

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Kapinos v. MacFarlane No. COPP 2018-CFP-041	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 August 27, 2018, Barbara Kapinos of Bozeman filed a campaign practices complaint against David ‘Scott’ MacFarlane, also of Bozeman. The complaint alleged that candidate MacFarlane did not provide all required Attribution information on campaign signs promoting his candidacy.

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. Kapinos’s complaint attached a photo of a campaign sign identified as “Scott MacFarlane for County Commission”. The candidate MacFarlane literature piece failed to include a full attribution by not including the political party and campaign address portion of the attribution.

Montana law requires an accelerated review (“as soon as practicable”) of a campaign practice complaint alleging an attribution violation. Accordingly, Candidate MacFarlane was immediately contacted by the Commissioner’s office. Candidate MacFarlane responded saying that the omission of a complete attribution was an oversight and would ensure the complete attribution was remedied on all campaign signs, 10 in number. Candidate MacFarlane followed up the conversation with the COPP with an email taking responsibility for the oversight, corrective measures taken, and an image of a corrected campaign sign.

The law governing complaints of failure to properly attribute political signs provides precise directions to the Commissioner:

1. The Commissioner is to immediately assess the merits of the Complaint. §13-35-225(7)(a), MCA. The Commissioner found merit to the Complaint and hereby memorializes that finding.
2. The Commissioner shall notify the candidate of the merit finding, requiring the Candidate to bring the signs into compliance. §13-35-225(7)(a), MCA. The COPP, by telephoning Candidate MacFarlane and discussing the attribution issue and

requirements, did this and hereby memorializes the Notice.

3. The Candidate is provided an unspecified period of time to bring the signs into attribution compliance (§13-35-225(7)(b), MCA). By this Decision the Commissioner declares his satisfaction that the Candidate has acted promptly and properly to correct the attribution deficiency.

Under Montana law the Candidate with the attribution deficiency is relieved of a campaign practice violation, provided he promptly carries out the attribution correction as promised. Candidate MacFarlane has met these duties and is therefore relieved of a campaign practice violation under §13-35-225(7)(b), 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 4th day of September, 2018.



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