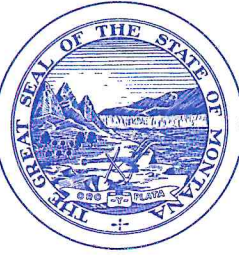


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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December 3, 2025

Commissioner Brad Molnar
PO Box 517
Laurel, MT 59044

Re: *Molnar v. Bukacek*, COPP-2025-ETH-NAF-010

Commissioner Molnar,

This letter serves to inform you that your recent complaint alleging violations of the Code of Ethics by Commissioner Bukacek has not been accepted for filing. After careful consideration, this complaint is being returned to you for the reasons outlined below.

In order to determine if a complaint shall be accepted as filed and proceed to a hearing or summary decision, I first determine if the complaint contains sufficient allegations based in fact. *Merwin v. Bullock*, 2020-ETH-004. Previous commissioners have held "conclusory allegations are insufficient," and declined to accept ethics complaints which "lack a factual based assertion that there has been a violation of the code of ethics." *Merwin* at 5, 7.

MCA § 2-2-136(1) (2023) outlines COPP's authority and responsibilities when considering complaints. Specifically:

The commissioner may request additional information from the complainant or the person who is the subject of the complaint to make an initial determination of whether the complaint states a potential violation of this part (b); [and] [t]he commissioner may dismiss a complaint that is frivolous, does not state a potential violation of this part, or does not contain sufficient allegations to enable the commissioner to determine whether the complaint states a potential violation of this part. *Id.* at (c).

Procedure and Background

In your complaint, you allege Commissioner Bukacek violated MCA § 2-2-121 (2023) by conducting her private business from her PSC office. Commissioner Bukacek's activities which you contend support this allegation, include bringing a valise or suitcase into the PSC office, phone conversations overheard as you passed Commissioner Bukacek's office" and your inability to use "the copier because she was in the copy room for long periods of time."

In support of your complaint, you presented COPP with a box of paper ostensibly retrieved from the Public Service Commission's trash. I informed you that because COPP does

not “investigate” ethics complaints in the traditional sense, it would be inappropriate for you to leave all evidence in COPP’s custody, nor did COPP have the time and manpower to photocopy all provided documents and return the originals to you, as you requested. At that time, I did not review the documents but rather informed you that I would review the complaint, and if necessary, request additional information or documentation as allowed by MCA § 2-2-136. In accordance with COPP practices, I reviewed the complaint and provided Commissioner Bukacek with a copy.

On November 7, 2025, I provided a letter to both parties summarizing the complaint allegations and explaining the process for addressing ethics complaints. At that time, I also requested a “sampling of original evidence, including a brief description of items retrieved from the PSC copy room” on the three dates identified in your complaint.” Similarly, I invited Commissioner Bukacek to provide any information she deemed relevant.

Also on November 7, 2025, Commissioner Bukacek provided COPP with a response to the allegations in the complaint as well as quotes provided by you to the Daily Montanan. In her response, Commissioner Bukacek states, inter alia, that she brought discarded paper to the PSC office for recycling; her medical office is primarily electronic; she receives copies of medical records via fax and rarely has cause to copy them; and she does not have remote access to patient medical records, and therefore it is impossible for her to conduct her business “other than the occasional text or phone call” when away from her medical office.

Following COPP’s request, on November 8, 2025, you provided a description of documents, primarily fax cover sheets, retrieved from the PSC copy room. You did not provide the requested samples, instead stating you were “concerned these documents are likely subject to HIPAA confidentiality regulations” and asking “for [my] commitment not to disclose them to any person other than Commissioner Bukacek or her counsel unless a court orders otherwise.”

In a follow-up letter on November 18, 2025, I informed you MCA § 2-6-1502 (2023) mandates State agencies eliminate the unnecessary use of personal information and limit access to such information to those individuals authorized by law. Consequently, in this matter, it would be inappropriate for COPP to accept anyone’s private information. I further cautioned you the submitted complaint and any accepted original evidence or documents create a public record, and although COPP conducts a legal review of any documents released subject to a public records request, it was your responsibility to redact any personal information from documents prior to their submittal to COPP.

On November 20, 2025, you then provided 13 fax cover sheets as evidence, stating these were “as generic as possible.” On that same date, I notified you that fax cover sheets “do not provide evidence Commissioner Bukacek is using public resources for her private business” and provided you the opportunity to supplement your complaint with additional evidence which “clearly indicate[s] Commissioner Bukacek was using Public Service Commission resources in her private business.” You replied by email on November 20, 2025, that you were “not quite sure what would constitute “evidence” if hundreds of cover sheets from medical facilities” did not, particularly when they were found “hundreds of miles from her office” in the PSC copy room when Commissioner Bukacek has a waste can in her office.

On November 21, 2025, COPP staff initiated a telephone conversation with Commissioner Bukacek. In this conversation Commissioner Bukacek asserted she often uses the PSC copy room to print articles and other documents germane to her work as a public service commissioner but cannot recall any circumstance in which she used the copy function on the equipment in the copy room. She also stated there is a waste bin in her office but no recycling bin.

Commissioner Bukacek also stated that when her office receives a fax, they place superfluous materials aside, and because her office doesn't produce enough wastepaper to require pick-up, she later takes these items to her PSC office to place in the recycling. She also confirmed that her medical office is primarily electronic but does maintain paper copies of files depending on the facts and circumstances of each particular patient. However, she rarely – if ever - has cause to copy any of these files.

On November 25, 2025, you then provided 13 pages of purported evidence, including instructions for completing a POLST (Physicians Orders for Life Sustaining Treatment), a receipt for office furniture, and advertisements from a pharmaceutical company and a physical therapist. On most of these items you had hand-written the date they were retrieved and “business correspondence.” Also included was an inquiry from a treatment center regarding a scheduling a follow-up appointment which appears to include a patient's name and birthdate which you had properly redacted.

Determination

A submitted ethics complaint may be dismissed for filing if it is frivolous, does not state a violation of the Code of Ethics, or the “charges [are] so insufficiently supported by allegation as to not state even a “potential” violation. *MRSCC v. Bullock*, 2022-COPP-ETH-012 at 13, citing *Montana Democratic Party v. Martz*, COPP-2002-ETH.

Although there is a “low” threshold in determining whether or not a complaint states a “potential [ethics] violation” under the commissioner's authority as described in MCA § 2-2-136, the burden nevertheless falls on the complainant to make assertions and present cognizable claims. *Stienbach v. DeTienne* (2016) at 2. Previous commissioners have not accepted complaints for filing if there is an “absence of alleged facts” or failure “to provide factual support.” *Valazquez v. Galt*, COPP-2004-ETH, *Tschida II v. Bullock and O'Leary*, COPP-2019-ETH-003.

This “insufficiently supported” standard, as described by prior commissioners, is met here. In your complaint you state it is “obvious” Commissioner Bukacek was performing “her business functions while at the PSC offices,” but the evidence provided does little to support your allegations. Likewise, your contention that Commissioner Bukacek's valise or suitcase was full of patient documents that she then copied and returned to her medical office is pure speculation. Although you have inaccurately marked advertisements and scrap paper as “business correspondence,” even if such a description were accurate, it would only indicate they had been disposed of. No evidence has been provided that indicates Commissioner Bukacek copied medical records or other correspondence.

On the other hand, Commissioner Bukacek's statement that her office is primarily electronic, and therefore her office does not produce enough disposable paper to support recycling pick-up at her office, paired with the fact that at the PSC, there is a recycling bin in the copy room but not in Commissioner's Bukacek's office, supports Commissioner Bukacek's assertion that she simply brought recycling from her medical office to her PSC office, provides a reasonable and frankly more plausible explanation than the assumption that any medical doctor has the time or need to photocopy numerous medical records.

Code of Ethics

None of the facts provided support a finding that Commissioner Bukacek "used public time, facilities, equipment, state letterhead, supplies, personnel, or funds for [her] private business purposes" in violation of MCA § 2-2-121.

Statutes must be interpreted to align with the related portions of the code. A whole act must be read together and where possible, full effect will be given to all statutes involved." *Delaney & Co. V. City of Bozeman*, 2009 MT 441 at ¶ 22. The Code of Ethics lays out a Statement of Purpose in MCA § 2-2-101. Specifically, the Code of Ethics "prohibit[s] conflict between public duty and private interest." MCA 2-2-103 additionally provides that the penalties provided in the Code of Ethics apply to public officials that abuse the public trust. See *Frasier v. Charlton and Simonich*, COPP-2005-ETH at 4. The State of Montana additionally provides guidelines for the occasional personal use of state resources and specifically requires employees to carry out their duties for the good of the citizens of Montana. *Montana Operations Manual*.

Read as a whole, the Code of Ethics does not allow me to conclude recycling services are included in the use of state resources for private business purposes. Some legal gymnastics may allow others to reach a conclusion that use of the employer provided recycling service is use of public resources for personal gain but that is a jump I refuse to make. The State of Montana makes a distinct effort to support recycling, statutorily mandating recycling by agencies under MCA § 75-10-805 (2023) and providing quarterly recycling drives to employees.

To interpret Commissioner Bukacek's recycling efforts as a violation of the Code of Ethics would be overbroad and provide an additional reason to reject this complaint. *Frasier* at 5. If there is a pecuniary benefit to Commissioner Bukacek's medical practice because she brings recycling to her PSC office, rather than stopping at other drop-off locations, the benefit is de minimis at best, does not promote a business purpose, and is easily outweighed by the environmental benefits provided to the people of Montana by recycling.

I do acknowledge that an employee routinely bringing outside recycling to the workplace could create issues or inconveniences if it increases costs or interferes with workflow or recycling produced in the office. However, this does not indicate a violation of the Code of Ethics and should be addressed by each individual agency as the agency deems necessary and appropriate.

Summary

No evidence provided adequately supports an allegation that Commissioner Bukacek is conducting her private business from her PSC office or otherwise using the PSC copier/printer to

further her private business purposes. While some materials retrieved from the Public Service Commission's recycling bin potentially contain names and other identifying information, if the single item provided to COPP is subject to HIPAA, COPP is not the proper venue to address any potential HIPAA violation or related issues.

For the reasons outlined above, your complaint is not accepted for filing with COPP and I am returning it to you.

Regards,

A handwritten signature in blue ink that reads "Chris J. Gallus". The signature is written in a cursive, flowing style.

Chris J Gallus,
Commissioner of Political Practices