

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaint) **SUMMARY OF FACTS AND**
Against Wendy Martin) **STATEMENT OF FINDINGS**

John Fletcher filed a complaint alleging that Wendy Martin violated Montana campaign finance and practices laws.

SUMMARY OF FACTS

1. On April 10, 2008 Wendy Martin filed a declaration of intent to run as a write-in candidate for a position of trustee on the Missoula County Public Schools Board of Trustees.

2. School elections were held in Montana on May 6, 2008.

3. Martin paid for a campaign ad that ran in the Missoulian newspaper on May 6, 2008. The ad included a photo of Martin and stated:

My name is Wendy Martin and I am a write-in candidate for the Missoula County Public School Board Trustee, District 1. Your friends and neighbors have endorsed me and I am asking for your vote on Tuesday, May 6.

The ad also listed the names of persons who endorsed Martin's candidacy. The ad did not include the name and address of the person who paid for the ad. According to information provided by Martin, the Missoulian ad cost \$516.

4. John Fletcher filed the complaint on May 7, 2008. The complaint alleges that the ad in the Missoulian supporting Martin's candidacy did not include a "disclaimer" disclosing the identity of the person who paid for the ad, as required by law.

5. In a written response to the complaint Martin acknowledged that her campaign ad lacked a proper disclaimer, noting that it should have stated: "Paid for by Friends of Wendy Martin for MCPS Board Trustee, District 1." Martin also noted that when she filed as a candidate for the office she was unaware she needed to file a form C-1-A Statement of Candidate with the office of the Commissioner. Her letter noted that after being made aware of the requirement she filed a C-1-A, as well as a form C-5 campaign financial disclosure report.

6. Martin's C-1-A and C-5 were both received in the Commissioner's office on May 22, 2008. The C-5, which was also designated as a closing report, disclosed contributions of \$750 and expenditures of \$750, including a \$516 expenditure to the Missoulian for an "ad." Martin did not file a pre-election campaign financial disclosure report (form C-5).

STATEMENT OF FINDINGS

Attribution Violation

The complaint alleges that the Martin campaign ad that appeared in the May 6, 2008 Missoulian did not disclose the identity of the person who paid for the ad.

§ 13-35-225, MCA provides, in pertinent part:

Election materials not to be anonymous -- statement of accuracy. (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising 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. *When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign.* In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer. (Emphasis added).

...

The ad should have included the words "paid for by" followed by the name and address of Martin or her campaign.

Reporting Violations

With limited exceptions not applicable here, § 13-37-201, MCA requires a candidate to file a certification designating a campaign treasurer within five days after becoming a candidate. The Commissioner's office has devised a C-1-A form (Statement of Candidate) for that purpose. Martin filed a declaration of intent to run as a write-in candidate on April 10, 2008. Pursuant to the statute she was required to file a C-1-A no later than April 15, 2008. Her C-1-A, received in the Commissioner's office on May 22, 2008, was filed 37 days late.

Candidates in local elections, including school elections, who receive contributions or make expenditures exceeding \$500 in the campaign must file a pre-election campaign financial disclosure report (on a form C-5) on the 12th day preceding the date on which an election is held, and a post-election report within 20 days after the date of an election. (§ 13-37-226(4), MCA.)

Martin's pre-election report was due April 24, 2008, and her post-election report was due May 26, 2008. Martin did not file a pre-election report. Her post-election report, received in the Commissioner's office on May 22, 2008, was timely.

CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings, there is sufficient evidence to conclude that a campaign ad funded by Wendy Martin did not comply with the attribution requirement of § 13-35-225, MCA. In addition, there is sufficient evidence to conclude that Martin failed to comply with Montana campaign finance reporting and disclosure laws.

Dated this 3rd day of March, 2009.

A handwritten signature in black ink, appearing to read "Dennis Unsworth", written over a horizontal line.

Dennis Unsworth
Commissioner