner") and Robert E. Lee.

While I could not figure out who Matt Kleinman is, nor could I find anything as to the actual flesh and blood Robert E. Lee of Texas, but I did learn that General Robert E. Lee of Virginia liked to smoke weed. I was able to verify Michael Kleinman, who has given five figures year by year to pot legalization campaigns in a number of states, including Oregon and Montana. Wow, is his head shop that profitable, or is he just a money front for someone else?

Well-known Democratic operative and current John Bohlinger for Senate staffer Bob Brigham might know, as he was "Campaign manager for Patients for Reform. Not Repeal" and the contact person for the ads taken off air October 15.

The remainder of funding (\$3,321) came from "Montana First" in Missoula, for which Mr. Brigham was also the spokesman, according to both the Bozeman Chronicle and Montana Public Radio. Montana First itself received at least \$20,000 from Kleinman's FCP in April of 2012. Could it be that FCP through Montana First is actually PFRNR's sole source of support? Um, no, because PFRNR reported another \$50,000 from Drug Policy Action (New York) on October 13, 2012 in its report for October 25, 2012 – the day Essman filed his original complaint. \$45,000 of that went to buy ads from Media Strategies of Denver, CO.

As PFRNR treasurer Robert Brigham reported in November 2012 AFTER the election, PFRNR had only \$2,770 remaining. And no, don't ask me to figure out who DPA is, or who got hit by the ads or what they said. That's the job of the Commissioner of Political Practices, frankly.

In short, the Essman case shows plenty of the sort of funny-money, deadline-dancing kabuki that a commissioner of political practice should find fascinating, and which Mr. Motl writes so much about in his letters to the citizens of Montana. I'm also struck by the lack of interest and action considering that Mr. Motl is famous in Montana for his adversarial activism when it comes to funding from secretive out-of-state corporations. Here we have obviously poor disclosure, especially to the public that supposedly heard the radio ads. We also have a perfect example of how the current COPP system does not usefully facilitate timely disclosure – by far the largest flaw of the current system.

Dick/Montana Democrats Party v Republican State Leadership Committee, filed October 30, 2012:

The RSLC, which is registered with COPP as an "incidental committee," bought \$538,000 worth of ads supporting Republican AG candidate Tim Fox in his race against Democrat candidate Pam Bucy. These funds were dumped into Montana about the time of the Lowell ruling "window" but because the money was not given to Fox, the Ninth ruling apparently does not apply.

There are two entities involved, and Mr. Dick appears to have been confused as to WHICH RSLC was chewing through the money. Beside the "incidental" RSLC, there's a state-based RSLC Montana PAC having \$212 in assets, which has not been active.

However, the RSLC is a Federal 527, operating under federal law, which discloses its donors and expenditures at the federal level. And, according to Staci Goodé, its Virginia-based treasurer, the RSLC 527 reported no cash in hand as of November 24 after the election. Nor did it report any funds or transactions at all for the six week September/October 15 reporting period, zero dollars, even though the current RSLC website brags it is the "strongest and most effective national Republican organization" playing in state races, having spent \$27 million in 42 states in the 2009-10 cycle.

FEC filings available show only Election Communications Notice(s), five for the 2012 election cycle, for \$272,000 total? Where the heck did \$27 million go? This is common, I've seen federal records of many federal campaign entities which are just placeholders, slush funds and cash repositories. They come and go as needed.

Dick v RSLC sends a pretty clear signal that federally established political entities are beyond the reach of the Commissioner of Political Practices. It also signals that the political hacks who specialize in funny-money kabuki at the federal level do this stuff full-time and are pretty sophisticated. Kabuki is not a hobby, it's a profession on an enormous scale.

Tutvedt v Roberts, ATP, Taxpayers for Liberty and National Association for Gun Rights, filed December 3, 2012

Senator Bruce Tutvedt of Kalispell faced a primary challenge in his race and was subjected to mailings, some lacking proper attribution, with a fair number from different organizations being mailed from Colorado under the same postal permit, apparently used by the same direct-mail firm WTP/ATP used.

In his complaint, Senator Tutvedt actually produces a check copy showing he and his wife Linda actually donated \$35 (the maximum not requiring disclosure) in 2010 to WTP.

Given the activity by Commissioner Motl regarding WTP/ATP coordination, based on the meth-house documents, I find it surprising that no ruling has been forthcoming verifying whether or not the mystery mailers did in fact come from the same mail house as ATP used and is prima-facie coordination.

The issue of mail permits is a federal matter, however. The Postal Service apparently does not reveal mail permit holders' identification without a court order, and perhaps a clarification from USPS -- on whether the Montana COPP can make a request of either or both in-state and out-of-state mailing permit holders' identity under federal law -- is something this committee should explore.

Somehow unsurprisingly, Senator Tutvedt's primary opponent, Rollan Roberts III, filed a retaliatory complaint in early 2013 which is also on Mr. Motl's docket. Mr. Robert's complaint is heavy on discussion of an entity called MTBase, an entity now known as Montana Business Advocates for Sensible Elections -- which collected and spent funds between May and June, specifically May 25th to June 6th, very close to the primary election date of June 5, 2012.

Trouble is, MTBase's activities also generated a similar complaint from Senator Janna Taylor, who had MTBase ads run in favor of appointed state senator Carmine Mowbray, Taylor's opponent in the June 2012 primary.

Could the two MTBase complaints be decided together by the commissioner, as the issue of timely disclosure seems clear? Should there be a timely resolution? Probably, because the MTBase PAC is now promoting a "campaign finance reform" ballot initiative to "Stop Dark Money" for the 2014 election that grew out of the 2013 legislative session -- and the vote breakdown in the state Senate breaks down along a rather striking divide with known MT Base supporters firmly on one side of that divide. Hey, we citizens notice stuff sometimes.

Royston v Malone, filed December 13, 2012

This appears a sour-grapes complaint filed by the treasurer (Sheila Royston) of one of Mr. Malone's opponents Brad(ford) L. Wilson, a county road worker who lost a wage dispute complaint against Park County in 2010, in the general election (Park County now elects commissioners on a "nonpartisan" basis). Mr. Malone has made political contributions, \$75 to a Republican, state senator Ron Arthun.

Treasurer Royston is apparently related to Mr. Wilson in some manner, as Wilson campaign filings show Wilson and Royston share a mailing address and E-mails.

Incumbent commissioner Malone apparently raised a grand total of less than \$4,000 for his race, and the seven-claim complaint calls into question roughly \$630 not fully accounted for, including a parade permit and a printing bill. Two claims cover undisclosed expenditures and technical violations for Malone's campaign website, and two other claims concern a free website

made available to all commissioner candidates (including Wilson, who chose not to use the opportunity) as a reportable payment in kind of undetermined value.

Royston also filed another complaint in this race, over \$273 spent by 26 people who pooled funds to buy two newspaper ads in support of their boss and Park commissioner candidate Bruce Tinsley (not the Mallard Fillmore cartoonist). On July 30, 2013, this was found by Commissioner Motl to be in violation, but de minimis and not worth further action.

The two Royston complaints give rise to another issue, of perhaps putting some kind of threshold requirement on the dollar amount of improper campaign funding, reportage or political activity, say \$1,000 aggregate per election, or in small elections, fifty cents per vote cast.

Finally, I want to get into the contextual universe that our COPP, reformed or not, operates in. While there are internal structural and ideological problems, we still should consider how the sleazy world surrounding Montana oozes into our politics.

Montana Hunters and Anglers, More Evil Twins, Triplets, or Quads:

Senator Taylor's complaint against Montana Hunters and Anglers Political Action Committee stems from a mailer apparently signed as true and accurate by Joe Splinter, who was treasurer of MHAPAC after Beau Wright – the J in the flyer signature and on the Form C-6 filed May 24, 2012 (ending May 19) are quite similar. But the only corresponding entry that might possibly be the mailing and its expense is to Allegra Printing on Overland Avenue in Billings, \$2,380 for unspecified "printing." Against whom, exactly? That's not on the "purpose" line.

The subsequent C-6, filed October 24, covers June 21-October 20. The cash in hand numbers do not match between reports, meaning there is no continuity in the records posted to COPP, and no C-6 was filed for the hot period of the final days of the primary election between May 19, 2012 and June 21, 2012.

But that's not the interesting part. Federal Election Commission records reveal a federal Montana Hunters and Anglers Action!, an IRS 501(c)4 nonprofit headquartered at 550 Park Lane in Billings, a four-bedroom house, which according to a 2010 Big Sky Democrats blog entry, is the "home of Kari and Barrett Kaiser" --- who were hosting a kick-off party with special guest "Attorney General Steve Bullock!"

An FEC Form 5 filed by Barrett Kaiser (a former Max Baucus staffer who now works for Hilltop Public Solutions in its Billings office, which is not Barrett's house) shows a \$60,000 expenditure on October 26, 2012, which went to LUC Media of Marietta, GA (an office of what is now Canal Partners Media) to produce ads opposing Dennis Ray Rehberg, CPM in turn "boasts over a century of experience in Democratic and advocacy campaigns." This filing generated an inquiry from FEC in July of 2013 because "no contributions are disclosed."

MHAA treasurer Barrett Kaiser replied in a letter dated August 19, 2013 to senior campaign finance analyst Chris Jones of the FEC: "Please note that our organization did not accept any contributions to further any independent expenditure(s). Therefore we are not required to disclose the names of any donor to our organization."

Also registered at the Park Lane address is the American Hunters and Anglers Action Network, which has a Billings post-office box (2215, zip 59103) and has registered an Internet domain with a bare-bones website. It is a Montana public benefit corporation, registry D234080 – but citizens need to pay the Montana Secretary of State to learn who the principals are.

However, the really interesting Hunters and Anglers entity is Montana Hunters and Anglers Leadership Fund, current treasurer Dan Bailey – who is NOT the famed late Livingston fly shop

guy. As of June 2013, he was Pheasants Forever regional representative, and news stories of his new job report "Bailey was a senior consult/field coordinator for Montana Hunters and Anglers Action!"

MHALF initially filed with the FEC (registration C00493262) from Box 162 in Lewistown, "formed in accordance with DC Circuit Case Speechnow.org v. FEC, and FEC Advisory Opinions 2010-9 and 2010-11."

Box 162 is the same address as the state Montana Hunters and Anglers PAC run by Beau K. Wright. Besides the Greenwood COPP complaint noted above, Mr. Wright immediately fell afoul of FEC for failing to report activities in 2011, scoring a noncompliance warning from Debbie Chacoma of the FEC Reports analysis division.

MHALF's 2011 activity was not much, with a total of \$5,900 raised, with all but \$100 coming from the Tawney family: \$5,000 from Robin Tawney Nichols, widow of Montana conservationist Phil Tawney, Whitney Tawney (\$300, Ducks Unlimited lobbyist); and Land Tawney (\$500, National Wildlife Federation senior manager) – quite the family affair. The only expenses were for bank and post-office box fees.

Things remained a little slow at MHALF, with the only revenue for the first month of 2012 being a check from Missoula environmental attorney Jack Tuholske, for \$200. Again, FEC reprimanded MHALF for not filing correctly (quarterly), and MHALF's response of April 6, 2012 shows Wright still MHALF treasurer – after his application to be Political Practices Commissioner.

All of a sudden, on July 11, 2012, MHALF filed an amended report declaring \$363,121 in independent expenditures, paid to Waterfront Strategies of Washington, DC, for "TV Ad buy and Production" in opposition to Rep. Denny Rehberg. This report was signed by its new treasurer, Joe Splinter. The next day, Mr. Splinter formally notified FEC he was the new treasurer, re-filed Mr. Wright's handwritten April first-quarter report (FEC Form 3-X) electronically, as well as the second-quarter report showing an ending balance of \$5,804 on June 30th.

The next quarter, MHALF reported contributions of \$411,000, all but \$1,000 coming from the League of Conservation Voters on July 6th. While MHALF duly reported the first major expenditure on July 11, it did not identify LCV (a nonpartisan, 501c3 nonprofit) as the donor until October 9, 2012. Pretty impressive kabuki, I'd say. Oh, and that other \$1,000? That came from Barrett Kaiser of Hilltop Strategies.

What about Mr. Splinter taking over from Mr. Wright? Well, prior to that, he was a "development director" for Montana Conservation Voters – which in turn is a subsidiary operation of the League of Conservation Voters.

MHALF had \$10,639 in the bank at the end of September 2012, after cutting two checks to Waterfront Strategies – one on the 10th of July and the next the 19th of July – opposing Dennis Rehberg.

For the last election-period quarter, you won't be really surprised to know that MHALF was really, really busy - MHALF's post general filing of December 6, 2012 showed \$757,000 in new contributions and expenditures of \$766,543 – leaving an ending balance of \$1,097.43.

"retiree" Stephen Silberstein (a software millionaire) of Belvedere, California contributed \$25,000 on October 19.

The America Votes Action Fund (A liberal Super PAC out of DC) dumped in \$482,000 October 24 and another \$150,000 October 26. (LCV contributed \$1.041 million to this PAC in six different transactions within a week) Working for Working Americans (a trade union super PAC from Las Vegas) plowed in another \$100,000 on October 16.

MHALF made a 24 hour filing similar to MHAA on October 26, 2012 noting \$528,440 in four expenditures for mailings, web, and a huge TV buy opposing "Dennis Ray Rehberg."

The recipient companies were Brushfire Strategies (November 2, phone calls, \$42,000); Greenlight Media Strategies (October 26, mailers, \$146,358); Precision Network (October 26, \$9,500 for web ads), Three Pointes Media (October 26 and November 1, web ads, \$60,000 in two buys, and yep Waterfront Strategies again, (October 26, television, \$498,400).

This buy, according to Mike Dennison of Lee Newspapers, paid for TV ads telling viewers "Vote Cox. The Real Conservative." The ads were brilliant stuff, with Cox of course being Dan Cox, the Libertarian Senate candidate – but as reporter Dennison noted, "the treasurer of the Montana Hunters and Anglers Leadership Fund, Joe Splinter of Lewistown, could not be reached for comment." Apparently, Mr. Dennison has still not reached Mr. Splinter for comment. All told, MHALF spent, all against Denny Rehberg, \$1,172,864.22.

In 2013, MHALF has been mostly dormant, waking up to deposit a \$14,000 check from America Votes PAC on January 16, and change treasurers from Joe Splinter (who is employed as an "associate" at Hilltop) to Dan Bailey. MHALF has been essentially dormant except payments to its accounting firm, Anderson Zurmuhlen of Billings.

Who the heck is Waterfront Strategies? After all, according to Open Secrets, a political finance watchdog, Waterfront "billed more than \$81 million for political ad buys" in the 2012 election and is an internal branch of the political consulting firm GMMB, which none other than the Huffington Post called "the powerhouse media consulting shop that produces President Barack Obama's ads, and where Obama's top consultant there, Jim Margolis, boasts that he represents more Democratic senators than anyone else, among them Majority Leader Harry Reid." The bottom line is that Waterfront is a front to get around the issue of coordination. As a staffer from the Campaign Legal Center put it to Huffpo: "Kabuki that's done to conform with the form while putting the lie to reality."

Montana Business Advocates for Sensible Elections (MtBASE)

I could write pages about this group, but I'll spare you for now. MtBASE was a response to WTP/ATP's actions, a symptom of not only the timely-disclosure problem, but the problem caused by Montana's ridiculously strict limits on campaign contributions, an "emergency PAC" formed in a crisis by certain legislators of a certain party.

Since then, however, given their delusional call "Let's Stop Dark Money in Montana," it seems to me that MtBASE has not been particularly transparent with the public. For one thing, one cannot see the actual petition form to see what voters are being asked to sign. Furthermore, the Stop Dark Money PAC they support is subsisting on "loans" from MtBASE, over \$20,000 so far. Why not fund SDM directly? Oh, that'll clean things up, you bet.

Regardless of the merits of SB 375 and its "bipartisan" support, I feel it is the absolute height of folly to ask voters to read seven pages and 3877 words of arcane legislative language in the voting booth all under the false rubric that a yes vote will "Stop Dark Money."

As I have written here, it will not, SB-375/I-168 will be do as much good as an ant's fart against what is a hurricane of sleazy money. At "best," I-166 would only ensure the Commissioner's docket is crammed even more full of senseless and picayune technical complaints, while the larger problem of vast pools of secret slush money, shuffled by highly paid anonymous professionals, remains unaddressed. Color me amazed that a political vendetta would blind so many otherwise decent people to reality.

Recess Appointments:

David Gallik resigned January 18, 2012, having been appointed May 11, 2011 by Governor Brian Schweitzer after the Montana Senate failed to confirm any of the candidates the Governor had nominated in the regular appointment-to-term process for the Commissioner's office.

From the beginning, Mr. Gallik made it publicly clear his heart wasn't in the job, and he was going to continue his private practice, despite the fact that MCA doesn't allow him to do so unless on leave. It didn't work out, but Gallik's tenure in retrospect is illuminative.

Gallik would probably have not passed Senate muster. He was treasurer of the Democratic Legislators Alumni Association (a state PAC) when it passed through around \$50,000 in Montana Democratic Party funds, including \$23,000 to two other PACs that meddled in legislative races in Flathead County in 2010.

Clearly, Gallik had direct experience in playing the kabuki game, and aside from the moonlighting that got him in trouble, was already a supremely poor choice for ensuring that Montana politics be played on level ground, yet Governor Schweitzer chose him.

But completely unknown to the public, and not revealed until last summer by Fox News, was the story that Counselor Gallik was treasurer of a federal super PAC at the same time he was Montana Commissioner of Political Practices. Wow, now that's moonlighting, which Governor Schweitzer was almost certainly aware of.

The PAC, the Council for a Sustainable America, was funded with Democratic Governors' Association funds (four months after Governor Schweitzer became DGA chairman) and was headquartered out of the same Helena mailbox as the "Join Operation Brian Schweitzer" PAC. The Council made some minor expenditures, then in 2011 the remaining funds (about \$300,000) went to the so-called American Sustainability Project.

And ya know who was secretary of the American Sustainability Project? None other than Conrad S.P. Williams, III - the Louisiana attorney that Montana Hunters and Anglers treasurer Beau Wright mis-identified even though he was MHA's largest contributor. Imagine that - but it makes one wonder why that Greenwood GOP v Wright COPP complaint is still in Mr. Motl's in-box. I certainly am wondering.

Thank you for your time and consideration. If you have questions or want to know of other slimy stuff I've dredged up, feel free to contact me as shown below.

Dave Skinner
Box 1486
Whitefish, MT 59937
406 249 0468
daskinner@centurytel.net