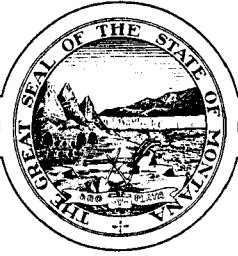


COMMISSIONER OF
POLITICAL PRACTICES

 COPY



STATE OF MONTANA

DENNIS UNSWORTH
COMMISSIONER
TELEPHONE (406) 444-2942
FAX (406) 444-1643

1205 EIGHTH AVENUE
PO BOX 202401
HELENA, MONTANA 59620-2401
www.politicalpractices.mt.gov

November 14, 2008

Bradley Hamlett
PO Box 49
Cascade MT 59421

Subject: Complaint received November 5, 2008 against Jim Whitaker

I have carefully reviewed the complaint you recently filed. You allege that candidate Jim Whitaker misrepresented his own voting record. You allege further that Whitaker calls you and the Montana Democratic Party liars, in violation of 13-37-131, MCA.

I am unable to accept your complaint. First, the statute you allege has been violated does not apply in instances where a candidate misrepresents his or her own record. A 1995 decision by my predecessor Ed Argenbright speaks directly to this issue:

“[i]t does not appear that an allegation that a candidate misrepresented his own voting records can establish a violation of the statute. . . [t]he choice of language by the Legislature suggests an intention to prohibit the misrepresentation of a candidate by a person other than the candidate. Had the Legislature intended to also specifically prohibit a candidate from misrepresenting his own voting record, it could easily have included express language to that effect in statute. Its failure to do so supports a conclusion that the statute does not apply to this situation.”
[Commissioner Ed Argenbright, Bishop v Towe; January 12, 1995]

Further, your allegation that the statute is being violated because Whitaker calls you and others liars is too vague to state a potential claim. No investigation of a complaint is required if the complaint is indefinite or does not contain sufficient allegations to enable my staff and I to make a determination that it states a potential violation of a particular statute or rule.
(44.10.307(3)(a), ARM.)

I'd like to be more helpful, but I am unable to undertake an investigation based on vague or tenuous allegations.



Dennis Unsworth
Commissioner of Political Practices

COMMISSIONER OF POLITICAL PRACTICES
1205 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
TELEPHONE: 406-444-2942
FAX NUMBER: 406-444-1643
WEBSITE: www.politicalpractices.mt.gov

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SIGNED/NOTARIZED

ETHICS

COMPLAINT FORM (11/02)

TYPE OR PRINT IN INK ALL INFORMATION ON THIS FORM EXCEPT FOR VERIFICATION SIGNATURE

PERSON BRINGING COMPLAINT (COMPLAINANT):

COMPLETE NAME Bradley M. Hamlett
COMPLETE MAILING ADDRESS P.O. Box 49
Cascade, MT 59421
(City, State, Zip)
TELEPHONE NUMBERS: WORK 406-799-5885 HOME 406-264-5885

PERSON OR ORGANIZATION AGAINST WHOM COMPLAINT IS BROUGHT (RESPONDENT):

COMPLETE NAME Jim Whitaker
COMPLETE MAILING ADDRESS 4020 5th Avenue South
Great Falls, MT 59405-3640
(City, State, Zip)
TELEPHONE NUMBERS: WORK 406-899-0555 HOME 406-761-6676

**PLEASE COMPLETE THE SECOND PAGE OF THIS FORM
AND DESCRIBE IN DETAIL THE FACTS OF THE ALLEGED VIOLATION.**

VERIFICATION BY OATH OR AFFIRMATION

STATE OF MONTANA, COUNTY OF CASCADE

I, Bradley M. Hamlett, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.



Bradley M. Hamlett
Signature of Complainant

Subscribed and sworn to before me this 4 day of November, 2008.

Diane Bodnar
Notary Public

My Commission Expires: 4/12/08

**ETHICS
COMPLAINT FORM**

STATEMENT OF FACTS:

Describe in detail the alleged violation(s), including pertinent dates, and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

See ATTACHED

**TYPE OR PRINT IN INK ALL INFORMATION ON THIS FORM
EXCEPT FOR VERIFICATION**

COMPLAINTS MUST BE:

- SIGNED
- NOTARIZED
- DELIVERED TO THE COMMISSIONER IN PERSON OR BY CERTIFIED MAIL

On Monday, November 3, 2008, Jim Whitaker for SD10 began airing ads on KMON 560 AM, and 92.9 FM in Great Falls. In the ad Jim Whitaker says "I will not support, and have never voted for a sales tax." In the 2001 legislative session, Jim Whitaker voted Aye on both 2nd and 3rd reading of HB 636, a bill to establish a 4% state sales tax. This is a misrepresentation of his voting record and in violation of statute 13-37-131.

Again in violation of 13-37-131, Mr. Whitaker makes false claims in the beginning of the ad, Mr Whitaker calls Brad Hamlett and the Montana Democratic Party liars. The assertion of lying is not correct when taking Mr. Whitaker's voting record into account. Making false claims against both the party and Mr. Hamlett is unethical and libelous.