

Commissioner of Political Practices
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Campaign Finance and Practices

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Healthy Montana Ballot Initiative, c/o Tara Veazey
Complete Mailing Address PO Box 1614
Helena, MT 59624
Phone Numbers: Work 406-439-4170 Home _____

Person or organization against whom complaint is brought (Respondent):

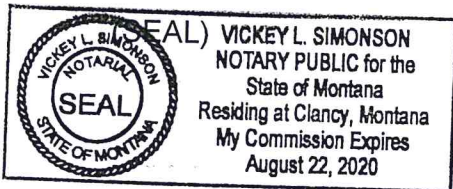
Complete Name Decision Point Consulting(DPC); Montanans Against Tax Hikes(MATH); John Does 1-10
Complete Mailing Address DPC, Berea, OH
MATH, Chuck Denowh, Treasurer, PO Box 4932, Helena MT 59604
Phone Numbers: Work DPC: 406-263-5362 Home MATH: 406-495-8383

Please complete the second page of this form and describe in detail the facts of the alledged violation.

Verification by oath or affirmation

State of Montana, County of Lewis & Clark

I, TARA VEAZEY, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.



[Signature]
Signature of Complainant

Subscribed and sworn to before me this 4th day of June, 2018.

Vickey L Simonson
Notary Public

My Commission Expires:

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

See attached complaint letter

Complaints must be:

- signed
- notarized
- delivered in person or by certified mail.

June 4, 2018

Commissioner of Political Practices
Commissioner Jeff Mangan
1209 Eighth Ave.
P.O. Box 202401
Helena, MT 59620

Re: **Campaign Practice Complaint Against Decision Point Consulting and
Montanans Against Tax Hikes – MATH.**

Dear Commissioner Mangan,

Healthy Montana hereby submits this combined complaint against Decision Point Consulting, Montanans Against Tax Hikes – MATH, primary ballot committee, and any other now unknown entity or committee that may have contributed to or made these expenditures (John Does 1-10).

Decision Point Consulting
Treasurer Unknown
Berea, OH
440-263-5362

Montanans Against Tax Hikes – MATH
Chuck Denowh, Treasurer
P.O. Box 4932
Helena, MT 59604
406-495-8383

John Does 1-10

Healthy Montana for I-185 respectfully requests that the Montana Commissioner of Political Practices (“COPP”) immediately investigate serious violations of the state’s campaign finance and reporting laws by interests seeking to influence our elections. The I-185 initiative gives Montana voters the opportunity to raise the state fees on all tobacco products in order to fund important health services for veterans, seniors and people with disabilities while preventing cuts to Medicaid that would leave roughly 100,000 Montanans without health coverage.

Montana has a long history of standing up to dark money groups attempting to manipulate our elections, and Big Tobacco companies have a long history of spending millions of dollars to attempt to defeat publicly popular tobacco tax initiatives in other states. *See e.g.*, Elizabeth Cox, BA; Rachel Barry, MA; Stanton Glantz, PhD; and Richard Barnes, JD, “Tobacco Control in California, 2007-2014: A Resurgent Tobacco Industry While Inflation Erodes the California

Tobacco Control Program” p 3 (Oct. 2014) (tobacco industry spending in California state-level political activity including lobbying and ballot measures over 7 years amounted to \$64,428,254). We ask the Montana Commissioner of Political Practices to help shed light on the above-named entities that are already using undisclosed funding sources to conduct robocalls, create focus groups, and conduct polling in Montana to test whether false and misleading information can be used to defeat I-185. Montanans have a right to know what interests are funding those efforts, how much money is being dumped into our political system, and what other tactics they are utilizing.

Although the failure to provide timely reports to COPP makes it impossible to know for certain what entities have been funding opposition research and activities, it is worth noting that the Treasurer of the only opposition ballot committee to be filed to date (MATH) also filed a letter with the Montana Attorney General on April 9, 2018, opposing the proposed ballot statements for I-185 on behalf of Altria Client Services LLC and RAI Services Company, whose parent companies dominate the tobacco market, controlling roughly 86% of the market share in 2016. As part of a global industry with revenues approaching half a trillion dollars annually, Big Tobacco will likely attempt to protect their profits at the expense of Montanans’ health. American Cancer Society, “Tobacco Industry Profits Estimated \$35 Billion With Almost 6 Million Annual Deaths” (Aug. 8, 2012) available at: <https://www.maurerfoundation.org/tobacco-industry-profits-estimated-35-billion-with-almost-6-million-annual-deaths/>. Montana voters are counting on COPP to shed light on the money and tactics used to influence this election.

This complaint is combined against the two entities named above since the violations of Decision Point Consulting likely also implicate MATH. The Commissioner should investigate each entity above and any other potentially responsible entities to ensure that this pattern of unreported expenditures and contributions attempting to influence a Montana election is immediately ended.

I. Illegal Election Communications By Decision Point Consulting Violate Multiple Montana Laws.

On or around May 1, 2018, several individuals reported receiving automated telephone solicitations (“robocalls”) which offered \$100 to participate in a focus group. The call indicated that “some people want to put a 187% increase to the cigarette tax on the ballot.” There was a call back number for people who were interested. The number provided was 440-263-5362. When called, the number was answered by a voicemail service for Decision Point Consulting. On May 7, 2018, Heathy Montana Initiative Campaign Manager, Tara Veazey called the number and a human answered and informed her that the focus group had been held in Montana the previous week.

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A. Mont. Code Ann. § 13-37-201 and Admin. R. Mont. 44.11.201 requiring filing of political committees have been violated.

Montana law requires that “a political committee shall file the certification, which must include an organizational statement and the name and address of all officers, if any, within 5 days after it makes an expenditure or authorizes another person to make and expenditure on its behalf, whichever occurs first.” Mont. Code Ann. 13-37-201(2)(b). The robocall was received on or around May 1. On May 7, 2018, Decision Point reported that the focus group had been held the previous week, which would have been sometime between April 30 and May 5.

Clearly the hiring of an out of state company to produce a robocall is an expenditure. The robocall further offers cash (at least \$100 to each person) to attend a focus group on I-185. Just as clearly, developing and carrying out a focus group costs money—at a minimum, someone had to be paid to staff the focus group and space to hold the group was likely rented. Even if the space was donated, the fair market value of that space would have to be reported as an in-kind contribution. Contractual obligations to set up this work must have been executed in April. Decision Point Consulting failed to file a C-2. Nor was an opposition ballot committee timely filed. At the very latest an opposition committee should have been filed by May 6, 2018, but no such committee was filed.

The first committee filed opposing I-185 was MATH. This committee filed its C-2 on May 17, 2018—a minimum of 11 days late if it were responsible for these robocalls. Decision Point Consulting has never filed a C-2 if it was making these expenditures on its own. If Decision Point Consulting was hired by an entity other than Montanans Against Tax Hikes, that entity has failed to file a C-2. The failure to timely file C-2s and establish committees to report these expenditures are violations of Mont. Code Ann. § 13-37-201.

B. Failure to disclose these expenditures is a violation of Mont. Code Ann. § 13-37-225 and multiple other laws and rules.

Montana law requires reporting of contributions and expenditures made to attempt to influence ballot measure campaigns. Mont. Code Ann. § 13-37-225. An expenditure is a payment or anything of value made by an entity to support or oppose a ballot measure. *Id.* § 13-1-101(18). There are certain statutory exceptions to the definition of an expenditure such as a membership communication. *Id.*

An examination of all ballot and incidental committee filings to date finds no reporting of the expenditures named above—cost for development and production of robocalls, other costs related to the focus group, and payments to focus group participants.

It was also brought to the Campaign’s attention that on May 15, 2018, a voter received a call from a polling firm that was testing the I-185 ballot language and opposition messaging. We were told that the poll was approximately 25 minutes in length and tested multiple messages related to I-185.

This polling expenditure has not been disclosed and has not been included in any campaign finance reports to date. Given the length and type of the poll conducted and our experience in conducting polling on this issue, this poll likely cost between \$35,000 and \$50,000. If MATH paid for this poll to be conducted, it should have been reported in the C-6 disclosure report that was due on May 21 and covered the time period of April 27 through May 16. MATH filed a form C-6 on June 1, but this report failed to include any of the above-described expenditures. If an unknown entity was responsible for these expenditures, it has yet to file a political committee to report them. Failure to report the robocall, focus group and polling expenditures violates Montana law.

C. Montanans Against Tax Hikes failed to report contributions received to its organization in response to the solicitation of Decision Point Consulting

Mont. Code Ann. § 13-37-229 requires all ballot committees to report all contributions, including in-kind contributions. In addition, Mont. Code Ann. § 13-37-232 requires the reporting of contributions received pursuant to a solicitation. Again, an examination of all ballot and incidental committee filings finds no reporting of any contributions, but for the above expenditures (robocalls, polling, and focus group) to be made, there had to have been contributions to MATH or some other entity. If those contributions were made to MATH, MATH failed to report any type of contribution for the robocalls or focus group activity performed by Decision Point Consulting and the polling. These contributions were not reported in violation of Montana law.

D. Decision Point Consulting violated Montana's robocall prohibition.

Montana law expressly prohibits the use of automated telephone solicitations (robocalls) for political activity, soliciting information, or gathering data or statistics unless permission is obtained by a live operator before the recorded message is delivered. Mont. Code Ann. § 45-8-216. Several Montana residents reported receiving automated telephone solicitations requesting their participation in a focus group and reporting tobacco tax increase information. Decision Point Consulting engaged in illegal criminal activity in Montana. If MATH was responsible for these robocalls, it also engaged in illegal criminal activity.

II. Montanans Against Tax Hikes, Decision Point Consulting and Any Other Unknown Entities Involved In These Activities Should Be Held Responsible For Their Actions, Be Required To Report, And Be Fined In Accordance With Montana Law.

I-185 is an important initiative that will have serious impacts on the health and well-being of Montanans. Initiatives such as this are often met with the resistance of well-funded interests such as multi-national Big Tobacco companies. Montana voters deserve to have clear information about the sources of the big money interests that will be attempting to influence their votes.

This complaint only includes information brought to light because interested parties called members of the I-185 campaign to provide information about opposition activities. Without timely investigation by COPP, voters will have no way of knowing how many other election communications have occurred, the entities paying for those communications, or the interests those entities represent. Montana citizens have a right to know.

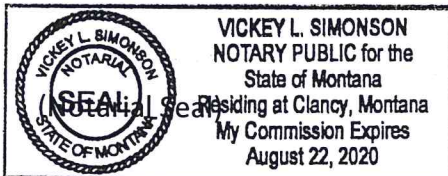
We respectfully request that every instance of nondisclosure and failure to report be investigated and prosecuted. The reports of undisclosed expenditures are not *de minimus* violations but rather constitute serious impediments to Montana's campaign finance laws and the historical values they represent. Even negligent violations of these reporting and disclosure laws are subject to fines of up to three times the amount of the unlawful contributions or expenditures. Mont. Code Ann. § 13-37-128. The failure of opponents to I-185 to file any of the required financial reports or disclose any information about their income sources or expenditures represents a clear disregard for Montana's reporting requirements and warrant full and immediate investigation.

Healthy Montana thanks the Commissioner in advance for thoroughly investigating these severe violations of Montana campaign laws.

Sincerely,

Tara Veazey

Subscribed and sworn to before me this 4th day of June, 2018.



Vickey L. Simonson
NOTARY PUBLIC FOR THE STATE OF MONTANA

Print Notary Name: _____

Residing at: _____

My commission expires: _____