

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Guthrie v. Fitzpatrick No. COPP 2022-CFP-005A	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 April 27, 2022, Greg Guthrie of Helena, MT filed a campaign practices complaint against Lois Fitzpatrick, also of Helena. The complaint alleged that candidate Fitzpatrick did not include the full “Paid for by” attribution message on campaign materials as required. The complaint also alleged candidate Fitzpatrick failed to disclose campaign finance activity. This decision only addresses the attribution allegations to meet the specific timeframes as provided by statute. The remainder of the allegations will be addressed in Guthrie v. Fitzpatrick COPP-2022-CFP-005B.

FINDING OF FACTS

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

Finding of Fact No. 1: Lois Fitzpatrick filed a C-1A Statement of Candidate as a candidate for election to a School Trustee position with the COPP on March 25, 2022. (Commissioner's Records.)

Finding of Fact No. 2: On April 27, 2022, COPP sent email correspondence to candidate Fitzpatrick notifying her that this Complaint had been received. The letter informed candidate Fitzpatrick that the attribution complaint was merited, as the materials (a campaign yard sign material and a campaign door hanger material) mentioned by the Complaint did not appear to contain the full 'paid for by' attribution message as required and provided candidate Fitzpatrick 24 hours to bring the material into compliance. (Commissioner's Records.)

Finding of Fact No. 3: On April 27, 2022, candidate Fitzpatrick emailed the COPP in response to this Complaint. This response stated that 30 total campaign yard signs had been purchased, that "I have added the attribution to all signs on our property", and "I will contact those who took signs and ask them to put it [the 'paid for by' attribution message] on the signs". The email also included a picture of a campaign yard sign material with an attribution message of "Paid For By Lois A Fitzpatrick; 237 Flagstone Ave. Helena MT 59602" included. Of the campaign door hanger material, candidate Fitzpatrick's response stated "all of the door signs have been distributed and there is no way of correcting these. I apologize". (Commissioner's Records.)

Finding of Fact No. 3A: On April 28, 2022, candidate Fitzpatrick sent a follow-up email to the COPP. This follow-up email stated that on April 11, 2022, candidate Fitzpatrick ordered 500 campaign door hangers, with all copies being distributed between the dates of April 21 and April 24. Candidate Fitzpatrick included a message indicating that lack of attribution on the door hangers was an oversight and that each should have included an attribution message of "Paid For By Lois A Fitzpatrick; 237 Flagstone Ave. Helena MT 59602". (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 a photo of a candidate Fitzpatrick campaign sign and door hanger. The 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 Fitzpatrick was immediately contacted by the Commissioner’s office (FOF No. 2). Candidate Fitzpatrick responded saying that the omission of an attribution was an oversight, took responsibility for the oversight and took corrective measures to remedy (FOF No. 3), including providing the Commissioner’s office the necessary information on quantity and distribution on material already in distribution (FOF No. 3A).

The law governing complaints of failure to properly attribute political communications 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 Fitzpatrick campaign and providing Notice of Non-Compliant Election Communication, did this and hereby memorializes the Notice (FOF No. 2).
3. The Candidate is provided 24 hours to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA. (FOF No. 3).

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 as provided by statute. Candidate Fitzpatrick has met these duties (FOF Nos. 3, 3A) 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 29th day of April, 2022.



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