

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Nottingham v. Vargas No. COPP 2020-CFP-040	DECLARATION OF MERIT OF COMPLAINT MEMORIALIZATION OF NOTIFICATION OF MERIT TO CANDIDATE RESOLUTION OF COMPLAINT BY PROMPT REMEDIAL ACTION BY CANDIDATE DISMISSAL OF COMPLAINT
---	---

On September 23, 2020 Tim Nottingham of Fromberg, Montana, filed separate campaign practices complaints against Leza Vargas of Fromberg, Montana. The complaint alleged that candidate Vargas 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: Leza Vargas filed a C-1A Statement of Candidate as a candidate for County Commissioner in Carbon County with the COPP on June 16, 2020.

Finding of Fact No. 2: On September 23, 2020, the COPP sent email

notice to candidate Vargas notifying her that a Complaint had been received. The notice informed candidate Vargas 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.

Finding of Fact No. 3: On September 23, 2020, candidate Vargas emailed the COPP three separate times in response to this complaint. Candidate Vargas' emails stated that the lack of attribution on her campaign materials was an oversight. Candidate Vargas included an image of a campaign banner (mentioned in the complaint) with a full attribution message added. Candidate Vargas' third email to the COPP provided the COPP with an attribution message of "Paid for by Leza Vargas Po Box 496 Fromberg Mt 59029" for a printed campaign advertisement that had already been distributed (also mentioned in the complaint). (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 Vargas' advertisement and banner. 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 Vargas was immediately contacted by the Commissioner's office. Candidate Vargas responded saying that the omission of an attribution was an oversight. Candidate Vargas 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 Vargas 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 Vargas 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 25th day of September, 2020.



Jeffrey A. Mangan
Commissioner of Political Practices
Of the State of Montana
P. O. Box 202401
1209 8th Avenue
Helena, MT 59620