

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

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| Manzella v. Young No. COPP 2016-CFP-009 | DISMISSAL OF COMPLAINT AS FRIVOLOUS |
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Theresa Manzella is a resident of Hamilton, Montana and a 2016 candidate for the Montana legislature from House District (HD) 85. A. Jo Young is a resident of Stevensville, Montana and a 2016 candidate for the Montana Legislature from HD 85. On April 18, 2016, Candidate Manzella filed a complaint with the COPP against Candidate Young alleging that certain statements made by Young violated attribution requirements set by Montana law.

DISCUSSION

There are few facts necessary for a Decision in this Matter and the determination of those facts can be made by a review of the complaint and public websites. The Complainant Manzella and Respondent Young are both candidates for election to the 2016 Montana legislature from HD 85.¹ Candidate Manzella alleges that certain statements made by Candidate Young to and published by a newspaper of general circulation (the Ravalli Republic) violated state laws that required attribution of statements ascribing positions

¹ Montana Secretary of State Website, 2016 elections.

taken by prior legislative votes.² These are all of the facts necessary for this determination.

Montana has a long standing law (§13-35-225 MCA) that requires the listing or “attribution” of “the name and address of the person who made or financed the expenditure” leading to an election communication. This attribution requirement has served Montanans well as it requires printing the “paid for by” information on ads promoting or attacking candidates and ballot issues. The Montana legislature recently added a special requirement of particular attribution of any election communication that mentions the voting record of a candidate.³

Candidate Manzella served in the 2015 legislature. Candidate Young criticized some votes taken by Manzella during the 2015 session in her candidate profile interview with the Ravalli Republic. Candidate Manzella asserts that that the interview text violated Montana law because it did not include a detailed attribution, including reference to the exact vote criticized. See §13-35-225 (3) MCA.

Candidate Manzella’s complaint has no merit and is dismissed. The particular requirements of attribution as to a candidate’s voting record apply only to “election communications.” §13-25-225(1)MCA. In turn, election

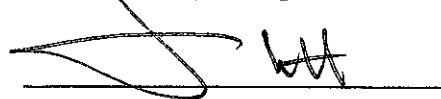
² The Ravalli Republic article at issue is a “candidate profile”, prepared by the newspaper staff and published by the newspaper without any payment by a candidate. The candidate profile feature is provided to every candidate for public office within the circulation area of the Ravalli Republic.

³ Both the 2013 and 2015 legislatures passed such laws. The 2013 law was stricken by the federal courts as unconstitutional: *Monforton v. Fox*, CV14-2-H-DLC, US Dist. CT, MT (Feb. 11, 2014). The 2015 version is currently under challenge in federal court: *Kantorowicz v. Motl*, CV 16-33-H, DLC-JPJ.

communication means, in part, a “paid advertisement published in a newspaper” and does not mean a “bona fide news story” printed by the newspaper. §13-1-101(14), MCA. The Ravalli Republic candidate profile article is a news story prepared and printed by the newspaper for the benefit of the community. Candidate Young did not prepare or pay for the news article. The article is not a paid election communication requiring attribution. Instead, the article is a bona fide news story exempt from attribution.

In making this dismissal of the Complaint the Commissioner notes that the Complaint is without any basis in law. The Commissioner further notes that Candidate Manzella sought news coverage of the Complaint even before the Complaint was accepted and posted to the COPP website. There is perhaps some basis to argue that the law was new and misunderstood, leading to the unintentional filing of a meritless complaint. The intentional use of the Complaint for campaign purposes takes that argument away. The Commissioner designates this dismissal of Candidate Manzella’s Complaint as a dismissal of a frivolous Complaint filed for purposes that do not serve the public trust inherent in election for public office in Montana.

DATED this 26th day of April, 2016.



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