

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Luckey v. Gianforte No. COPP 2020-CFP-031	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 July 22, 2020, Sandi Luckey of Helena, MT filed a campaign practices complaint against Montana Gubernatorial candidate Greg Gianforte. The complaint alleged that candidate Gianforte did not include the required “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: Greg Gianforte filed a C-1 Statement of Candidate as a Republican candidate for Governor of Montana with the COPP on June 7, 2019. (Commissioner’s Records).

Finding of Fact No. 2: On July 22, 2020, the COPP sent a letter to

candidate Gianforte notifying him that this Complaint had been received. The letter informed candidate Gianforte that the attribution complaint was merited, as the material mentioned by the Complaint did not appear to contain the 'paid for by' attribution message as required, and provided candidate Gianforte two business days to bring the material into compliance. Notice of attribution deficiency was also provided to candidate Gianforte's campaign Treasurer, Lorna Kuney, via both telephone and email. (Commissioner's Records).

Finding of Fact No. 3: On July 24, 2020, Jake Eaton emailed the COPP on behalf of candidate Gianforte. This email stated that the lack of attribution was an oversight and that the campaign had halted "any further distribution" of the unattributed material. It also noted that future distribution of this or similar material would include the required attribution statement. The email stated that "the campaign produced 500 of these books" and that "approximately 400 were distributed from 07/10/20 through 07/22/20 (the date we were notified by your office that the error had occurred)". It also included an attribution statement of "Paid for by Greg for Montana, Republican, P.O. Box 877 Helena, MT 59624". (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. Ms. Luckey's complaint attached a copy of a candidate Gianforte' mailer. The Gianforte campaign election communication failed to include an attribution (Paid for by).

Montana law requires an accelerated review ("as soon as practicable") of a campaign practice complaint alleging an attribution violation. Accordingly, Candidate Gianforte was immediately contacted by the Commissioner's office. Candidate Gianforte responded saying that the omission of an attribution was an oversight. Candidate Gianforte 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 Gianforte 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 Gianforte 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 27th day of July, 2020.



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