

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Kary v. Dennis No. COPP 2020-CFP-045	DECLARATION OF MERIT OF COMPLAINT MEMORIALIZATION OF NOTIFICATION OF MERIT TO CANDIDATE RESOLUTION OF COMPLAINT BY PROMPT REMEDIAL ACTION BY CANDIDATE DISMISSAL OF COMPLAINT
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On October 20, 2020 Doug Kary of Billings Montana, filed a campaign practices complaint against Terry Dennis of Billings, Montana. The complaint alleged that candidate Dennis did not include a full “Paid for by” attribution message on campaign materials as required.

FINDING OF FACTS

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

Finding of Fact No. 1: Terry Dennis filed a C-1 Statement of Candidate as a candidate for House District 44 in Yellowstone County with the COPP on February 5, 2020. (Commissioner’s Records).

Finding of Fact No. 2: On October 21, 2020, the COPP sent email

notice to candidate Dennis notifying him that a Complaint had been received. The notice informed candidate Dennis that the attribution complaint was merited, as the material mentioned by the Complaint did not appear to contain the full 'paid for by' attribution message as required and provided the candidate two business days to bring the material into compliance. Notice of attribution deficiency was also provided to the candidate via telephone that same day. (Commissioner's Records).

Finding of Fact No. 3: On October 22, 2020, candidate Dennis emailed the COPP in response to this complaint. Candidate Dennis's email stated that the lack of attribution on the campaign materials was an oversight. Candidate Dennis included the amount, location, timing and full attribution message of both materials included in the complaint. (Commissioner's Records).

DISCUSSION

Under Montana law "all election communications...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." §13-35-225(1) MCA. The complaint attached photos of candidate Dennis' two different mailers. Both election communications failed to include a full attribution (Paid for by), as the Party symbol was omitted.

Montana law requires an accelerated review ("as soon as practicable") of a campaign practice complaint alleging an attribution violation. Accordingly, Candidate Dennis was immediately contacted by the Commissioner's office. Candidate Dennis responded saying that the omission of an attribution was an oversight. Candidate Dennis followed up the conversation with the COPP with an email taking responsibility for the oversight and corrective measures taken (FOF No. 3).

The law governing complaints of failure to properly attribute political brochures 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 (FOF No. 2).
2. The Commissioner shall notify the candidate of the merit finding, requiring the Candidate to bring the material into compliance. §13-35-225(6)(a), MCA. The COPP, by both telephoning the Dennis campaign and providing Notice of Non-compliant Election Communication, did this and hereby memorializes the Notice (FOF No. 2).
3. The Candidate is provided 2 business days to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA. (FOF No. 2).

Under Montana law the Candidate with the attribution deficiency is relieved of a campaign practice violation, provided he promptly carries out the attribution correction. Candidate Dennis has met these duties (FOF No. 3) and is therefore relieved of a campaign practice violation under §13-35-225(6), MCA. The Complaint is dismissed.

Normally the Commissioner first provides Decisions to the parties and 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 it is made.

DATED this 22nd day of October, 2020.



Jeffrey A. Mangan
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