

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Rowse v. Smarter Monforton Growth No. COPP 2023-CFP-003	DECLARATION OF MERIT OF COMPLAINT RESOLUTION OF COMPLAINT BY PROMPT REMEDIAL ACTION BY THE COMMITTEE DISMISSAL OF COMPLAINT
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On April 18, 2023, Andrew Rowse of Bozeman, MT filed a campaign practices complaint against Smarter Monforton Growth, a registered political committee. The complaint alleged that Smarter Monforton Growth failed to include the ‘paid for by’ attribution message on certain campaign communication as required.

FINDING OF FACTS

The facts necessary for a determination in this matter are as follows:

Finding of Fact No. 1: Smarter Monforton Growth filed a C-2 Statement of Organization with COPP as a political committee with the COPP on April 7, 2023. An individual named Michael Nelson is listed as the committee

treasurer on this Statement of Organization (Commissioner's Records).

Finding of Fact No. 2: On April 18, 2023, COPP received a copy of this complaint via U.S. Mail. In reviewing the complaint, Commissioner Gallus determined the attribution complaint was merited, as one (1) campaign communication opposing a school bond issue- a printed material posted on a mailbox in an undisclosed location- did not contain any required 'paid for by' attribution messaging, and two (2) others- a campaign postcard and a campaign yard sign- did not include the name of the committee's designated treasurer (Michael Nelson) as part of the included attribution (Commissioner's Records).

Finding of Fact No. 2A: Also on April 18, 2023, prior to COPP's receipt of this CFP Complaint, an individual named Christopher Fudacz contacted COPP via email on behalf of the Smarter Monforton Growth political committee to self-report attribution deficiency pertaining to campaign postcards and yard signs. The email notified COPP that committee treasurer information was omitted from the attribution included on approximately 2,587 campaign postcards and 100 campaign yard signs. The email also included a picture of the postcard with committee Treasurer Michael Nelson's name added to the attribution message, as well as notice that the committee was actively working to add committee treasurer information to the attribution message included on each campaign yard sign (Commissioner's Records).

Finding of Fact No. 3: On April 19, 2023, COPP sent email correspondence to Smarter Monforton Growth notifying the committee that this formal attribution complaint had been received. The committee was informed that the attribution complaint was merited, as one (1) campaign communication- the printed material posted on a mailbox in an

undisclosed location- did not include any 'paid for by' attribution messaging as required. The committee was also informed that: You will need to add full attribution messaging, including the name of the designated committee treasurer, to all copies of this communication remaining in your possession and email a photo to the COPP showing this addition. Distribution of any unattributed copies of this communication must be halted until the full 'paid for by' attribution message, including the name of the designated committee treasurer, is added. For any copies of this communication that have already been publicly distributed without inclusion of the full attribution message, COPP would require the committee provide a written statement that includes a picture of the communication, the full 'paid for by' attribution message required under Mont. Code Ann. §13-35-225(1), the quantity of unattributed communications distributed, and the date or dates unattributed copies of the communication were distributed.

...

If you did not engage in the activity relating to 'Violation #1', I [Commissioner Gallus] would appreciate having any additional information you can provide as to potential parties involved. It is in everyone's best interest to immediately resolve the situation in the manner described above, and COPP will work with you, or other parties, to get this accomplished.

(Commissioner's Records).

Finding of Fact No. 4: On April 19, 2023, individual Chris Fudacz contacted COPP via email on behalf of Smarter Monforton Growth to address this attribution complaint. This response stated that (emphasis added):

Violation #1 involves the same postcards that were mailed. Some of these postcards were taped to mailboxes, with only one side of the postcard being presented. The 'paid for by' information was on the back of these postcards and not visible unless they were removed, which a few of them were prior to our removal of them. All of the postcards that were taped to mailboxes have been removed as of 12:24pm on 4/19 by members of our committee.

This message acknowledged 'paid for by' attribution requirements, stating

“We [Smarter Monforton Growth] will not post anything like this moving forward that does not have the full 'paid for by', treasurer and address information of our committee” (Commissioner’s Records).

DISCUSSION

Under Montana law “all election communications, electioneering communications, and independent expenditures must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication”, with any financed by a political committee specifically requiring “the name of the committee, the name of the committee treasurer, deputy treasurer, secretary, vice chairperson, or chairperson, as designated pursuant to 13-37-201(2)(b), and the address of the committee or the named committee officer”, Mont. Code Ann. §13-35-225(1)(b). This complaint references copies of three (3) election communications financed by Smarter Monforton Growth opposing a school bond issue that fail to include a complete attribution (FOF No. 2). In this case, Smarter Monforton Growth did file a C-2 Statement of Organization with COPP pursuant to Mont. Code Ann. §13-37-201(2)(b), naming Michael Nelson as the committee treasurer (FOF No. 1). COPP notes that, as a ballot issue committee organized specifically to oppose a school bond issue in a second-class school district- the Monforton School District in Gallatin County- Smarter Monforton Growth is exempted from registering as a political committee or filing finance reports with COPP under

Mont. Code Ann. §13-37-206(1)(b).¹ Despite this exemption from registration and reporting, Montana’s attribution requirements still apply in full.

Montana law requires an accelerated review (“as soon as practicable”) of a campaign practice complaint alleging an attribution violation. In this matter, COPP staff contacted the Smarter Monforton Growth committee the morning of April 19 to notify them of the attribution deficiencies presented in the complaint (FOF No. 3). COPP additionally memorializes that Smarter Monforton Growth had already contact COPP to self-report and remedy attribution deficiencies pertaining to campaign postcards and campaign yard signs (FOF No. 2A). After receiving notice from COPP that a formal attribution complaint had been filed, Smarter Monforton Growth again contacted COPP via email to explain that all remaining unattributed material referenced in the complaint “been removed” from public display (FOF No. 4).

The law governing complaints of failure to properly attribute political communications provides precise directions to the Commissioner:

1. The Commissioner is to immediately assess the merits of the attribution complaint, §13-35-225(5), MCA. The Commissioner found merit to the attribution complaint and hereby memorializes that finding.
2. The Commissioner shall notify the committee of the merit finding, requiring them to bring the material into compliance, §13-35-225(6)(a), MCA. In this matter COPP was able to notify the Smarter Monforton Growth committee of the attribution deficiency via email conversations held on April 19, 2023.
3. The committee financing the material is provided 2 business days to bring the material into attribution compliance, §13-35-

¹<https://opi.mt.gov/Portals/182/Page%20Files/School%20Finance/Elections/Guidance/FY2023/District%20Classification%20Report%202023.pdf?ver=2022-12-13-140013-957>

225(6)(a)(i), MCA. In this matter, the Smarter Monforton Growth committee has either remedied or removed all unattributed communications distributed as appropriate.

Under Montana law the committee with an attribution deficiency is relieved of a campaign practice violation, provided they promptly carry out the attribution correction. Smarter Monforton Growth has met these duties by accepting responsibility for the unattributed material, remedying or removing unattributed communications as appropriate, and acknowledging that attribution must be included on any future communications distributed (FOF Nos. 2A, 4). Smarter Monforton Growth is therefore relieved of a campaign practice violation under Mont. Code Ann. §13-35-225(6). The complaint is dismissed.

As Smarter Monforton Growth is now fully aware of the requirement for attribution of election communications, no further leniency will be provided regarding further communications. Any subsequent violations will be referred to the Gallatin County Attorney pursuant to Mont. Code Ann. §13-37-124, and subject to penalty as provided under Mont. Code Ann. §13-37-128.

Normally the Commissioner first provides Decisions to the parties and then the public on the following day. The Legislature, however, has set very tight timelines on this sort of attribution complaint. Accordingly, the Commissioner provides this Decision to the parties and public on the day issued.

DATED this 18th day of April, 2023.



Chris J. Gallus
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