

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Liechty v. Mell No. COPP 2022-CFP-006	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 May 2, 2022, Jason Liechty of Hamilton, MT filed a campaign practices complaint against Joan Mell of Corvallis. The complaint alleged that candidate Mell did not include the full “Paid for by” attribution message on campaign material as required.

FINDING OF FACTS

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

Finding of Fact No. 1: Joan Mell filed a C-1A Statement of Candidate as a candidate for election to the position of County Attorney in Ravalli County with the COPP on March 9, 2022. (Commissioner’s Records.)

Finding of Fact No. 2: On May 2, 2022, COPP sent email correspondence to

candidate Mell notifying her that this Complaint had been received. The letter informed candidate Mell that the attribution complaint was merited, as a campaign business card material mentioned by the Complaint did not appear to contain the full 'paid for by' attribution message as required, and provided candidate Mell 2 business days to bring the material into compliance by providing quantity, date of distribution, and attribution messaging information.¹ (Commissioner's Records.)

Finding of Fact No. 3: On May 2, 2022, candidate Mell emailed the COPP in response to this Complaint. This response included a picture of candidate Mell's 2 inch by 2 inch business card material, as well as a statement that:

I purchased 500 business cards on April 13, 2022 for \$77.51. I began distributing them April 15, 2022 while campaigning and have distributed approximately 100 to date. I anticipate distributing the remaining number throughout the campaign. The attribution for these business cards is "Paid for by Give 'Em Mell – Republican – 623 S. First Street Hamilton, MT 59840 Ravalli County US.

(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 a photo of a candidate Mell campaign card. The election communications 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 Mell was immediately contacted by the Commissioner's office (FOF

¹ The business card material was determined to be "too small" for the full paid for by attribution message "to be conveniently included", 13-35-225(3), Mont. Code Ann.

No. 2). Candidate Mell responded saying that the omission of an attribution was an oversight, took responsibility for the oversight and took corrective measures to remedy (FOF No. 3), including providing the Commissioner's office the necessary information on quantity and distribution on material already in distribution.

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 (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 Mell campaign and providing Notice of Non-Compliant Election Communication, did this and hereby memorializes the Notice (FOF No. 2).
3. The Candidate is provided 48 hours to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA. (FOF No. 3).

Under Montana law the Candidate with the attribution deficiency is relieved of a campaign practice violation, provided he/she promptly carries out the attribution correction as provided by statute. Candidate Mell 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 2nd day of May, 2022.



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