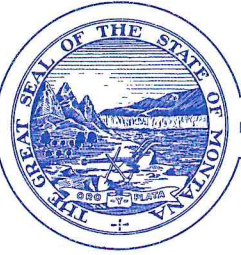


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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October 3, 2024

Emily Harris, Busse for Montana
PO Box 8537
Kalispell, MT 59904

Subject: Busse for Montana (via Harris) v. Gianforte, COPP-2024-CFP-039

Emily,

I acknowledge the above-named complaint, received by this office on September 26, 2024. The complaint does allege a violation of election law under my jurisdiction as Commissioner of Political Practices and conforms to the basic requirements of ARM 44.11.106. However, ARM 44.11.106(4) provides: “[n]o investigation shall be required and a complaint may be dismissed as frivolous on its face.” In *Landsgaard v. Peterson*, the Commissioner outlined four indicia of frivolous complaints. COPP-2014-CFP-008. The fourth indicia under the heading “De Minimis Violations Are Not Favored,” states, “a trivial complaint is one that focuses on a technical violation.” *Id.* at 13. The Commissioner also provides “this indicia will be measured and applied specifically on a complaint by complaint basis.” *Id.*

Here, as an initial consideration, the statute establishing Montana’s attribution requirements, MCA § 13-35-225(1)(a), does specifically require that communications financed by a candidate or their campaign include “the name and address of the candidate or the candidate’s campaign,” emphasis added. Your complaint correctly states that ARM 44.11.601(2)(a)(ii)(A), requires an attribution include the candidate’s first and last name if the name of the candidate’s campaign does not include the candidate’s last name. Here, the campaign name does not include candidate Gianforte’s last name. Therefore, this is a technical violation but also a de minimis one.

In this case, Governor Gianforte has reasonably and credibly argued that his campaign name is Greg for Montana. This assertion is backed up by its prior and continued public use, including on the campaign’s official website, social media accounts, and even correspondence with COPP regarding prior complaints. The campaign name, Greg for Montana, has been used in disclaimers for a minimum of four years, beginning with the 2020 Montana’s governor race.

ARM 44.11.603(2)(f) specifically includes “any failure to comply with the attribution requirements of 13-35-225, MCA, that is determined to nevertheless provide

sufficient disclosure regarding who made or financed the communication” as acts that may be considered de minimis. In this case, each communication includes Mr. Gianforte’s first name- Greg- his campaign mailing address of PO Box 877 in Helena, MT, and his partisan affiliation as a Republican. The context and nature of each communication provides additional reason for the recipient to believe it has been financed by Mr. Gianforte’s own gubernational campaign. Taken together, I must determine that any recipient of these communications is provided “sufficient disclosure” to determine that it was financed by Mr. Gianforte’s campaign.

Even if I were to determine that the lack of inclusion of Mr. Gianforte’s last name in fact did constitute a violation of MCA § 13-35-225, as requested Montana law specifically provides candidates and political committees an opportunity to bring unattributed material into full compliance. MCA § 13-35-225(6). As the implicated materials are already in circulation, the policy of COPP would be to ask the campaign to provide the full and correct attribution to COPP to include in our record, an act that is unnecessary considering these particular facts and circumstances.

The question of whether Montana voters were deprived of access to important information prior to voting is always an important factor when decisions are reached. Here, Mr. Gianforte has provided the required notice that he financed communications relevant to this complaint by including his campaign’s name and address in the attribution statement included with each. While his last name was not included as required under ARM 44.11.602(2)(a)(ii)(A), any effect this technical failure may have on Montana voters is de minimis and unworthy of further consideration. Continuation of this matter, including requesting Mr. Gianforte add his last name to the attribution statement included with each material pursuant to MCA § 13-35-225(6), would involve the dedication of significant time and resources by COPP staff. This close to Montana’s November 5, 2024, general election, I determine the agency’s time and resources are better spent on other matters and therefore dismiss this complaint in full.

Regards,



Chris J. Gallus
Commissioner of Political Practices

Cc: Jake Eaton, Greg for Montana