

Cook, Scott

From: Doug Kary <dougkary@yahoo.com>
Sent: Tuesday, October 20, 2020 3:45 PM
To: CPP Compliance
Subject: [EXTERNAL] Attribution of Election Material
Attachments: Kary-Dennis complaint.pdf; Terry Dennis mailers.pdf; Attribution on election material.docx

Commissioner Mangan,
Please find attached files (3) concerning Terry Dennis campaign mailers.
Will follow up with documents mailed via USPS.

Doug Kary

Commissioner of Political Practices
1209 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
Phone: 406-444-2942
Fax : 406-444-1643
www.politicalpractices.mt.gov

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2020 OCT 21 A 9:54

HAND DELIVERED

SIGNED/NOTARIZED

Campaign Finance and Practices

Complaint Form (08/17)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Douglas L Kary
Complete Mailing Address 1943 Lake Hills Drive
Billings, MT 59105
Phone Numbers: Work _____ Home 406-698-1478

Person or organization against whom complaint is brought (Respondent):

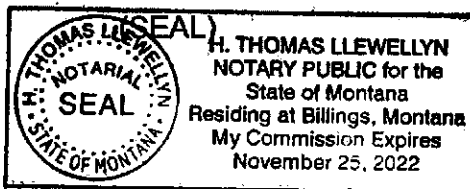
Complete Name Terry Dennis
Complete Mailing Address P.O. Box 50545
Billings, MT 59105
Phone Numbers: Work _____ Home 406-860-2168

Please complete the second page of this form and describe in detail the facts of the alledged violation.

Verification by oath or affirmation

State of Montana, County of YELLOWSTONE

I, Douglas Kary, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.



Douglas L Kary
Signature of Complainant

Subscribed and sworn to before me this 20th day of October, 2020

Thomas Llewellyn
Notary Public

My Commission Expires:

Complaint Form

Statement of facts:

Candidate, Terry Dennis has distributed via US Postal Service to voters in House District 44 without declaring what "party" he is representing. The only declaration is his mailing address and phone number. Knowing that this House District is a partisan race and has voted in Republican candidates for a number of years, he is intentionally deceiving the public by not declaring his party.

I have enclosed a copy of Rule 44.11.601 Attribution on Election Material

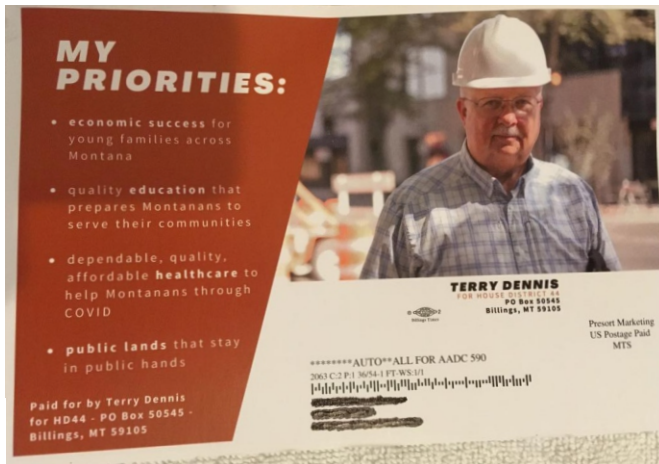


Side A

Rec'd week of
October 7th

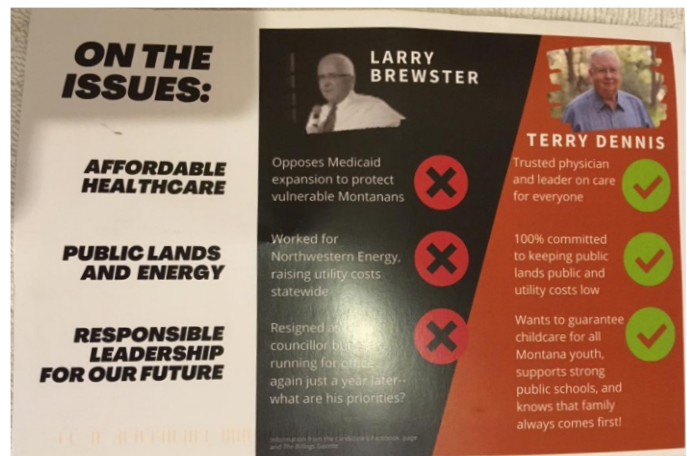


Side B



Side A

Rec'd week of
October 14



Side B



Montana Secretary of State Corey Stapleton

Rule: 44.11.601

[Prev](#) [Up](#) [Next](#)

Rule Title: **ATTRIBUTION ON ELECTION MATERIAL**



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Department: [SECRETARY OF STATE](#)
Chapter: [COMMISSIONER OF POLITICAL PRACTICES](#)
Subchapter: [Campaign Practices](#)

Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

[Printer Friendly Version](#)

44.11.601 ATTRIBUTION ON ELECTION MATERIAL

(1) Pursuant to [13-35-225](#), MCA, election communications, electioneering communications, and independent expenditures (referred to collectively herein as "election materials") must disclose the person who paid for the election materials, by including the appropriate attribution language set out in (2).

(2) All attributions must include the words "paid for by" followed by the appropriate identifying information. For election materials financed by:

(a) a candidate or a candidate's campaign, the attribution must include either:

- (i) the name and address of the candidate; or
- (ii) the name and address of the candidate's campaign.

(A) An attribution using the name of the candidate's campaign must include the first and last name of the candidate if the name of the campaign does not include at least the candidate's last name.

(B) Additional information, such as the name of the campaign treasurer, may be included within the attribution language, but it is not required.

(iii) Examples of an appropriate attribution for a candidate are:

Paid for by John Smith
P.O. Box 10000
Helena, MT 59605

or

Paid for by Smith for Senate
P.O. Box 20000
Helena, MT 59605

(b) a political committee, the attribution must include:

(i) the name of the committee, the name of the committee treasurer, and the address of either the committee or its treasurer.

(ii) An example of an appropriate attribution for a political committee is:

Paid for by Support Our Schools
Sarah Jones, Treasurer
P.O. Box 30000
Helena, MT 59605

(c) a political committee that is a corporation or union, the attribution must include:

(i) the name of the corporation or union, its chief executive officer or equivalent, and the physical address of the corporation or union's principal place of business.

(ii) Examples of an appropriate attribution for a political committee that is a corporation or union are:

Corporation:

Paid for by Pretty Good Manufacturing Co.
Susan Smith, CEO
1000 Industry Drive
Helena, MT 59605

Union:

Paid for by Montana Grocery Workers Union
James Miller, President
2000 Shopping Cart Avenue
Helena, MT 59605

(d) For election materials funded or facilitated solely by an individual acting on his or her own behalf, the attribution must include the name and address of the individual who paid for the materials.

(3) All election materials are required by 13-35-225, MCA, to clearly and conspicuously include the appropriate attribution language. To ensure compliance with this statutory directive, the commissioner establishes the following requirements and specifications:

(a) for written election materials, including but not limited to those published, broadcast, or otherwise disseminated through print media or digital media, as defined in these rules:

(i) the reader or observer should have no difficulty locating and reading the attribution language;

(ii) the attribution language should be of sufficient type size to be clearly readable by the recipient or reader of the communication;

(iii) the language should be contained in a printed area or segment set apart from the other contents of the election materials;

(iv) the language should be printed with a reasonable degree of color contrast between the background and the printed statement; and

(v) in the case of yard signs or other campaign signs, the attribution language should appear on the side of the sign that contains the campaign message.

(b) for broadcast election materials, including but not limited to those published, broadcast, or otherwise disseminated through broadcast media or digital media, as defined by these rules:

(i) the attribution language for broadcast election communications containing audio content shall be spoken in the communication;

(ii) the attribution language for broadcast election materials containing visual content shall be displayed in the communication. The language may simultaneously be spoken, but it is not required.

(4) In partisan candidate elections, election communications and electioneering communications financed by a candidate or a political committee organized on the candidate's behalf must state either the candidate's party affiliation or include the candidate's party symbol.

(a) To meet the party affiliation disclosure requirement, election materials should state the name or a reasonable and comprehensible abbreviation of the name of one of the qualified political parties in Montana: "Democrat," "Libertarian," or "Republican."

(b) To meet the party symbol disclosure requirement, election materials should include either the symbol for one of the qualified political parties in Montana or the capitalized first letter of one of the parties. Acceptable symbol designations are:

(i) Democrat: the donkey symbol or "D";

(ii) Libertarian: the Statue of Liberty symbol or "L"; or

(iii) Republican: the elephant symbol or "R."

(c) The commissioner may determine that other language or a symbol included within a particular election material complies with the statutory directive, as long as there is some objective basis for the use of the language or symbol and the identity of the party is readily discernable.

(d) The party affiliation or symbol may appear with the attribution language, or within the body of the message content in the election materials.

(5) Printed election material that contains information about another candidate's voting record must include all the information specified in 13-35-225, MCA. The signed statement referred to in the statute may consist of a facsimile of an actual hand signature or an electronic signature. An acceptable electronic signature will be in the following format: "/s/ John Smith." An electronic signature that appears on written election materials shall have the same effect as an actual hand signature or a facsimile of a hand signature.

(6) Election materials consisting of documents or other articles of campaign advertising that are too small for the inclusion of the attribution language and other information required by 13-35-225, MCA, need not include the information; however, the person who financed the election material must file a copy of the material with the commissioner, together with the information required by the statute, at the time of its public distribution. For purposes of this rule, "at the time" means at or before the earliest date and time the election material is scheduled to be published, broadcast, or disseminated to the public.

(7) If information required by 13-35-225, MCA, is omitted from election materials, or if information required by (6) is not filed with the commissioner, the person who is responsible for or who financed the material shall, upon discovering the deficiency:

(a) file notification of the deficiency with the commissioner within two business days of discovery;

(b) bring the election material into compliance or file the information required by (6); and

(c) withdraw any noncompliant material from circulation as soon as possible.

(8) If notification required by (7)(a) is not provided and the commissioner becomes aware of the existence of election material that does not comply with 13-35-225, MCA, whether by

complaint or otherwise, the commissioner will contact the person who is responsible for or financed the material and provide notice of the deficiency.

(a) The notice will require that the material be brought into compliance within the time limits provided in 13-35-225, MCA.

(b) The notice will state that failure to bring the material into compliance will subject the person who financed the election materials to a civil penalty action pursuant to 13-37-128, MCA.

(c) The noncompliant election material must not be disseminated or broadcast until it has been corrected and brought into compliance.

(9) The office of the commissioner, when notified, will work informally with candidates, political committees, and others to ensure compliance with the requirements of 13-35-225, MCA, and to promptly bring deficient election materials into compliance.

The December 2015 poll of the Montana Legislature on proposed NEW RULE VI (ARM 44.11.601) ATTRIBUTION ON ELECTION MATERIAL in MAR Notice No. 44-2-207 was as follows: 31 Senators voted the proposed rule is consistent with legislative intent; 15 Senators voted the proposed rule is contrary to legislative intent; 52 Representatives voted the proposed rule is consistent with legislative intent; and 33 Representatives voted the proposed rule is contrary to legislative intent.

History: 13-37-114, MCA; IMP, 13-35-225, MCA; NEW, 2016 MAR p. 28, Eff. 1/9/16.)

| MAR Notices | Effective From | Effective To | History Notes |
|-----------------|----------------|--------------|------------------------------------------------------------------------------------------------------------------|
| <u>44-2-207</u> | 1/9/2016 | Current | History: <u>13-37-114</u> , MCA; <u>IMP</u> , <u>13-35-225</u> , MCA; <u>NEW</u> , 2016 MAR p. 28, Eff. 1/9/16.) |

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For questions about the organization of the ARM or this web site, contact sosarm@mt.gov.