

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES OF THE STATE OF MONTANA

Burke v. Johnson (“Unknown 2”)  No. COPP 2023-CFP-021	DECLARATION OF MERIT OF COMPLAINT  RESOLUTION AND DISMISSAL OF ATTRIBUTION COMPLAINT BY PROMPT REMEDIAL ACTION BY THE RESPONSIBLE PARTY  DISMISSAL OF COMPLAINT
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On October 27, 2023, Christopher Burke of West Yellowstone, MT filed a campaign practices complaint against “Unknown” in West Yellowstone. The complaint alleged that “Unknown” failed to include the ‘paid for by’ attribution message on a campaign communication as required.

**FINDING OF FACTS**

The facts necessary for a determination in this matter are as follows:

Finding of Fact No. 1: On October 27, 2023, COPP received the original signed and notarized copy of this complaint from complainant Christopher Burke. In reviewing the complaint, Commissioner Gallus determined that a campaign communication supporting repeal of Resolution 773 in the Town of West Yellowstone did not contain the ‘paid for by’ attribution messaging, and therefore the complaint was merited (Commissioner’s Records).

Finding of Fact No. 2: On October 30, 2023, COPP contacted “Unknown” via certified mail sent to the Post Office Box 335 in West Yellowstone included on the unattributed mailer, to provide notification that this formal attribution complaint had been received. “Unknown” was informed that the attribution complaint was merited, as the specific campaign communication did not contain the full ‘paid for by’ attribution message as required, and that:

You will need to add full attribution messaging to all copies of this unattributed material and provide photographic notice to COPP showing this addition- distribution of any unattributed copies of the communication must be halted until the full ‘paid for by’ attribution message is added.

...

If you did not engage in the activity relating to this complaint, I [Commissioner Gallus] would appreciate having any additional information you can provide as to potential parties involved. It is in everyone’s best interest to immediately resolve the situation in the manner described above, and COPP will work with you, or other parties, to get this accomplished.

(Commissioner’s Records).

Finding of Fact No. 3: On November 2, 2023, individual Jerry Johnson of West Yellowstone contacted the COPP Investigator via telephone call to notify the Office that he was the individual responsible for financing and distributing the unattributed communication referenced in this complaint. Later that day, Mr. Johnson emailed COPP a picture of the communication, a statement that the communication was “Paid for solely by Jerry Johnson”, and information indicating that 545 total copies had been sent out without attribution message via mail sent October 19, 2023. The message also indicated that Mr. Johnson had “no more mailers in possession and do not intend to send out anymore”. (Commissioner’s Records).

## **DISCUSSION**

Under Montana law “all election communications, electioneering communications, and independent expenditures 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”, Mont. Code Ann. §13-35-225(1) MCA. This complaint references a copy of an election communication supporting repeal of a local resolution in the Town of West Yellowstone that fails to include the required attribution message.

Montana law requires an accelerated review (“as soon as practicable”) of a campaign practice complaint alleging an attribution violation. In this matter, COPP staff attempted to contact the Unknown respondent responsible for financing and distributing the communication via certified mail sent on October 30, “as soon as practicable”, to provide notification of the attribution deficiency (FOF No 2). On November 2, individual Jerry Johnson contacted COPP via telephone and email to claim responsibility for the communication, and he provided COPP relevant attribution information for the communication (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.
2. The Commissioner shall notify the individual of the merit finding, requiring the individual to bring the material into compliance, §13-35-225(6)(a), MCA. In this matter COPP, via certified mail sent October 30, took reasonable action to notify the Unknown respondent.
3. The individual financing the material is provided 2 business days after being notified of the attribution omission to bring the material into attribution compliance, §13-35-225(6)(a)(i), MCA. In this matter, Mr. Johnson provided COPP relevant attribution messaging

on November 2, 2023.

Under Montana law the individual with an attribution deficiency is relieved of a campaign practice violation, provided he/she promptly carries out the attribution correction. Mr. Johnson has met these duties by accepting responsibility for the unattributed material and providing COPP appropriate attribution information. Mr. Johnson has demonstrated immediate cooperation to cure the attribution omission, and his immediate steps allowed for prompt resolution of the matter and accomplished public notice prior to the relevant election concluding. He is therefore relieved of a campaign practice violation under Mont. Code Ann. §13-35-225(6).

DATED this 2nd day of November, 2023.

/s/ Chris J. Gallus

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