

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Nottingham v. Miller No. COPP 2020-CFP-042	DECLARATION OF MERIT OF COMPLAINT MEMORIALIZATION OF NOTIFICATION OF MERIT TO CANDIDATE RESOLUTION OF COMPLAINT BY PROMPT REMEDIAL ACTION BY CANDIDATE DISMISSAL OF COMPLAINT
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On October 5, 2020 Tim Nottingham of Fromberg, Montana, filed a campaign practices complaint against Scott Miller of Bridger, Montana. The complaint alleged that candidate Miller did not include a full “Paid for by” attribution message on campaign materials as required.

FINDING OF FACTS

The facts necessary for a determination in this matter are as follows:

Finding of Fact No. 1: Scott Miller filed a C-1A Statement of Candidate as a candidate for County Commissioner in Carbon County with the COPP on May 26, 2020. (Commissioner’s Records).

Finding of Fact No. 2: On October 6, 2020, the COPP sent email notice

to candidate Miller notifying him that a Complaint had been received. The notice informed candidate Miller that the attribution complaint was merited, as the material mentioned by the Complaint did not appear to contain the full 'paid for by' attribution message as required, and provided the candidate two business days to bring the material into compliance. Notice of attribution deficiency was also provided to the candidate via telephone that same day. (Commissioner's Records).

Finding of Fact No. 3: On October 6, 2020, candidate Miller emailed the COPP in response to this complaint. Candidate Miller's email stated that the lack of attribution on the campaign materials was an oversight. Candidate Miller included an image of a campaign signs (mentioned in the complaint) with a full attribution message added. (Commissioner's Records).

DISCUSSION

Under Montana law "all election communications...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." §13-35-225(1) MCA. The complaint attached photos of candidate Miller' sign and brochure. Both election communications failed to include an attribution (Paid for by).

Montana law requires an accelerated review ("as soon as practicable") of a campaign practice complaint alleging an attribution violation. Accordingly, Candidate Miller was immediately contacted by the Commissioner's office. Candidate Miller responded saying that the omission of an attribution was an oversight. Candidate Miller followed up the conversation with the COPP with an email taking responsibility for the oversight and corrective measures taken (FOF No. 3).

The law governing complaints of failure to properly attribute political

brochures provides precise directions to the Commissioner:

1. The Commissioner is to immediately assess the merits of the attribution Complaint. §13-35-225(5), MCA. The Commissioner found merit to the attribution Complaint and hereby memorializes that finding (FOF No. 2).
2. The Commissioner shall notify the candidate of the merit finding, requiring the Candidate to bring the material into compliance. §13-35-225(6)(a), MCA. The COPP, by both telephoning the Miller campaign and providing Notice of Non-compliant Election Communication, did this and hereby memorializes the Notice (FOF No. 2).
3. The Candidate is provided 2 business days to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA. (FOF No. 2).

Under Montana law the Candidate with the attribution deficiency is relieved of a campaign practice violation, provided he promptly carries out the attribution correction. Candidate Miller has met these duties (FOF No. 3) and is therefore relieved of a campaign practice violation under §13-35-225(6), MCA. The Complaint is dismissed.

Normally the Commissioner first provides Decisions to the parties and public on the following day. The Legislature, however, has set very tight timelines on this sort of attribution Complaint. Accordingly, the Commissioner provides this Decision to the parties and public on the day it is made.

DATED this 7th day of October, 2020.



Jeffrey A. Mangan
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