

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Pederson v. McKenzie No. COPP 2022-CFP-007	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, Vera Pederson of Big Timber, MT filed a campaign practices complaint against Catherine McKenzie, also of Big Timber. The complaint alleged that candidate McKenzie did not include partisan affiliation 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: Catherine McKenzie filed a C-1A Statement of Candidate as a Republican candidate for election to the position of County Clerk and Recorder in Sweet Grass County with the COPP on March 16, 2022. (Commissioner's Records.)

Finding of Fact No. 1A: Sweet Grass County's 2022 county elections are partisan elections. (Commissioner's Records.)

Finding of Fact No. 2: On May 2, 2022, COPP sent email correspondence to candidate McKenzie notifying her that this Complaint had been received. The letter informed candidate McKenzie that the attribution complaint was merited, as the campaign sign material mentioned by the Complaint did not appear to contain partisan affiliation as required, and provided candidate McKenzie 2 business days to bring the material into compliance by adding partisan affiliation. (Commissioner's Records.)

Finding of Fact No. 3: On May 2, 2022, candidate McKenzie emailed the COPP in response to this Complaint. This response included a picture of a campaign yard sign supporting candidate McKenzie with partisan affiliation added, as well as a statement that "Here is a photo of the sign with partisan affiliation. At this time I only had 10 signs out and they all have been corrected". (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 McKenzie campaign sign. The election communication failed to include a complete 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 McKenzie was immediately contacted by the Commissioner's office (FOF No. 2). Candidate McKenzie 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 McKenzie 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 McKenzie 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 3rd day of May, 2022.



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