

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)

GALE DECKER v. WES BAERTSCH (Lake County Commission candidate)	COPP-2024-CFP-011 DECLARATION OF MERIT OF COMPLAINT RESOLUTION OF COMPLAINT BY PROMPT REMEDIAL ACTION BY THE RESPONSIBLE PARTY DISMISSAL OF COMPLAINT
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COMPLAINT

On May 1, 2024, Gale Decker, a candidate for election to the Lake County Commission, filed a campaign practices complaint against Wes Baertsch, another candidate for election to the Lake County Commission. The complaint alleged that candidate Baertsch failed to include the ‘paid for by’ attribution statement on a campaign yard signs as required.

ISSUES

“Paid for by” attribution requirements, Montana Code Annotated (MCA) § 13-35-225.

FINDING OF FACTS

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

Finding of Fact No. 1: On February 15, 2024, Wes Baertsch filed a C-1A Statement of Candidate as a candidate seeking election to the Lake County Commission with COPP. On the C-1A, candidate Baertsch indicated he was a Republican candidate. (Commissioner’s Records).

Finding of Fact No. 2: On May 1, 2024, COPP received the original signed and notarized copy of this complaint from complainant Decker. In reviewing the complaint, Commissioner Gallus determined it was merited, as the campaign yard sign material referenced in the complaint did not contain any ‘paid for by’ attribution statement. (Commissioner’s Records).

Finding of Fact No. 3: On May 2, 2024, COPP contacted candidate Baertsch via email and telephone message to provide notification that this formal attribution complaint had been received. Candidate Baertsch was informed that the attribution complaint was merited, and that “You will need to add full attribution messaging to this communication and provide

photographic notice to COPP showing this addition has been made” within 2 business days. (Commissioner’s Records).

Finding of Fact No. 4: On the evening of May 2, COPP received email correspondence from candidate Baertsch in response to this complaint. The response included photos of the campaign yard signs referred to in this complaint with an attribution statement of “Paid for by Wes Baertsch, 46911 Back Road, Ronan, MT 59864”. An elephant symbol denoting his partisan affiliation as a Republican candidate had also been added. (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”, Montana Code Annotated (MCA) § 13-35-225(1). In partisan elections, communications must also “state the candidate's party affiliation or include the party symbol”, MCA § 13-35-225(2). This complaint references certain election communications financed by Lake County Commission candidate Wes Baertsch that failed to include the required ‘paid for by’ attribution statement.

Montana law requires an accelerated review (“as soon as practicable”) of a campaign practice complaint alleging an attribution violation. In this matter, COPP staff contacted candidate Baertsch on May 2- “as soon as practicable”- to provide notification of the attribution deficiency (FOF No. 3). That evening, candidate Baertsch provided COPP with photographic evidence that both the “paid for by” attribution statement and partisan affiliation had been added to his campaign yard signs (FOF No. 4).

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

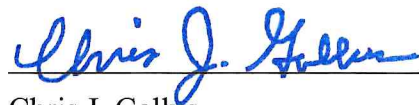
1. The Commissioner is to immediately assess the merits of the attribution complaint, MCA § 13-35-225(5). he Commissioner found merit to the attribution complaint and hereby memorializes that finding.
2. The Commissioner shall notify the individual of the merit finding, requiring the individual to bring the material into compliance, MCA § 13-35-225(6)(a). In this matter, COPP was able to notify candidate Baertsch of the attribution deficiency via telephone and email correspondence on May 2, 2024.
3. The individual financing the material is provided 2 business days to bring the material into attribution compliance, MCA § 13-35-225(6)(a)(i). In this matter, candidate Baertsch did so by adding the required attribution statement and partisan affiliation to his campaign yard signs and notifying COPP of this action on May 2.

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. Candidate

Baertsch has met these duties by adding the required attribution message and partisan affiliation to his campaign yard signs within 2 business days. Candidate Baertsch is therefore relieved of a campaign practice violation under MCA § 13-35-225(6). The complaint is dismissed.

Normally the Commissioner first provides Decisions to the parties and then the 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 and public on the day issued.

DATED this 7th day of May, 2024.



Chris J. Gallus
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