

Chris Gallus
Commissioner of Political Practices
1209 Eighth Avenue
PO Box 202401
Helena, MT 59620-2401

Commissioner of
Political Practices
2024 5/29/24 May 31
7:04:07
RECEIVED
via email

May 29, 2024

Dear Commissioner Gallus,

I am responding to a letter of complaint I received from your office on May 28th, 2024. Though I would like to respond to the complaint, the complainant failed to provide “each statute and/or rule that is alleged to have been violated” as required per Administrative Rules of Montana (ARM) 44.11.106 COMPLAINTS OF VIOLATIONS. (See below).

44.11.106 COMPLAINTS OF VIOLATIONS

(1) An individual who believes a violation of a provision of Title 13, chapters 35 or 37, MCA, or a rule or regulation implementing one or more of those statutory provisions has occurred may file a written complaint in person or by mail with the commissioner. A complaint may be filed on a form available from the COPP. Except as provided in this rule, within five business days after receipt of a complaint, the commissioner shall acknowledge its receipt and transmit a copy to the alleged violator.

(2) Whether submitted on the form available from the COPP or otherwise, **a complaint shall:**

(a) be typewritten or legibly handwritten in ink; and

(b) contain the following information:

(i) the complete name and mailing address of the complainant;

(ii) the complete name and mailing address of the alleged violator, if known or readily discoverable;

(iii) a detailed description of the alleged violation, **including citation to each statute and/or rule that is alleged to have been violated;**

(iv) any evidentiary material; and

(c) be signed and verified by the oath or affirmation of the complainant, taken before any officer authorized to administer oaths.

(3) Except as provided in (4), upon receipt of a complaint, the commissioner shall investigate the alleged violation. The commissioner shall prepare a written summary of facts and statement of findings, upon completion of the investigation, which shall be sent to the complainant and the alleged violator. Following the issuance of a summary of facts and statement of findings, the commissioner may take other appropriate action.

(4) No investigation shall be required and a complaint may be dismissed if the complaint is frivolous on its face, illegible, too indefinite, does not identify the alleged violator, **does not cite the statute or rule that is alleged to have been violated,** is unsigned, or is not verified by the oath or affirmation of such person, taken before any officer authorized to administer

oaths or affirmations. In addition, **no investigation shall be required and may be dismissed if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction.** The commissioner may request additional information from the complainant or the alleged violator prior to making a determination whether to proceed with a full investigation and whether to dismiss a complaint under this rule.

(5) With the exception of any material that the commissioner determines is subject to protection from disclosure based on constitutional or statutory law, a filed complaint and the summary of facts and statement of findings shall be public record.

(6) All documents provided to and all communications with the COPP are public records as provided by 13-37-118 and 13-37-119, MCA. The Montana Constitution Article II, Sections 9 and 10 require the commissioner to balance the public's right to know with an individual's privacy rights on documents that are filed with the COPP office. The COPP has a detailed privacy policy available on the commissioner's web site.

What I will provide are the following points regarding the letter I received from your office and the comments provided by Ming Cabrera:

1. I, Jessica Karjala, am not an elected official nor am I running for elected office. I am a private citizen and voter of the state of Montana entitled to my private opinions.
2. When David Graves shared my private, electronic communications with a third party without my permission he violated MCA 45-2-213, the Privacy in Communications Act.
3. When Ming Cabrera provided my private electronic communications to third parties without my consent, he also violated MCA 45-2-213, the Privacy in Communications Act.

Montana Code Annotated 2023

TITLE 45. CRIMES

CHAPTER 8.

Part 2.

Privacy In Communications

45-8-213.

...

(3) ... a person commits the offense of violating privacy in communications if the person purposely intercepts an electronic communication. [Definition of intercept as defined in federal law provided below] ...

(4) (a) A person convicted of the offense of violating privacy in communications shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(b) On a second conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be imprisoned in the county jail for a term not to exceed 1 year or be fined an amount not to exceed \$1,000, or both.

(c) On a third or subsequent conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$10,000, or both.

For reference the definition of intercept in federal law is:

CRM 1000-1499

1046. Definition—"Intercept"

The term "intercept" is defined in 18 U.S.C. § 2510(4) to mean the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device. The Criminal Division takes the position, espoused by a number of courts, that would limit "intercept" to "the participation by the one charged with an `interception' in the contemporaneous acquisition of the communication through the use of [a] device." *United States v. Turk*, 526 F.2d 654, 658 (5th Cir.) (replay of audio cassette), cert. denied, 429 U.S. 823 (1976). Accord *Reynolds v. Spears*, 93 F.3d 428, 432 (8th Cir. 1996). See *Payne v. Norwest*, 911 F. Supp. 1299, 1303 (D. Mont. 1995) (voice mail).

The 1986 Act broadened the definition of "intercept" to include non-aural acquisitions to accommodate the inclusion of electronic communications as protected communications under Title III. The Senate Report specifically noted that the "definition of `intercept' under current law is retained with respect to wire and oral communications except that the term `or other' is inserted after `aural.'" S. Rep. No. 99-541, 99th Cong., 2d Sess.. 13 (1986), reprinted in 1986 U.S. Code Cong. & Ad. News 3555, 3567.

4. By making and publishing several statements about Footloose Montana and me that he knew were false and defamatory, he violated Montana Code Annotated 2023, Title 27, Chapter 1, Part 8:

TITLE 27. CIVIL LIABILITY, REMEDIES, AND LIMITATIONS

CHAPTER 1. AVAILABILITY OF REMEDIES -- LIABILITY

Part 8. Libel and Slander

27-1-802. Libel defined. Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation that exposes any person to hatred, contempt, ridicule, or obloquy or causes a person to be shunned or avoided or that has a tendency to injure a person in the person's occupation.

27-1-803. Slander defined. Slander is a false and unprivileged publication other than libel that:

(1) charges any person with crime or with having been indicted, convicted, or punished for crime;

...

(3) tends directly to injure a person in respect to the person's office, profession, trade, or business, either by imputing to the person general disqualification in those respects that the office or other occupation peculiarly requires or by imputing something with reference to the person's office, profession, trade, or business that has a natural tendency to lessen its profit;

...

(5) by natural consequence causes actual damage.

The false and defamatory statements Ming Cabrera has knowingly and intentionally made include the following:

A. Ming Cabrera falsely claimed that I sent a mass message on behalf of my employer, Footloose Montana, a 501(c)(3) nonprofit corporation.

Point of fact: Footloose Montana does not engage in campaign activities.

Point of fact: It is impossible send mass messages to my personal Facebook friends via the Footloose Montana Facebook account private messaging app.

Point of fact: The "evidence" Ming Cabrera provided to the office of the Commissioner of Political Practices clearly shows that I sent a private message from my personal, private messaging application.

Point of fact: I did not grant permission for the private message to be distributed.

B. Ming Cabrera falsely claimed that I demanded David Graves vote for anyone else.

Point of fact: The "evidence" Ming Cabrera provided to the office of the Commissioner of Political Practices clearly shows that I used the word encourage. As a private citizen and voter, I can encourage anyone to vote for whomever I want.

C. Ming Cabrera falsely claimed that I berated David Graves.

Point of fact: The "evidence" Ming Cabrera provided to the office of the Commissioner of Political Practices clearly shows that I regretted supporting David Graves' previous candidacy.

D. Ming Cabrera falsely claimed that I would use information against David Graves.

Point of fact: The "evidence" Ming Cabrera provided to the Office of the Commissioner of Political Practices is a screenshot of my private, personal message that David Graves and Ming Cabrera shared without my permission, and it clearly states that I will "keep" the

information in our private, personal message exchange in context to him running for office again in the future.

F. Falsely claiming that I misrepresented Ming Cabrera's behavior toward Jaeger Held in a private, personal message that I did not give permission to share.

Point of fact: I have been informed that what Ming Cabrera said about Jaeger Held and what he did to Jaeger Held are true and there are and far worse and things Mr. Cabrera did to Jaeger Held and ***if necessary, in an applicable legal case or setting***, all of Ming Cabrera's atrocious actions against Jaeger Held may come to light.

- Ming Cabrera published comments he knew were false and defamatory on his personal Facebook page. (See attached)
- Ming Cabrera published comments he knew were false and defamatory on his campaign Facebook page. (See attached)
- Ming Cabrera published comments he knew were false and defamatory on his "X" account. (See attached)

Last, but not least, because Ming Cabrera claims he has "no clear recollection of...what exactly was said and date that could be substantiated, I have sought and received a written statement from Ms. Emily Harris regarding the highly offensive statements Ming Cabrera made to Ms. Harris. (See attached).

In closing, because the complainant, Ming Cabrera, failed to cite any rule or law as required to file a complaint and because he and David Graves have violated several laws and because they have harmed my employer Footloose Montana and me, I respectfully ask that the Commissioner dismiss this complaint.

Sincerely,

Jessica Karjala

Cabrera v. Karjala

Emily Harris <[REDACTED]>

Wed, May 29, 2024 at 11:27 AM

To: Jessica Karjala <[REDACTED]>

It is a substantiated claim by Jessica Karjala that Ming Cabrera made inflammatory remarks about me on multiple occasions. Jessica's claim that he called both her and me "fucking bitches" is correct. Ming also called me a "whore" over the phone (with me) multiple times around the same timeframe as Jessica's reference. Ming is widely known as a misogynist and I haven't felt comfortable being in the same vicinity as him since he was aggressive toward me in 2020.

—
Emily Harris
[REDACTED]
[REDACTED]

On May 29, 2024, at 10:28 AM, Jessica Karjala <jessica.karjala@gmail.com> wrote:

[Quoted text hidden]

<Respondent Letter Cabrera v. Karjala.pdf>

<Complaint Cabrera v. Karjala.pdf>



Ming Cabrera

May 13 · 🌐

...



Ming Cabrera for US Congress

May 13 · 🌐

...

Hello all,

I am saddened and very disappointed to hear that the Executive Director of Footloose Montana, a prominent 501c3 non-profit here in Montana, has decided to intervene in the Democratic primary election for Montana's 2nd Congressional District by mass messaging through Facebook Messenger with defamatory messages that include threats and intimidation to vote against one of the Democratic candidates. I urge Footloose Montana, the Democratic Party of Montana, and the Secretary of the State of Montana to investigate this behavior thoroughly and ensure this primary election is done respectfully and kindly.

Jessica Karjala Montana Democratic Party
Footloose Montana Montana Secretary of State
Christi Jacobsen

👍 9

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Ming Cabrera for US Congress · Follow

May 13 · 🌐

Hello all,

I am saddened and very disappointed to hear that the Executive Director of Footloose Montana, a prominent 501c3 non-profit here in Montana, has decided to intervene in the Democratic primary election for Montana's 2nd Congressional District by mass messaging through Facebook Messenger with defamatory messages that include threats and intimidation to vote against one of the Democratic candidates. I urge Footloose Montana, the Democratic Party of Montana, and the Secretary of the State of Montana to investigate this behavior thoroughly and ensure this primary election is done respectfully and kindly.

Jessica Karjala Montana Democratic Party
Footloose Montana Montana Secretary of State
Christi Jacobsen

👤 Tom Facey and 10 others

2 comments

← Post



Ming Cabrera - Candidate f... · 6d

Hello Montana voters,

I am saddened and very disappointed to hear that the Executive Director of Footloose Montana, a prominent 501c3 non-profit here in Montana, has decided to intervene in the Democratic primary election for Montana's 2nd Congressional District by mass messaging... Show more

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