



**COMMISSIONER OF POLITICAL PRACTICES
STATE OF MONTANA**

OPINION

Interpretation and Enforcement of Naming and Labeling Statute

Section 13-37-210, Montana Code Annotated (MCA):

Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot measure by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot measure as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128.

Three decisions addressing what constituted a shared economic or other special interest under the naming and labeling statutes were issued in 1996:

- *In the Matter of the Complaint Against Montanans For Common Sense Water Laws/Against I-122* ("MCSWL"), October 9, 1996 Summary of Facts and Statement of Findings;
- *In the Matter of the Complaint Against the Committee to Defend First Amendment Rights/*

Against I-125 (“CDFAR”), October 11, 1996 Summary of Facts and Statement of Findings; and

- *In the Matter of the Complaint Against the No on CA-30 Committee* (“NO CA-30”), November 15, 1996 Summary of Facts and Statement of Findings.

These three decisions establish the following:

1. A violation of the naming and labeling statute occurs if a majority of the contributors to a political committee share an identifiable economic or special interest. The source of the majority of the contributions received is not the test for determining if a violation has occurred.
2. Determinations of shared economic or special interest will be based on the “name of the employer” and “occupation” information provided by the contributor and listed in the political committee’s C-6 report. The three naming and labeling decisions determined whether contributors shared a common economic or special interest as follows:
 - The I-122 decision determined that 55% of MCSWL’s contributors were mining companies or miners as of September 5, 1996 and that MCSWL had been in violation of the naming and labeling statute for a five-month period. The decision rejected the complainant’s contention that individuals or businesses that provided services or supplies to mining companies or miners shared a common economic or special interest with mining companies or miners. For example, complainant alleged that attorneys who contributed to MCSWL and also provided legal services to mining companies shared a common economic or special interest with mining companies or miners. Complainant made the same argument with respect to tire companies, equipment dealers, and other businesses that allegedly sold products or services to mining companies or miners.
 - The I-125 decision involved an allegation that CDFAR’s name should be changed to “Montana Businesses to Defend First Amendment Rights” because all five of the contributors were businesses or had “business ties.” The five contributors included

two banking entities, a meat packing firm, the Montana Contractors Association, and an advertising agency. The decision rejected complainant's assertion that the five contributing business entities shared a common economic or special interest. The decision concluded that CDFAR was not in violation of the naming and labeling statute.

- The CA-30 decision involved an allegation that "NO CA-30" had violated the naming and labeling statute because a majority of its contributors had an economic or special interest in the Montana higher education system. It was determined that less than a majority of contributors (40%) were officials or employees of Montana's universities or the higher education system. The decision rejected the complainant's assertion that members of the Board of Regents who contributed to "NO CA-30" shared a common economic or special interest in higher education. The four Regents were either retired or engaged in occupations that were independent of the university system.

The Commissioner, when reviewing a committee's campaign finance reports, will review the economic or other special interest of contributors listed in the committee's C-6 reports; however, the primary responsibility for complying with the naming and labeling statute (Section 13-37-210, MCA) lies with the committee itself.

A committee that violates the naming and labeling statute is subject to the enforcement provisions of Section 13-37-128, MCA, which authorizes a civil penalty action to collect a civil penalty of \$500 or three times the amount of illegal contributions or expenditures, whichever is greater. In Argenbright v. Montanans for Common Sense Water Laws/Against I-122, supra, former Commissioner Argenbright took the position that the illegal expenditures constituted the amount spent on advertising during the period that MCSWL's name did not reflect the shared economic interest of a majority of its contributors. The Commissioner is not required to issue an Order of Noncompliance pursuant to Section 13-37-115, MCA, before initiating a civil penalty action under Section 13-37-128, MCA. The Commissioner reserves the right to take any

administrative action necessary to force a political committee to adopt a name which clearly identifies the economic or other special interest of a majority of its contributors.

October 22, 1999