

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Busse v. Pandina No. COPP 2021-CFP-001	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 March 18, 2021, Sara Busse of Kalispell, Montana filed a campaign practices complaint against five (5) individuals: Trish Pandina, Tina Tobiason, Shaun Pandina, Dennis Gomez, and Heather Asher. The complaint alleges that each individual failed to properly attribute campaign material supporting their candidacy for election to a school board seat.

FINDING OF FACTS

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

Finding of Fact No. 1: As part of its investigation to determine the individual/s or entity who financed the material referenced in this complaint, COPP sent email correspondence to a group named Vote

SD 5 Students ARE the Future. (Commissioner's Records).

Finding of Fact No. 2: On March 22, 2021, Shaun Pandina contacted the COPP via telephone in response to the email message sent by COPP to Vote SD 5 Students ARE the Future. Mr. Pandina indicated that an individual candidate for school board, Trish Pandina, had financed the signs in question, and indicated that the proper attribution message had already been applied to the material. (Commissioner's Records).

Finding of Fact No. 2A: In a separate March 22, 2021, email, Shaun Pandina contacted the COPP. This message noted that the required attribution message had been added to all signs "over the weekend after an acquaintance mentioned they were not compliant". The email included a picture of a campaign sign with an attribution message added of "Paid for by Trish Pandina, PO Box 621, Columbia Falls, MT 59913". (Commissioner's Records).

Finding of Fact No. 2B: Follow-up correspondence with Mr. Pandina on March 23, 2021 via telephone and email indicated that one hundred (100) signs had been ordered originally without the attribution message, and that the attribution message had since been added to each. (Commissioner's Records).

Finding of Fact No. 3: Patricia (Trish) Padina filed a C-1A Statement of Candidate as a candidate for School Trustee in Flathead County with the COPP on March 17, 2021 (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." Mont. Code Ann. §13-35-225(1). The complaint attached photo of a campaign sign containing the names of five school board candidates. The election communication 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. The COPP determined candidate Patricia Padina was responsible for the election communication (FOF No. 2A). Upon notification of the merit finding, Candidate Pandina followed up the conversation with the COPP with an email taking responsibility for the oversight and corrective measures taken (FOF No. 2B).

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. Mont. Code Ann. §13-35-225(5). The Commissioner found merit to the attribution Complaint and hereby memorializes that finding (FOF No. 1).
2. The Commissioner shall notify the candidate of the merit finding, requiring the Candidate to bring the material into compliance. Mont. Code Ann. §13-35-225(6)(a). The COPP, by both telephoning the Pandina campaign and providing Notice of Non-compliant Election Communication, did this and hereby memorializes the Notice (FOF Nos. 1, 2).
3. The Candidate is provided 2 business days to bring the material into attribution compliance Mont. Code Ann. §13-35-225(6)(a)(i). Candidate Padina indicated the signs in question were updated with the proper attribution (FOF Nos. 2A, 2B).

Under Montana law the Candidate with the attribution deficiency is relieved of a campaign practice violation, provided he/she promptly carries out the attribution correction. Candidate Pandina has met these duties (FOF Nos. 2A, 2B) and is therefore relieved of a campaign practice violation under Mont. Code Ann. §13-35-225(6). 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 23rd day of March, 2021.



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