

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Dunwell and Bolger v. Gaub No. COPP 2021-CFP-021	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 September 14, 2021 Mary Ann Dunwell of Helena, Montana and Trent Bolger of Helena, Montana each filed a campaign practices complaint¹ against Sonda Gaub, also of Helena. Each complaint alleged that candidate Gaub failed to include or did not properly include the “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:

¹ Both complaints identified the same election communication, and the Commissioner combined the complaints for simplicity.

Finding of Fact No. 1: Sonda Gaub filed a C-1A Statement of Candidate as a candidate for election to the office of Mayor in the City of Helena with the COPP on June 22, 2021. (Commissioner's Records.)

Finding of Fact No. 2: On September 14, 2021, COPP sent email notice to candidate Gaub notifying her this Complaint had been received. This notice informed candidate Gaub that the attribution complaint was merited, as the material mentioned by the Complaint either did not appear to contain the full 'paid for by' attribution message as required or included the message on the back side of a material and was therefore not visible upon display, and provided candidate Gaub two (2) business days to bring the material into compliance. Notice of attribution deficiency was also provided to candidate Gaub via telephone that same day. (Commissioner's Records.)

Finding of Fact No. 3: On September 15, 2021, candidate Gaub emailed the COPP in response to this complaint. Candidate Gaub's email stated that "I just got back from picking up" the unattributed or improperly attributed materials referenced in these Complaints. "24 were stolen/removed by someone else not affiliated with me" the message goes on to say.

As a follow-up, COPP Investigator contacted candidate Gaub via telephone the afternoon of September 15, 2021. During this phone conversation, candidate Gaub confirmed that she had removed all unattributed or improperly attributed material mentioned in this Complaint from display, but that some items had been stolen/removed by individuals other than herself. She noted that twenty-eight (28) items had been originally displayed.

Later on September 15, 2021, candidate Gaub emailed the COPP a photograph of copies of the material mentioned in this Complaint with a full attribution message of "Paid for By Sonda for Helena Mayor, Grant Jackson Treasurer, PO Box 461, Helena, MT 59624" 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 Gaub’s flyer. The election communications failed to include an appropriate 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 Gaub was immediately contacted by the Commissioner’s office. Following the conversation with the COPP, candidate Gaub indicated she took appropriate corrective measures (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 Gaub 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 she promptly carries out the attribution correction. There are sufficient facts to indicate Candidate Gaub 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 16th day of September, 2021.



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