

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

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| Titus v. Kuntz, Crissafulli, and Braden No. COPP 2018-CFP-007 | DECLARATION OF MERIT OF ATTRIBUTION COMPLAINT DISMISSAL OF COMPLAINT |
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On April 30, 2018, Becky Titus, a resident of Glendive, Montana, filed a complaint against Duane Kuntz, Frank Crisafilli, and Kip Braden, residents of Glendive, Montana. The Complaint alleges that the three individuals failed to properly attribute campaign signs.

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. Titus’s complaint alleged the identified signage was missing an attribution, attributions had changed, and

was unable to determine who paid for the signage. Upon contact, the candidates stated the signage belonged to each individually, that they paid for the materials, and each would update the attribution to meet Montana's attribution requirements.

There is no evidence the individuals combined funds or spent more than \$250 in an effort to support or oppose a candidate or ballot issue. Further, each resident stated they spent their own funds and/or equipment and materials.

§13-1-101

(31) (a) "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

Montana law requires an accelerated review ("as soon as practicable") of a

campaign practice complaint alleging an attribution violation. Accordingly, citizens Kuntz, Crisafilli, and Braden were immediately contacted by the Commissioner's office. Each citizen responded saying that the omission of a complete attribution was an oversight and would ensure the complete attribution was remedied on their signs currently posted.

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 of the merit finding, requiring the Candidate or Committee to bring the signs into compliance. §13-35-225(7)(a), MCA. In this case, no Candidate or Committee were found to be involved, rather, the matter involved individual citizens practicing their First Amendment rights.

Under Montana law there is no specific provision to assess a campaign practice attribution violation against an individual. In this case, the Commissioner contacted the individuals involved, discussed adding the appropriate attribution, and in response, the individuals stated they would carry out the attribution correction. The Complaint is hereby 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 May, 2018.



Jeffrey A. Mangan
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