

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of the	)	SUMMARY OF FACTS
Complaint Against	)	AND
Laris Roberts	)	STATEMENT OF FINDINGS

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Michael Rogers filed a complaint against Laris Roberts alleging that Roberts violated Montana Code Annotated § 13-35-226(4) when he parked his vehicle, with campaign signs attached, at his place of employment.

SUMMARY OF FACTS

1. Laris Roberts is the Principal of the Huntley Project High School in Worden, Montana. According to the 2000 census, Worden, Montana, has a population of 472.

2. In 2002 Roberts was a candidate for the position of Yellowstone County Superintendent of Schools.

3. In July, 2002, Roberts had campaign posters created, and he attached posters with tape to his vehicle, a 1979 Lincoln Town Car. He attached one large campaign poster to the trunk of the vehicle, one to the roof, and two posters to each side of the vehicle—one on each front door and one on each rear quarter-panel. Roberts also attached a smaller poster to the upper center of the vehicle's windshield.

4. The posters contained a photo of Roberts with the accompanying message: "ELECT Laris W. ROBERTS, County Superintendent of Schools." The posters provided information about Roberts' education and other credentials and included a "paid for" disclaimer.

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5. Roberts' Lincoln Town Car has had mechanical problems for some time, and occasionally the car will not start at all. He typically does not use the car during the winter months, because it tends not to start during colder weather. To keep the car running, Roberts tried to start it and drive it regularly around the time he began his political campaign, in July, 2002.

6. Roberts drove his car, with the posters attached, in the Homesteader Days Parade in Worden, which was held on July 20, 2002. After the parade Roberts removed the two posters from the trunk and the roof of the vehicle, and also removed the smaller poster from the windshield. Roberts did not remove the four posters attached to the sides of the vehicle. Each of the remaining posters, which were taped to the body of the vehicle, measured 18" by 24".

7. Roberts left the remaining four posters on the car so they would be visible when he took the car to picnics and other public functions during the summer. His intent in attending these functions in his vehicle was to solicit support for his candidacy.

8. On August 5, 2002, after a summer hiatus, Roberts started back at work as Principal of the Huntley Project High School, to attend to various administrative duties prior to the start of the 2002-2003 school year. Beginning August 6, 2002, Roberts began periodically driving his Lincoln Town Car to work, with the campaign posters attached.

9. The Roberts family has always owned three cars. When Roberts was driving the Lincoln Town Car, his wife normally drove their van, and his two daughters shared the family's third vehicle. When Roberts did not drive the Lincoln Town Car, he

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rode to the school with his wife, who also works at the school. As noted in Fact 5, Roberts tried to drive the Lincoln Town Car regularly, to keep it running.

10. School attendance began for students on August 21, 2002. Roberts continued occasionally to drive the Lincoln Town Car to work until Labor Day weekend (August 31 through September 2, 2002). During that weekend Robert attempted to start the car to no avail, and he has been unable to start the vehicle since that weekend. Between August 6 and August 31, 2002, Roberts estimates he drove the vehicle to school ten days, and school was in session during five of those days.

11. During the days that Roberts drove the Lincoln Town Car to school, he parked it in front of his office in the school parking lot, near the main entrance to the high school building. He does not have an assigned parking space, but he parked it in relatively the same location in the parking lot every day. The school parking lot consists of seven rows of available parking spaces between the high school building and the junior high school building. Roberts' vehicle was parked in the middle of the single row of parking near the high school building, where his office is located. The other rows of parking spaces are located between the high school building and the junior high school building. Whenever Roberts drove the vehicle to school, it remained parked in the lot all day, in the same location. He did not leave the building for lunch or to run any errands during the workday.

12. Roberts stated he left the campaign signs attached to the car, because it would have been too difficult to take them off and put them back on. The signs were taped to the body of the vehicle with clear packing tape.

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13. Roberts did not engage in any campaigning or other attempts to solicit support for his candidacy while at work as Principal of the Huntley Project High School.

14. The complaint against Roberts was filed on November 15, 2002, ten days following the election. Prior to that time, no one notified Roberts that there might be a problem with his parking the vehicle on school grounds, and no one questioned his conduct.

15. Roberts recalled that when he decided to run for County Superintendent of Schools he received a packet of information from the office of the Commissioner of Political Practices, including a booklet containing a compilation of Montana's campaign finance and practices laws and administrative rules. Roberts did not read through the booklet and was not familiar with the provisions of Montana Code Annotated § 13-35-226(4).

16. Roberts does not believe he intentionally violated the provisions of Montana Code Annotated § 13-35-226(4). He contends he had no idea that there could be a potential problem with parking his vehicle at the school with campaign signs attached. He did not engage in any attempts to solicit votes or support for his candidacy while at work.

18. Roberts was defeated in the election by his opponent, A.J. Micheletti. The official vote tally was 26,919 to 18,729. Roberts received 52% of the vote in Worden.

#### STATEMENT OF FINDINGS

Roberts is accused of violating Montana Code Annotated § 13-35-224(4), which provides:

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A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at the place of employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to express personal political views.

Montana Code Annotated § 2-2-121, referenced in the statutory subsection quoted above, prohibits, with limited exceptions, a public officer or public employee from using public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to a political committee, the nomination or election of any person to public office, or the passage of a ballot issue. Montana Code Annotated § 2-2-121(3)(a).

Montana's campaign finance and practices statutes do not define the term "public employee" (see Montana Code Annotated § 13-1-101). The term is defined in Montana's Code of Ethics, and that definition includes any temporary or permanent employee of a local government. Montana Code Annotated § 2-2-102(7)(b). "Local government" includes a school district. Montana Code Annotated § 2-2-102(4). According to Montana Code Annotated § 1-2-107, whenever a word or phrase is defined in any part of the Montana Code Annotated, that definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears. Thus, the definition of "public employee" in Montana Code Annotated § 13-35-226 includes Mr. Roberts' position as Principal of the Huntley Project High School.

Montana Code Annotated § 13-35-226(4) recognizes a public employee's First Amendment right to express personal political views at work. A public employee can indicate his or her personal preference for a candidate at work so long as the expression of personal political views does not become solicitation. If a public employee, however, engages in acts or expression that amount to solicitation of support for or opposition to a candidate, he or she is in violation of the statute.

A public employee who drives his or her personal vehicle to work, with campaign posters attached, and leaves the vehicle parked at the place of employment during the work day may, depending on the specific circumstances, have engaged in conduct that

constitutes a violation of Montana Code Annotated § 13-35-226(4). The question in this case is whether Roberts' conduct, viewed in its entirety, amounts to "solicitation" of support for his candidacy.

"Solicit" is not defined in Montana's laws governing campaign finance and practices. The term "solicit" typically means to make petition to; to entreat; to approach with a request or plea; or to urge strongly. (Merriam-Webster Online Dictionary, c. 2003). Although applied in a different context, the term "solicit" is defined somewhat similarly, for purposes of Montana's criminal statutes, as "to command, authorize, urge, incite, request, or advise" someone to commit an offense. Montana Code Annotated § 45-2-101(68). Applying the generally accepted definition of the term "solicit," the evidence in this case does not clearly support a conclusion that Roberts was actively engaged in solicitation of support for his candidacy when he parked his vehicle at his place of employment for a number of days. The following factors are central to this determination:

a) Roberts did not park his car in a conspicuous location on the school grounds, separate from other vehicles, where the posters easily would be viewed by students, faculty, staff, and the general public. Instead, Roberts parked the vehicle in the middle of the single row of parking near his office. See Fact 11.

b) Roberts did not engage in any other conduct that could be construed as active campaigning or solicitation of support for his candidacy while on the job or at his place of employment. See Facts 13 and 16.

c) Roberts typically drove the vehicle to school for the purpose of keeping it running. There is no evidence that he drove it to the school for the purpose of soliciting support for his candidacy. See Facts 5 and 9.

d) Roberts states that he had no idea that driving the vehicle to work at the school and leaving it parked there during work hours could be problematic. (Fact 17). The evidence supports his contention. Although he received a packet of information

from the Commissioner's office, including a compilation of the laws and rules governing campaign practices, he did not review the information after he received it. (Fact 16). Candidates for public office should be aware that it is the responsibility of the candidate to be familiar with the laws and rules that govern political campaigns. It is noteworthy, however, that no one directly questioned Roberts' conduct until the complaint was filed, after the election, and more than two months after the last time Roberts had parked the vehicle at the school. (Fact 14).

Roberts' conduct, summarized above, simply does not support a conclusion that his intent was to solicit support for his candidacy when he drove his vehicle to the school and parked it in the school parking lot. Public employees should be aware that Montana Code Annotated § 13-35-226(4) prohibits the display of campaign materials during work hours or at the place of employment with the intent to solicit support for or opposition to a candidate, ballot issue, or political committee. In this particular case, however, there is insufficient evidence that Roberts acted with the intent necessary to prove a violation of the statute.

#### CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is insufficient evidence to justify a civil prosecution based on allegations that Laris Roberts violated Montana campaign practices law.

Dated this \_\_\_\_\_ day of June, 2003.

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Linda L. Vaughey  
Commissioner