

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Maxwell v. Tschida No. COPP 2022-CFP-019	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 12, 2022, Ciara Maxwell of Helena, MT filed a campaign practices complaint against Brad Tschida, of Missoula. The complaint alleged that candidate Tschida did not include the 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: Brad Tschida filed a C-1 Statement of Candidate as a self-identified Republican candidate for election to the position of Senate District 49 in Missoula County with the COPP on April 7, 2021. (Commissioner’s Records.)

Finding of Fact No. 2: On October 12, 2022, COPP sent email correspondence to candidate Tschida notifying him that this Complaint had been received. The letter informed candidate Tschida 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 candidate Tschida two (2) business days to bring the material into compliance. (Commissioner's Records.)

Finding of Fact No. 3: On October 12, 2022, candidate Tschida emailed the COPP in response to this Complaint. Candidate Tschida's message stated that his campaign had financed the unattributed campaign fliers in question, and that the lack of attribution on them was an "error". The email indicated that approximately 7,000 campaign fliers had been sent out without attribution, having been mailed out "on or about the 7th of October". Finally, candidate Tschida stated that, to ensure inclusion of the attribution message on campaign materials, "Going forward, I will require that a "final" proof be send to me to assure that the printer includes the required attribution". (Commissioner's Records.)

Finding of Fact No. 3A: On October 13, 2022, candidate Tschida sent a follow-up email message to COPP in response to this complaint. This email message included an attribution message associated with this campaign flier of "Paid for by Brad Tschida Campaign, PO Box 6342, Helena, MT 59604 (w/ Elephant Logo)¹". (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 Tschida campaign flier. The election communication failed to

¹ The Commissioner accepts the candidate's reference to the described Republican symbol for purposes of party affiliation 44.11.601(4)(B)(iii) ARM

include a complete 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 Tschida was immediately contacted by the Commissioner’s office (FOF No. 2). Candidate Tschida responded saying that the omission of an attribution was an “error” and took responsibility for the unattributed material (FOF No. 3).

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 providing Notice of Non-compliant Election Communication, did this and hereby memorializes the Notice (FOF No. 2).
3. The Candidate is provided 48 hours to bring the material into attribution compliance §13-35-225(6)(a)(ii), MCA. (FOF Nos. 3, 3A).

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 Tschida has met these duties by accepting responsibility for the unattributed material and providing COPP the approximate number (7,000) and date (October 7) of unattributed materials distributed, as well a description of a “paid for by” attribution message that

would have appeared on the material, and is therefore relieved of a campaign practice violation under §13-35-225(6), MCA (FOF Nos. 3, 3A). 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 issued.

DATED this 13th day of October, 2022.



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