

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES (COPP)

JENI DODD v. MELISSA NIKOLAKAKOS (Montana House District 20 candidate)	COPP-2024-CFP-024 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 28, 2024, Jeni Dodd of Great Falls, MT filed a campaign practices complaint against Melissa Nikolakakos, candidate for election to the Montana House of Representatives, District 20. The complaint alleged that candidate Nikolakakos failed to include the ‘paid for by’ attribution statement on a campaign mailer material as required by law.

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 March 14, 2024, Melissa Nikolakakos filed a C-1 Statement of Candidate as a candidate seeking election to the Montana House of Representatives, District 20 with COPP. On the C-1, candidate Nikolakakos indicated she was a Republican candidate. (Commissioner’s Records).

Finding of Fact No. 2: On May 28, 2024, COPP received the original signed and notarized copy of this complaint from complainant Dodd. In reviewing the complaint, Commissioner Gallus determined it was merited, as the campaign mailer material referenced in the complaint did not appear to contain any ‘paid for by’ attribution statement. (Commissioner’s Records).

Finding of Fact No. 3: On May 30, 2024, COPP contacted candidate Nikolakakos via email and telephone message to provide notification that this formal attribution complaint had been received. Candidate Nikolakakos 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 24 hours. (Commissioner’s Records).

Finding of Fact No. 4: On the afternoon of May 30, COPP received email correspondence from candidate Nikolakakos in response to this complaint. The response included photos of the campaign mailer material referred to in this complaint showing that it included an attribution statement of “Paid for by Melissa for Legislature (R) 5112 4th Ave N Great Falls MT.” (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 Montana HD 20 candidate Melissa Nikolakakos that did not appear 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 Nikolakakos on May 30- “as soon as practicable”- to provide notification of the apparent attribution deficiency (FOF No. 3). That afternoon, candidate Nikolakakos provided COPP with photographic evidence that both the “paid for by” attribution statement and notification of partisan affiliation as a Republican candidate¹ was included on the material as required (FOF No. 4). COPP notes that the attribution statement was printed in black ink on a red or maroon background, making it potentially difficult for certain individuals to decipher. In the future, candidate Nikolakakos will need to ensure that the any future materials are “printed with a reasonable degree of color contrast between the background and the printed statement” so as to be clear and conspicuous, Administrative Rules of Montana (ARM) 44.11.602(3)(a)(ii).

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). 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, MCA § 13-35-225(6)(a). In this matter, COPP was able to notify candidate Nikolakakos of the attribution deficiency via telephone and email correspondence on May 30, 2024.

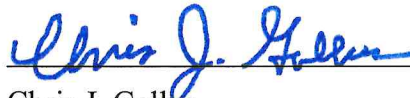
¹ Use of the “R” abbreviation to denote Republican partisan affiliation is allowed on campaign material. See ARM 44.11.601(4)(b)(iii)

3. Being within 7 days of Montana's June 4, 2024, primary election, the individual financing the material is provided 24 hours to bring the material into attribution compliance, MCA § 13-35-225(6)(a)(ii). In this matter, candidate Nikolakakos was able to provide COPP photographic evidence that the material was already compliant with Montana's attribution requirements.

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 Nikolakakos has met these duties by providing COPP sufficient notification that the material referenced in this complaint included the attribution statement and partisan affiliation required under MCA § 13-35-225(1) and (2). Candidate Nikolakakos 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 31st day of May, 2024.



Chris J. Gallus
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