

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Tusken v. Marum No. COPP 2022-CFP-031	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 November 2, 2022, Cheryl Anne Tusker of Bozeman, MT filed a campaign practices complaint against Elizabeth Marum, of Belgrade.¹ The complaint alleged that candidate Marum 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: Elizabeth Marum filed a C-1 Statement of

¹ COPP was first provided a copy of this Complaint via fax on November 1, 2022. The original signed and notarized copy of the complaint was received via FedEx on November 2.

Candidate as a Democratic candidate for election to the position of House District 67 in Gallatin County with the COPP on March 2, 2022. (Commissioner's Records.)

Finding of Fact No. 2: On November 2, 2022, COPP contacted candidate Marum via telephone and email providing notification that the this Complaint had been received. Both correspondences informed candidate Marum that the attribution complaint appeared merited, as the specific advertisement mentioned did not appear to contain the full 'paid for by' attribution message, and provided candidate Marum twenty-four (24) hours to bring the material into compliance. (Commissioner's Records.)

Finding of Fact No. 3: On November 3, 2022, candidate Marum provided COPP with a response to this attribution complaint via email message. The attribution response noted that 2,121 unattributed paid text messages were sent without attribution on October 22, 2022, and that each should have included an attribution message of "Paid for by Elizabeth Marum for HD 67, P.O. Box 386, Belgrade MT 59714, D". The full content of each paid text message was also provided in this attribution response. (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 Marum election communication. The election communication failed to 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 Marum was immediately contacted by the Commissioner's office (FOF No. 2). Candidate Marum responded by taking responsibility for the unattributed material and providing the required information (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 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. Candidate Marun has met these duties by accepting responsibility for the unattributed material and providing COPP the approximate number (2,121) and date (October 22, 2022) of unattributed materials distributed, as well a description of a “paid for by” attribution message that would have been provided for the material, and is therefore relieved of a campaign practice violation under §13-35-225(6), MCA (FOF No. 3). 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 3rd day of November, 2022.



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