

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES OF THE STATE OF MONTANA

Wilhelm v. Kirchner No. COPP 2016-CFP-032	DECLARATION OF MERIT OF COMPLAINT MEMORIALIZATION OF NOTIFICATION OF MERIT TO CANDIDATE RESOLUTION OF COMPLAINT BY PROMPT REMEDIAL ACTION BY CANDIDATE
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On September 29, 2016, Charles Wilhelm, a resident of Circle, Montana, filed a complaint against Savannah Kirchner, a resident of Circle, Montana. Mr. Wilhelm and Ms. Kirchner are both candidates seeking 2016 election as Clerk of District Court of McCone County.¹ The Complaint alleges that Candidate Kirchner failed to properly attribute campaign palm cards.

¹ Mr. Wilhelm and Ms. Kirchner have each filed Statements of Candidacy (Form C1A) with the COPP (COPP 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 was accompanied by a campaign palm card (1½ by 3 inches) that lacked the required name identification portion of the attribution. Specifically, the card was attributed as “Paid for by PO Box 251, Circle, MT”, and lacked the name of Candidate Kirchner, as required by Montana law.

Montana law requires an accelerated review (“as soon as practicable”) of a campaign practice complaint alleging an attribution violation. Accordingly, Candidate Kirchner was immediately contacted by the Commissioner’s investigator. Candidate Kirchner agreed that the palm card attribution read “paid for by PO Box 251 Circle MT” and lacked the required name of the person who paid for the palm card. Candidate Kirchner immediately remediated as, within hours of first speaking with the COPP, Candidate Kirchner went to the three businesses (Circle Exxon, Farmers Union Oil, and Conoco) where she collected all incorrectly attributed cards and thereby prevented further distribution.

The law governing complaints of failure to properly attribute political signs provides precise directions to the Commissioner:

1. The Commissioner is to immediately assess the merits of the Complaint. §13-35-225(7)(a), MCA. The Commissioner found

merit to the Complaint and hereby memorializes that finding.

2. The Commissioner shall notify the candidate of the merit finding, requiring the Candidate to bring the signs into compliance. §13-35-225(7)(a), MCA. The Commissioner, through oral communication by Elyssa Spaeth, did this and hereby memorializes the Notice.

3. The Candidate is provided an unspecified period of time to bring the cards into attribution compliance (§13-35-225(7)(b), MCA). By this Decision the Commissioner declares his satisfaction that the Candidate has acted promptly and properly to correct the attribution deficiency.

Under Montana law the Candidate with the attribution deficiency is relieved of a campaign practice violation, provided she promptly carries out the attribution correction as promised. Candidate Kirchner has met these duties and is therefore relieved of a campaign practice violation under §13-35-225(7)(b), MCA. This Complaint is dismissed.²

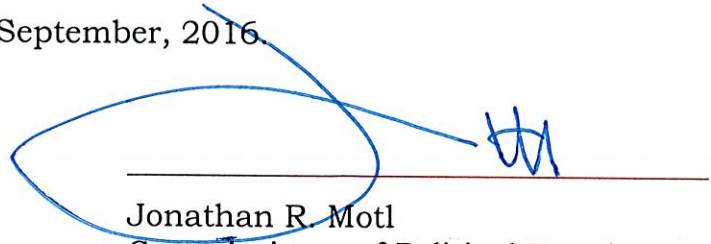
Normally the Commissioner first provides Decisions to the parties and the press and public on the following day. The Legislature, however, has set very tight timelines on this sort of attribution Complaint. Accordingly, the Commissioner provides this Decision to the parties, press and public on the day it is made.

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² The Commissioner notes that this is the second attribution complaint filed by the Complainant against Candidate Kirchner. See *Wilhelm v. Kirchner* COPP-2016-CFP-017.

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DATED this 29thth day of September, 2016.



Jonathan R. Motl
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