

THE STATE OF MONTANA

Commissioner of Political Practices 1209 Eighth Avenue Post Office Box 202401 Helena, MT 59620-2401 Phone: 406-444-2942 Fax : 406-444-1643 www.politicalpractices.mt.gov

Campaign Finance and Practices

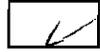
Complaint Form (08/17)

FOR OFFICE USE ONLY

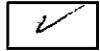
RECEIVED

2020 MAY 28 A 10:51

COMMISSIONER OF POLITICAL PRACTICES HAND DELIVERED



SIGNED/NOTARIZED



Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name: Tux for Montana, John Perkins
Complete Mailing Address: PO Box 1618, Helena, MT 59624
Phone Numbers: Work (425) 533-6266, Home

Person or organization against whom complaint is brought (Respondent):

Complete Name: Troy Downing
Complete Mailing Address: PO Box 6668, Bozeman, MT 59771
Phone Numbers: Work (406) 451-1475, Home

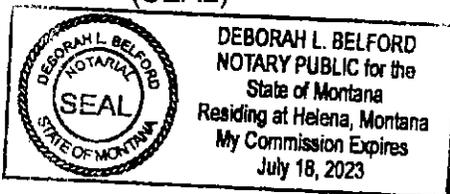
Please complete the second page of this form and describe in detail the facts of the alledged violation.

Verification by oath or affirmation

State of Montana, County of Lewis and Clark

I, John Perkins (Tux for Montana), being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

(SEAL)



Signature of Complainant

Subscribed and sworn to before me this 28 day of May, 2020.

Notary Public Deborah L Belford

My Commission Expires: 07/18/2023

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

See Attached.

Complaints must be:

- signed
- notarized
- delivered in person or by mail.

Dear Commissioner,

I am writing to file an ethics complaint against Troy Downing in violation of the Clean Campaign Act MCA 13-35-402. For the month of May Troy Downing ran an ad called "Fox in Hen House" where he claims that his competitors are industry insiders. The version of the advertisement ran prior to 5/23 (not in the 10-day fair notice window), competitor names were not mentioned. However, in a new version titled "foxy rev", which started airing on 5/27 (In the 10-day fair notice window) did have his competitors named. He had his first posting of the advertisement on 5/25 on Facebook. As a campaign we did not receive a *"final copy of campaign advertising in print media, in printed materials, or by broadcast media that is intended for public distribution in the 10 days prior to an election day."* There is also a new expenditure for the Downing campaign for a negative TV ad titled "Tux for Montana." This advertisement has no creation expenditure for it listed in CERS.

We argue that the advertisement ran prior to 5/23 is *not* considered "identical material" to the published broadcast because it did not specifically name his opponents.

Campaign finance records show the advertisement which was paid for by Troy Downing was produced to run 5/22/20 to 6/2/20. This campaign finance statement is incorrect in itself. Upon review on the FCC public file, no revision to any of his broadcast schedules were published prior to 5/22/20 to accommodate a new advertisement. Using logic, if the ad was produced and delivered by Friday, 5/22/20 (the time the expense was incurred), there is no way the advertisement would have made it into the logs for broadcast stations to be broadcast on television on 5/22/20. The earliest the advertisement could have run would be 5/23/20, within the 10-day period. FCC records do show that buys were placed by Troy Downing with AxMedia on 5/26/20 for the time period of 5/27/20 to 6/2/20, which falls in the 10-day fair notice period.

No advertisements purchased prior to 5/22/20 included the new advertisement "Foxy Rev" or "Tux for Montana". No documents filed with the FCC for broadcast flights booked prior to 5/23/2020 included revisions to accommodate the new version of the advertisement. The earliest run date of the ad would be 5/23. Campaign finance records corroborate this statement.

The advertisement was first noticed in the Missoula TV market on the station KPAX during the 5:30PM-6:00PM time slot on 5/27/20. No notice was given to the Tuxbury campaign. (Pictures attached; video available upon request). Ad was spotted on KECI during the 8:00PM-9:00PM timeslot on 5/27/20. A schedule placed on 5/26/20 for said ad to run 5/27/20 to 6/2/20 is attached with station KECI as an example of the campaigns blatant disregard for Montana election law.

I urge the commissioner to act on unethical campaign practices such as these. With the number of violations by the Downing campaign, we ask for your immediate and complete review of the blatant disregard of Montana law.

Scott Tuxbury
Tux for Montana



Troy Downing

May 25 at 11:51 AM · 🌐



Have you seen our newest ad?

Montana can do better than two insurance industry insiders.



Entity	Employer	Election	Date	In-Kind Description	In-Kind Value
Downing, Troy B PO Box 6668, Bozeman, MT 59771	Political Candidate Self Employed	Primary	05/21/2020	30 Second TV Ad Buy "Tux for Montana" (05/27 - 06/02) for Ax Media Productions	\$38,396.00
Strategic Perception Inc 6158 Mullholland Highway, Hollywood, CA 90068	Primary	30 Sec TV Ad "Foxy Rev" post production and re-editing	TV AD	05/22/20 - 06/02/20	05/22/2020 \$1,765.00





KECI+KCFW Combo
 340 West Main St
 Missoula, MT 59802

Ax Media
 1251 NW Briarcliff Pkwy
 Suite 85
 Kansas City, MO 64116

Contract # 4381478

Schedule Dates 05/27/20-06/02/20
Advertiser Troy Downing For State Auditor-R (136503)
Agency Ax Media (18799)
Product POLITICAL CANDIDATE (ns) (1186)
Brand candidate (1011042)
Salesperson Katz/DAL, Dallas (4021)
Sales Office Katz Dallas
Buyer Name Taylor, Fernie,
Phone/Fax /
CPE 198/265/1403
Account Types National/Political Candidate Agency BRD
Billing Type Standard
Comments

Date Entered 05/26/20
Last Modified 05/26/20
Entered By Leslie Stoll-Oneill
CO-OP No
External # ECR26926887
Demo
Order Type Normal
Package Deal
Commission % 15.00
Commission \$849.75
Net Total \$4,815.25
Sales Tax

KECI+KCFW Combo (KECI+KCFW)		
By Broadcast Month	Spots	Rate
May. 2020	36	\$4,320.00
Jun. 2020	12	\$1,345.00
Grand Total:	48	\$5,665.00

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1.0	Normal Line / SPOT	05/30/20-05/30/20	3	:30	6A- 8A (MST)	1						X		1	\$35.00	\$35.00	KECI+KCFW Combo (KECI+KCFW)	Saturday Today	5/26/20
2.0	Normal Line / SPOT	05/31/20-05/31/20	3	:30	8A- 9A (MST)	1							X	1	\$30.00	\$30.00	KECI+KCFW Combo (KECI+KCFW)	Sun Today	5/26/20
3.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	11A- 12P (MST)	1			X					1	\$25.00	\$25.00	KECI+KCFW Combo (KECI+KCFW)	The Doctors	5/26/20
4.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	11A- 12P (MST)	1				X				1	\$25.00	\$25.00	KECI+KCFW Combo (KECI+KCFW)	The Doctors	5/26/20
5.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	11A- 12P (MST)	1					X			1	\$25.00	\$25.00	KECI+KCFW Combo (KECI+KCFW)	The Doctors	5/26/20
6.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	11A- 12P (MST)	1	X							1	\$25.00	\$25.00	KECI+KCFW Combo (KECI+KCFW)	The Doctors	5/26/20
7.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	6:30P- 7P (MST)	1				X				1	\$85.00	\$85.00	KECI+KCFW Combo (KECI+KCFW)	Entertainment Tonight	5/26/20
8.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	6:30P- 7P (MST)	1					X			1	\$85.00	\$85.00	KECI+KCFW Combo (KECI+KCFW)	Entertainment Tonight	5/26/20
9.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	6:30P- 7P (MST)	1	X							1	\$85.00	\$85.00	KECI+KCFW Combo (KECI+KCFW)	Entertainment Tonight	5/26/20
10.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	4P- 5P (MST)	1			X					1	\$45.00	\$45.00	KECI+KCFW Combo (KECI+KCFW)	Ellen	5/26/20
11.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	4P- 5P (MST)	2				X				2	\$45.00	\$90.00	KECI+KCFW Combo (KECI+KCFW)	Ellen	5/26/20
12.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	4P- 5P (MST)	1	X							1	\$45.00	\$45.00	KECI+KCFW Combo (KECI+KCFW)	Ellen	5/26/20
13.0	Normal Line / SPOT	05/31/20-05/31/20	3	:30	10P- 10:30P (MST)	1							X	1	\$250.00	\$250.00	KECI+KCFW Combo (KECI+KCFW)	News at 10pm	5/26/20

CONFIRMATION CONTRACT

Accepted-Agency/Advertiser:	Date:	Accepted-Station:	Date:	Comments
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The parties intend for the Standard Advertiser Terms and Conditions ("Terms") located at... <http://sbgj.net/?p=1224> ... to be part of their agreement, and the sale of advertising is expressly subject to said Terms.



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340 West Main St
Missoula, MT 59802

Ax Media
1251 NW Briardliff Pkwy
Suite 85
Kansas City, MO 64116

Contract # 4381478

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Agency Ax Media (18799)
Product POLITICAL CANDIDATE (ns) (1186)
Brand candidate (1011042)
Salesperson Katz/DAL, Dallas (4021)
Sales Office Katz Dallas
Buyer Name Taylor, Fernie,
Phone/Fax /
CPE 198/265/1403
Account Types National/Political Candidate Agency BRD
Billing Type Standard
Comments

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Last Modified 05/26/20
Entered By Leslie Stoll-Oneill
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External # ECR26926887
Demo
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Package Deal
Commission % 15.00
Commission \$849.75
Net Total \$4,815.25
Sales Tax

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14.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	10P- 10:35P (MST)	1			X					1	\$250.00	\$250.00	KECI+KCFW Combo (KECI+KCFW)	News at 10	5/26/20
15.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	10P- 10:35P (MST)	1				X				1	\$250.00	\$250.00	KECI+KCFW Combo (KECI+KCFW)	News at 10	5/26/20
16.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	10P- 10:35P (MST)	1					X			1	\$250.00	\$250.00	KECI+KCFW Combo (KECI+KCFW)	News at 10	5/26/20
17.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	10P- 10:35P (MST)	1	X							1	\$250.00	\$250.00	KECI+KCFW Combo (KECI+KCFW)	News at 10	5/26/20
18.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	6P- 6:30P (MST)	1			X					1	\$235.00	\$235.00	KECI+KCFW Combo (KECI+KCFW)	News at 6PM	5/26/20
19.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	6P- 6:30P (MST)	1				X				1	\$235.00	\$235.00	KECI+KCFW Combo (KECI+KCFW)	News at 6PM	5/26/20
20.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	6P- 6:30P (MST)	1					X			1	\$235.00	\$235.00	KECI+KCFW Combo (KECI+KCFW)	News at 6PM	5/26/20
21.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	6P- 6:30P (MST)	1	X							1	\$235.00	\$235.00	KECI+KCFW Combo (KECI+KCFW)	News at 6PM	5/26/20
22.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	7A- 9A (MST)	1			X					1	\$110.00	\$110.00	KECI+KCFW Combo (KECI+KCFW)	Today Show-NBC	5/26/20
23.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	7A- 9A (MST)	1				X				1	\$110.00	\$110.00	KECI+KCFW Combo (KECI+KCFW)	Today Show-NBC	5/26/20
24.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	7A- 9A (MST)	1					X			1	\$110.00	\$110.00	KECI+KCFW Combo (KECI+KCFW)	Today Show-NBC	5/26/20
25.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	7A- 9A (MST)	1	X							1	\$110.00	\$110.00	KECI+KCFW Combo (KECI+KCFW)	Today Show-NBC	5/26/20
26.0	Normal Line / SPOT	06/02/20-06/02/20	3	:30	7A- 9A (MST)	1		X						1	\$110.00	\$110.00	KECI+KCFW Combo (KECI+KCFW)	Today Show-NBC	5/26/20
27.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	5P- 5:30P (MST)	1			X					1	\$165.00	\$165.00	KECI+KCFW Combo (KECI+KCFW)	News at 5PM	5/26/20

CONFIRMATION CONTRACT

Accepted Agency/Advertiser:	Date:	Accepted Station:	Date:	Comments:
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340 West Main St
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Ax Media
1251 NW Briarcliff Pkwy
Suite 85
Kansas City, MO 64116

Contract # 4381478

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Brand candidate (1011042)
Salesperson Katz/DAL, Dallas (4021)
Sales Office Katz Dallas
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Phone/Fax /
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Account Types National/Political Candidate Agency BRD
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Date Entered 05/26/20
Last Modified 05/26/20
Entered By Leslie Stoll-Oneill
CO-OP No
External # ECR26926887
Demo
Order Type Normal
Package Deal
Commission % 15.00
Commission \$849.75
Net Total \$4,815.25
Sales Tax

KECI+KCFW Combo (KECI+KCFW)		
By Broadcast Month	Spots	Rate
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Jun. 2020	12	\$1,345.00
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28.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	5P- 5:30P (MST)	1				X				1	\$165.00	\$165.00	KECI+KCFW Combo (KECI+KCFW)	News at 5PM	5/26/20
29.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	5P- 5:30P (MST)	1					X			1	\$165.00	\$165.00	KECI+KCFW Combo (KECI+KCFW)	News at 5PM	5/26/20
30.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	5P- 5:30P (MST)	1	X							1	\$165.00	\$165.00	KECI+KCFW Combo (KECI+KCFW)	News at 5PM	5/26/20
31.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	6A- 7A (MST)	1			X					1	\$90.00	\$90.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
32.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	6A- 7A (MST)	1				X				1	\$90.00	\$90.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
33.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	6A- 7A (MST)	1					X			1	\$90.00	\$90.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
34.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	6A- 7A (MST)	2	X							2	\$90.00	\$180.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
35.0	Normal Line / SPOT	06/02/20-06/02/20	3	:30	6A- 7A (MST)	1		X						1	\$90.00	\$90.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
36.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	5:30A- 6A (MST)	1			X					1	\$50.00	\$50.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
37.0	Normal Line / SPOT	05/28/20-05/28/20	3	:30	5:30A- 6A (MST)	1				X				1	\$50.00	\$50.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
38.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	5:30A- 6A (MST)	1					X			1	\$50.00	\$50.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
39.0	Normal Line / SPOT	06/01/20-06/01/20	3	:30	5:30A- 6A (MST)	1	X							1	\$50.00	\$50.00	KECI+KCFW Combo (KECI+KCFW)	Montana Today	5/26/20
40.0	Normal Line / SPOT	05/31/20-05/31/20	3	:30	9A- 10A (MST)	1							X	1	\$80.00	\$80.00	KECI+KCFW Combo (KECI+KCFW)	Meet the Press	5/26/20
41.0	Normal Line / SPOT	05/30/20-05/30/20	3	:30	5P- 5:30P (MST)	1						X		1	\$85.00	\$85.00	KECI+KCFW Combo (KECI+KCFW)	News at 5PM Sat	5/26/20

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42.0	Normal Line / SPOT	05/31/20-05/31/20	3	:30	5P- 5:30P (MST)	1							X	1	\$100.00	\$100.00	KECI+KCFW Combo (KECI+KCFW)	News at 5pm	5/26/20
43.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	7P- 8P (MST)	1			X					1	\$185.00	\$185.00	KECI+KCFW Combo (KECI+KCFW)	Chicago Med (R)-NBC	5/26/20
44.0	Normal Line / SPOT	05/29/20-05/29/20	3	:30	8P- 10P (MST)	1					X			1	\$115.00	\$115.00	KECI+KCFW Combo (KECI+KCFW)	Dateline Fri-NBC	5/26/20
45.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	8P- 9P (MST)	1			X					1	\$185.00	\$185.00	KECI+KCFW Combo (KECI+KCFW)	Chicago Fire (R)-NBC	5/26/20
46.0	Normal Line / SPOT	05/27/20-05/27/20	3	:30	9P- 10P (MST)	1			X					1	\$175.00	\$175.00	KECI+KCFW Combo (KECI+KCFW)	Chicago PD (R)-NBC	5/26/20

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