

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Regier v. Montana DSA No. COPP 2022-CFP-032	DISMISSAL
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On November 4, 2022, Matt Regier of Kalispell, MT filed a campaign practices complaint against Montana DSA. The complaint alleged that certain campaign material financed by Montana DSA failed to include the full ‘paid for by’ attribution statement as required, that Montana DSA failed to timely or appropriately register as a political committee in Montana, and failed to timely or appropriately file campaign finance reports disclosing expenditures made.

SUBSTANTIVE ISSUES ADDRESSED

Proper attribution of political communications

FINDINGS OF FACT

The foundational facts necessary for this Decision are as follows:

Finding of Fact No. 1: According to its organizational Facebook page, Montana DSA is a group of “active democratic socialists who live in Montana...Most of use are members of the Democratic Socialists of America (DSA)”.¹ The last post made on Montana DSA’s Facebook page is dated June 29, 2022, and the page does not appear to have run any paid advertisements in 2022. Montana

¹ https://www.facebook.com/montanadsa/?ref=page_internal

DSA also has a Twitter profile, however they have not made a new post on that platform since July 6, 2019.²

Montana DSA did not register as a political committee in the state of Montana by filing a C-2 Statement of Organization with COPP at any time during election year 2022. (Commissioner's Records)

Finding of Fact No. 2: On November 4, 2022, COPP sent email correspondence to Montana DSA notifying them that this Complaint had been received. The message informed Montana DSA that the attribution complaint was merited, as the campaign text message mentioned by the Complaint did not appear to include the full 'paid for by' attribution statement, and provided the committee twenty-four (24) hours to bring the material into compliance if they were responsible for the material. (Commissioner's Records)

Finding of Fact No. 2A: On November 9, 2022, COPP sent follow-up correspondence regarding this Complaint, specifically requesting a written response including applicable 'paid for by' attribution information for the campaign text messages and information pertaining to the quantity of campaign text messages sent and their cost, to Montana DSA via email. (Commissioner's Records)

Finding of Fact No. 3: Montana DSA did not respond to either COPP's November 4 or November 9 email correspondence or otherwise provide any sort of written response to this Complaint within the timeframe requested by COPP. (Commissioner's Records)

Finding of Fact No. 4: On November 18, 2022, Mike Meloy of the Meloy Law Firm emailed COPP's attorney on behalf of Montana DSA with a response to this complaint. The response provided by Mr. Meloy indicated that the campaign text messages noted in this Complaint were paid for by Montanans Against LR-131, a ballot issue committee, not Montana DSA. The response included an attribution message of "paid for by Montanans Against LR-131, Amanda Miller, Treasurer, PO Box 2021, Missoula, MT 59806" that he said should have accompanied the campaign text messages, and stated they had been reported as an expenditure of that committee on a C-7E Notice of Pre-Election Expenditures filed with COPP. (Commissioner's Records)

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https://twitter.com/Montana_DSA?fbclid=IwAR0udHk6ZnOrkOy6tzaVcGYikCbP04vgm63y2_JurlfJCXoJoInv6n8E3Cg

Finding of Fact No. 4A: Montanans Against LR-131 filed a C-2 Statement of Organization with the COPP as a ballot issue committee on September 13, 2022. On November 4, 2022, Montanans Against LR-131 filed a C-7E Notice of Pre-Election Expenditures dated November 2, 2022 through November 4, 2022 that included an expenditure for “TEXT MESSAGES TO VOTERS”. (Commissioner’s Records)

Finding of Fact No. 5: After receiving Mr. Meloy’s November 18 correspondence identifying Montanans Against LR-131 as the financers of the campaign text message/s in question, COPP sent email correspondence to that committee on November 28, 2022. This message requested Montanans Against LR-131 provide the quantity and date information for their unattributed campaign text messages. (Commissioner’s Records)

Finding of Fact No. 5A: On November 29, 2022, Montanans Against LR-131 provided COPP with quantity and date information for four (4) separate campaign text messages sent by the committee. (Commissioner’s Records)

DISCUSSION

Attribution

Under Montana law all “election communications, electioneering communications, or independent expenditures financed by a political committee” must include a ‘paid for by’ attribution statement followed by the name of the committee, the name of the committee treasurer/other committee officer and the address of the committee or the named committee officer, §13-35-225(1)(b), MCA. The complaint attached photo/s of a campaign text message allegedly sent by Montana DSA urging opposition to LR-131 that failed to include the full ‘paid for by’ attribution message.

Montana law requires an accelerated review (“as soon as practicable”) of a campaign practice complaint alleging an attribution violation. Accordingly, Montana DSA was immediately contacted by the Commissioner’s office (FOF

No. 2). When Montana DSA failed to respond to this message, COPP again reached out via email (FOF No. 2A).

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 committee of the merit finding, requiring the committee to bring the material into compliance. §13-35-225(6)(a), MCA. The COPP, by providing Notice of Non-compliant Election Communication, did this and hereby memorializes the Notice (FOF No. 2).
3. The committee is provided 24 hours to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA.

Under Montana law the committee with the attribution deficiency is relieved of a campaign practice violation, provided they promptly carry out the attribution correction. In this case, COPP was later provided with a response indicating that a committee other than Montana DSA had financed the specific election communication in question (FOF No. 4). The committee that financed the communication- Montanans Against LR-131- was required to attribute this communication, not Montana DSA. The allegation is hereby dismissed.

The Commissioner's office was provided with the committee responsible and the correct attribution message in the response (FOF No. 4). The COPP reached out to Montanans Against LR-131 and requested additional information, quantity and date (FOF No. 5). Montanans Against LR-131

provided the information as requested (FOF No. 5A) and on file as required for non-attributed material.

Committee registration and reporting

The complainant in this matter also alleges that Montana DSA failed to both timely and properly register as a political committee with COPP and file committee finance reports disclosing expenditure/s.

Mont. Code Ann. § 13-1-101(32), provides the following definition for the term “political committee”:

"Political committee" means a combination of two or more individuals or a person other than an individual who receives a contribution or makes an expenditure:

- (i) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;
 - (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or
 - (iii) to prepare or disseminate an election communication, an electioneering communication, or an independent expenditure.
- (b) Political committees include ballot issue committees, incidental committees, independent committees, and political party committees.
- (c) A candidate and the candidate's treasurer do not constitute a political committee.
- (d) A political committee is not formed when a combination of two or more individuals or a person other than an individual makes an election communication, an electioneering communication, or an independent expenditure of \$250 or less.

Political committees are required to register with COPP by filing form C-2, the Statement of Organization, and are required to file periodic finance reports

disclosing contributions received and expenditures made, Mont. Code Ann. §§ 13-37-201 and 226.

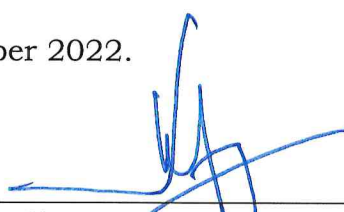
As stated in its November 18, 2022 response, Montana DSA did not finance the campaign text messages noted in this complaint (FOF No. 4). Instead, COPP determines that Montanans Against LR-131, a registered ballot issue committee, financed the material (FOF Nos. 4, 4A). Based on this information, COPP determines that Montana DSA does not qualify as a political committee in Montana, and would not be required to register and report. COPP further notes that Montanans Against LR-131 reported pre-election expenditures for campaign text messages on finance reports filed with COPP (FOF No. 4A).

The allegation that the Montana DSA failed to file and report as a Montana political committee is hereby dismissed.

DECISION

The Commissioner dismisses the complaint.

DATED this 30th day of November 2022.



Jeffrey A. Mangan
Commissioner of Political Practices
Of the State of Montana
P.O. Box 202401
1209 8th Avenue
Helena, MT 59620
Phone: (406)-444-3919