

COMMISSIONER OF  
POLITICAL PRACTICES



STATE OF MONTANA

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November 10, 2014

Augie Aga  
Director of Sales and Marketing / National Sales  
Northern Broadcasting, Inc.  
PO Box 1742  
Billings, MT 59103

**COPP-2014-AO-015**

**Re: Website Banner Ad Attributions**

Dear Ms. Aga:

I write in response to your email request for an Advisory Opinion received by the COPP on October 15, 2014. This letter constitutes that advisory opinion.

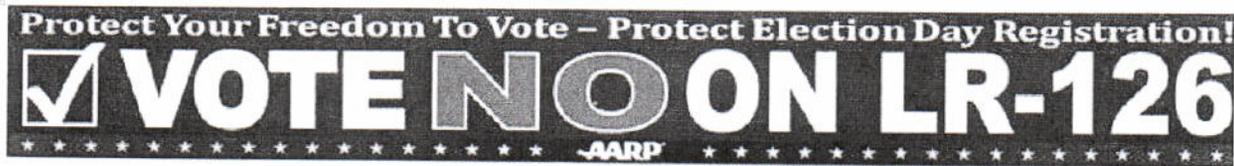
**Background and Issue Posed**

Northern Broadcasting, Inc. is a company that sells website banner advertisements to clients. When someone clicks on the banner ad<sup>1</sup>, they are linked to the website of the advertiser. Some of the advertisements are political in nature, and Ms. Aga poses the following question for consideration and answer in the form of an advisory opinion:

- (1) In my contact with national broadcasting attorneys, I can see that the Federal Election Commission imposes disclaimer obligations on political advertising on the Internet, if they apply to federal elections and federal candidates. Since this is a stated initiative and not a Federal Election issue, and because a web banner by its nature so small, my question is whether we need to ask for additional information on a web banner like this, or if what we have is adequate?

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<sup>1</sup> The Commissioner has required candidates and political committee's to put attribution on a YouTube video which was also linked to the candidate's Facebook page, *Hagan v. Pinocci*, COPP-2014-CFP-0026.



### ADVISORY OPINION

This Advisory Opinion gives the Answer to question Number 1 as “NO”. The AARP disclaimer on the advertisement does not meet the requirements of attribution under Mont. Code Ann. § 13-35-225. This answer is explained below.

#### 1. Website Advertisement Attributions

Montana law requires that election communications that “advocate for the success or defeat of a candidate, political party, or ballot issue...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”, Mont. Code Ann. § 13-35-225(1). Election communications paid for by a candidate or candidate committee must include the name and campaigns address, and paid for by a political committees must include the name of the committee, treasurer and address, *id.* (a) and (b).

There is an exception for election materials that are “too small” for the requirements to be “conveniently included” in the advertisement found in Mont. Code Ann. § 13-35-225(4). In the past, items which have been considered by the Commissioner to be too small to conveniently include an attribution are items such as pens, pencils, buttons and bumper stickers. When an item is too small to include the attribution, a candidate or campaign must provide the item to the COPP along with a complete attribution at the time the item is distributed to the public, *id.*

The above website banner, if placed on the internet would be an election communication which would require a complete attribution<sup>2</sup>. The banner would also not be considered “too small”<sup>3</sup> to accommodate the attribution required under Montana law. Therefore, depending on the person who is

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<sup>2</sup> See also COPP-2014-AO-003, Electronic Campaigning, regarding the reporting and disclosure requirements for candidates and political committees who make use of the internet for election communications.

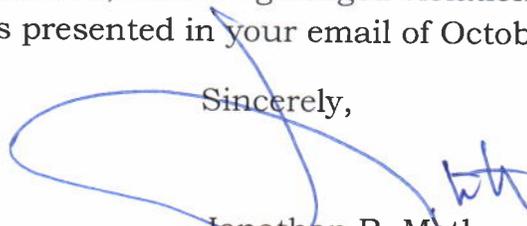
<sup>3</sup> The Commissioner notes that the size of the actual advertisement when displayed on a website will vary depending on the individual computer, including the screen size and settings for viewing webpages.

paying for the website advertisement, the banner will need to include the complete attribution required by Mont. Code Ann. § 13-35-225.

**LIMITATIONS ON ADVISORY OPINION**

This letter is an advisory opinion based on the specific written facts and questions presented in your email October 15, 2014. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules. This advisory opinion is not a waiver of any power or authority the Commissioner of Political Practices has to investigate and prosecute alleged violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the written facts presented in your email of October 15, 2014.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Motl', is written over the word 'Sincerely,' and extends to the right.

Jonathan R. Motl  
Commissioner of Political Practices