

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

JAMES W "JIM" MURRY
COMMISSIONER
TELEPHONE (406) 444-2942
FAX (406) 444-1643

1205 Eighth Avenue
PO BOX 202401
HELENA, MONTANA 59620-2401
www.politicalpractices.mt.gov

February 28, 2013

VIA EMAIL

Senator Brad Hamlett
P O Box 49
Cascade, MT 59421-0049

Re: Complaint against Wendy McKamey

Dear Senator Hamlett:

I have reviewed your complaint against Wendy McKamey alleging she violated § 13-35-225, Montana Code Annotated, and Administrative Rules of Montana 44.10.321 and 323(4). The statute and rules provide, in pertinent part, as follows:

13-35-225(1). Election materials not to be anonymous -- statement of accuracy. (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising 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. *When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign.* In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

44.10.321 CONTRIBUTION-DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "contribution" as defined in 13-1-101, MCA, includes, but is not limited to:

(2) The term "in-kind contribution" means the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate, ballot issue or political committee, except as provided in 13-1-101 (6)(a)(iii) and (6)(b)(i), MCA.

(a) An "in-kind contribution", includes, but is not limited to ...

(iv) A "coordinated expenditure" as defined in ARM 44.10.323(4); and

Senator Hamlett
February 28, 2013
Page Two

44.10.323 EXPENDITURE-DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "expenditure" as defined in 13-1-101, MCA, includes, but is not limited to:

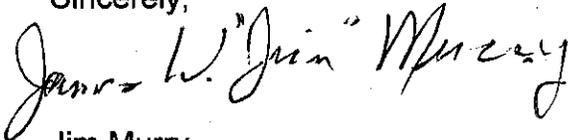
(4) *"Coordinated expenditure" means an expenditure made in cooperation with, consultation with, at the request or suggestion of, or the prior consent of a candidate or political committee or an agent of a candidate or political committee. A coordinated expenditure shall be reported as an in-kind contribution as provided in ARM 44.10.511 and 44.10.513.*

(Emphasis added.)

A candidate is required to provide attribution language on election material that identifies the name and address of the candidate. The requirement to identify a treasurer applies to a political committee. Ms. McKamey included the requisite attribution on her election material.

You allege Ms. McKamey coordinated with Montana Growth Network (hereafter "MGN") based on the fact MGN used Ms. McKamey's photograph on its mailer. Ms. McKamey denies she provided a photograph to MGN, or otherwise coordinated with MGN, and points to the fact the picture MGN used was available to the public on a variety of forums. Therefore, I am unable to accept your complaint for investigation. Thank you for taking the time to bring this matter to my attention.

Sincerely,



Jim Murry
Commissioner

c: Wendy McKamey (via email)