

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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IN THE MATTER OF THE	)	SUMMARY OF FACTS AND
COMPLAINT AGAINST	)	STATEMENT OF FINDINGS
DONALD L. BRELSFORD	)	

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Jane Jelinski of Bozeman, Montana, in a complaint dated November 4, 1992, and filed with this office on November 6, 1992, alleges that Donald L. Brelsford violated the Code of Fair Campaign Practices, section 13-35-301, Montana Code Annotated (MCA), and the provisions of the political criminal libel statute, section 13-35-234, MCA. The latter statute provides as follows:

(1) It is unlawful for any person to make or publish any false statement or charge reflecting on any candidate's character or morality or to knowingly misrepresent the voting record or position on public issues of any candidate. A person making such a statement or representation with knowledge of its falsity or with a reckless disregard as to whether it is true or not is guilty of a misdemeanor.

(2) In addition to the misdemeanor penalty of subsection (1), a successful candidate who is adjudicated guilty of violating this section may be removed from office as provided in 13-35-106 and 13-35-107.

The results of an investigation of the alleged violation are set forth in the summary of facts that follows.

SUMMARY OF FACTS

1. Jane Jelinski and Donald L. Brelsford were candidates competing for a seat on the Gallatin County Commission in the 1992 general election.

2. Jelinski was an incumbent Gallatin County Commissioner running for re-election in 1992.

3. Jelinski complains about two Brelsford campaign advertisements that she contends appeared in the Sunday, October 25, 1992, edition of the Bozeman Daily Chronicle. The two advertisements, copies of which were provided by Jelinski in support of her complaint, stated the following:

**JUDGEMENT [SIC] IS PAID!**

For FY 91-92, 10% of  
County General Tax  
Revenues: \$480,000

Paid by Gallatin County  
Commision [sic] for Hebgan [sic] Lake  
Estates

**TORT LIABILITY JUDGEMENT [SIC]**

"It's Time For A Change"

**ELECT BRELSFORD**

**REPUBLICAN FOR COUNTY COMMISSIONER**

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**TORT LIABILITY**

Gallatin County Commision [sic]  
**COMMITTED A TORT** in 1988  
i.e. a civil wrong

**HEBGAN [SIC] LAKE ESTATES**  
was Illegally Re-Arranged  
and Re-Recorded w/o  
MT DHES WQB Approval  
**THAT WAS A FELONY!**

Incumbent was on Commision [sic]!

"It's Time For a Change"

**ELECT BRELSFORD**

**REPUBLICAN FOR COUNTY COMMISSIONER**

Each advertisement included this notation at the bottom: "Paid by Brelsford for Cty. Comm. Linda Brelsford treas., Bozeman."

#### STATEMENT OF FINDINGS

Jelinski complains that the advertisements constitute violations of both the Code of Fair Campaign Practices and the political criminal libel statute.

Section 13-35-301, MCA, sets forth Montana's Code of Fair Campaign Practices, and section 13-35-302, MCA, provides a method whereby a candidate voluntarily may subscribe to it. Legislative history of these two statutes clearly indicates that no civil or criminal penalty for a violation of the code was intended by the Legislature. Since my office has no legal recourse against someone who is alleged to have violated the code, I therefore make no findings on whether or not a violation occurred in this case.

Section 13-35-234, MCA, quoted in full on page one, is Montana's political criminal libel statute. The portion of the statute relevant to this case makes it ". . . unlawful for any person to make or publish any false statement or charge reflecting on any candidate's character or morality. . . ." Emphasis added. The campaign ads that are the subject of this complaint are critical of the Gallatin County Commission; the ads do not include express statements reflecting on the character or morality of candidate Jelinski. On their face, the ads do not constitute a violation of section 13-35-234, MCA.

Based on the facts and these findings, I conclude that no further action is warranted against Donald L. Brelsford.

DATED this 10th day of December, 1992.

*Dolores Colburg*  
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DOLORES COLBURG  
Commissioner of Political Practices