



250 Massachusetts Ave NW, Suite 400 | Washington, DC 20001

October 17, 2023

Chris J. Gallus
Commissioner of Political Practices
PO Box 202401
Helena, Montana 59620

Re: Montana Republican Party v. Busse, COPP-2023-CFP-017

Commissioner Gallus:

We write on behalf of Ryan Busse and Busse for Montana (the “*Campaign*”) in response to the complaint filed by the Republican Party of Montana (the “*Complaint*”) on October 10, 2023. According to the letter you provided with the Complaint, our response to the attribution allegation is due by October 17, but our response to the remaining allegations is not due until October 27. We write now only in response to the attribution allegation and will provide a comprehensive response to the remaining allegations by October 27.

In terms of attribution, the Complaint incorrectly claims that “[t]he video by candidate Busse referenced [previously in the Complaint] does not include the proper attribution” required by Montana law.¹

The Complaint appears to be referring to this video posted by Mr. Busse on X/Twitter on September 24, 2023: <https://x.com/ryandbusse/status/1706060554450702620?s=20>. Neither the Campaign nor Mr. Busse put any funds behind this video; they did not pay to boost it on X/Twitter or on any other social media platform and instead only posted it for free on X/Twitter. Accordingly, Montana law does not require any attribution language for the video at issue.

Montana law requires all “election communications, electioneering communications, and independent expenditures [to] 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.”² Yet, a free post on the Internet by a candidate does not qualify as an election communication, electioneering communication or independent expenditure, meaning the attribution requirements do not apply.

More specifically, an “election communication” is defined as “(a) a paid advertisement broadcast over radio, television, cable, or satellite; (b) paid placement of content on the internet or other

¹ Compl. at 3.

² Mont. Code Ann. § 13-35-225(1); *see also* Mont. Admin. R. 44.11.601.

electronic communication network; (c) a paid advertisement published in a newspaper or periodical or on a billboard; (d) a mailing; or (e) printed materials.”³ As you can see, a free video on the Internet does not qualify unless someone paid to place the content, which is not the case here.

Similarly, an “electioneering communication” is defined as a “paid communication” that satisfies certain criteria.⁴ And because this video was posted by Mr. Busse himself, it does not qualify as an independent expenditure.

Montana law is clear that attribution language is only required for paid Internet content, not free videos posted on social media without any funding behind them. Accordingly, the Complaint’s allegation regarding attribution should be dismissed.

We will provide a response to the remaining allegations by the date specified in your letter. If you have any questions about this allegation in the meantime, please contact us.

Thank you for your time.

Courtney Weisman

Courtney Weisman
Jon Berkon
Counsel to Ryan Busse

³ Mont. Admin. R. 44.11.604(2) (emphasis added).

⁴ Mont. Admin. R. 44.11.605 (defining “electioneering communication” as a paid communication that is publicly distributed by radio, television, cable, satellite, website, newspaper, periodical, billboard, mail, or any other distribution of materials, that is made within 60 days of an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that: (i) refers to one or more clearly-identified candidates in the election; (ii) depicts the name, image, likeness, or voice of a candidate; or (iii) refers to a political party, ballot issue, or other question on the ballot).