

Commissioner of Political Practices  
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Helena, MT 59620-2401  
Phone: 406-444-2942  
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www.politicalpractices.mt.gov

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CERTIFIED MAIL

SIGNED/NOTARIZED

### 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 Dennis Hardin  
Complete Mailing Address 6125 South 19th Ave.  
Bozeman, Mt. 259718  
Phone Numbers: Work 406-587-1211 Home 406-587-2867

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

Complete Name Joe Skinner and Ringling 5  
Complete Mailing Address 4400 Swamp Road/ Ringling 5 P.O. Box 36  
Belgrade, Mt. 59714/ Wilsall, MT 59086 C/O Ron Arthun  
Phone Numbers: Work 406-582-3000 Home 406-388-4554 /406-578-2397

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

#### Verification by oath or affirmation

State of Montana, County of GALLATIN

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



Dennis Hardin  
Signature of Complainant

Subscribed and sworn to before me this 4 day of JUNE, 2010.

[Signature]  
Notary Public

My Commission Expires: 7-9-2011

**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.

**Complaints must be:**

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

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## **Campaign Finance and Practices**

### **Complaint**

**Thursday, June 04, 2010**

Complaint:

1. Gallatin County Commission candidate Joe Skinner failed to report an in-kind contribution valued at several thousand dollars for the writing, producing, performance, equipment use and ongoing rights to use music specially created for the candidate by the Ringling 5 music group, a member of which is Chairman of the Gallatin County Gravel Pit Task Force.

Candidate Skinner was responsible to report this contribution himself or confirm the group had formed a committee as required by law and filed the required reporting forms with the commissioner of political practices and the county. This in-kind service is a gross violation of the maximum contribution of \$160 a committee can contribute. Additionally, the continued use of an entertainer's product is an ongoing in-kind contribution and further violates the maximum allowed multiple times over.

Candidate Skinner knowingly used and continues to use the production on the main page of his campaign website and in campaign ads and calls the music "Joe's campaign song". This can be referenced at: [www.joeskinner.org](http://www.joeskinner.org) and on the top right hand side of the candidates' web site.

**Failure to Report In-Kind Contribution:** An "in-kind contribution" is defined as: the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate, ballot issue or political committee, . . . ARM 44.10.321(2)

A comprehensive description of the requirements for reporting in-kind Contributions under Montana law is included in former Commissioner Ed Argenbright's April 30, 1998 Summary of Facts and Statement of Findings in *Matter of the Complaint Against Montanans for Common Sense Water Laws/Against I-122* (MCSWL), which reads, in pertinent part, as follows: 1. Only an individual (a human being) may escape reporting an in-kind contribution by volunteering his or her time (Section 13-1-101(6)(b)(i), MCA)1. If the campaign-related work by a human being also involves the use of equipment (fax machines, telephones, etc.) or property (the use of office space), the fair market value of the equipment and property must be reported.

2. Entities, other than a human being, may not volunteer time and escape reporting in-kind contributions. If a business, corporation, membership association, partnership, club, union, committee, firm, or group makes an employee, officer, board member or independent contractor available for campaign-related services, the fair market value of those services must be reported by the entity as an in-kind contribution. Special note of partnership.

3. Entities, including a human being, who provided equipment or property  
1 This subsection has been renumbered (7)(b)(i).8 for campaign-related activities, must report the fair market value of the equipment and property. For example, the fair market value of providing phones, FAX machines, membership lists and similar items for use in a campaign must be determined and reported.

4. ARM 44.10.513 and 44.10.533 define how in-kind contributions and expenditures must be valued and reported. MCSWL at 74-77. Several years later, former Commissioner Linda L. Vaughey issued a Summary of Facts and Statement of Findings in *Matter of the Complaint Against Mont-PIRG, Montana Common Cause, the League of Women Voters of Montana, et al.* (August 13, 2002) (Mont-PIRG). I-125 was an initiative that prohibited direct corporate spending on ballot issues. C.B. Pearson was being paid to manage the I-125 campaign, seeking to qualify the initiative for the ballot. During the same period of time Pearson taught an environmental organizing course through the University of Montana (UM) Department of Environmental Studies in Missoula. Although UM did not pay Pearson's salary, UM provided office space, a desk, a file cabinet, phone, phone number, voicemail, email, and a mailing address to Pearson. In addition, UM provided classroom space for the course. As part of the course Pearson instructed his students regarding how to circulate and obtain signatures on I-125 petitions, and class members actually gathered signatures. Pearson estimated that fewer than 500 I-125 signatures were collected by the class. Commissioner Vaughey found that Mr. Pearson should have reported the fair market value of a portion of his salary for teaching the course, in addition to the fair market value of his use of UM office space, equipment, and supplies, as in-kind contributions. Mont-PIRG at 54-55. 2 Pearson's salary for teaching the course was paid by Green Corps, a nonprofit educational organization.

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The Commissioner's rules define an incidental political committee as one "that is not specifically organized or maintained for the primary purpose of influencing elections but that may incidentally become a political committee by making a contribution or expenditure to support or oppose a candidate and/or issue." ARM 44.10.327(2)(c).

The Legislature has authorized the Commissioner to establish reporting requirements for incidental political committees. Mont. Code Ann. § 13-37-226(6). When they make a contribution or expenditure, incidental committees are required to file a Form C-2, which is a Statement of Organization, and a Form C-4, a report listing its contributions and expenditures. Failure to file the necessary campaign finance disclosure forms violates Montana campaign finance and disclosure laws and rules. See Mont. Code Ann. §§ 13-37-201 and 13-37-226, and ARM 44.10.321, 44.10.323, 44.10.411, 44.10.513, and 44.10.533.

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2. The Ringling 5 failed to register as a committee with the office of the commissioner of political practices. As the music represents, “come election day, the Ringling 5 would say...” clearly represents the group acted as a unified body or committee and not as individuals, however, even if that were the case, they each would have violated the maximum contribution. Montana Code Annotated, 13-37-201 requires each political committee to file an organizational statement which certifies the appointment and address of a campaign treasurer. The organizational statement must be filed within 5 days of making expenditure. The statement is to be filed with your office and the office of the election administrator where the committee is headquartered or where the election is held. MCA S 13-37-225. Also code citations above.

(1) Except as provided in 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this chapter shall be filed with the commissioner and with the election administrator of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports shall be filed with the election administrator of the county in which the election is to be held or, if the election is to be held in more than one county, with the election administrator in the county that the commissioner specifies. A check with your office and the Gallatin County elections office did not reveal any such statement being filed. The reasons for filing with your office and Gallatin County are separate and distinct and clearly delineated as requirements in the statute so failure to file each of the forms should be treated as separate violations of MCA § 13-37-201 and 13-37-225.

The Ringling 5 exceeded the maximum contribution of a committee by several thousand dollars. The Ringling 5 is a professional group that has several records, a video and has traveled across the United States and internationally in their performances. They publish a list of upcoming performances and continue as an ongoing business. By acting aggregately as a group of 5 to 7 performers, they have failed to register as required.

1. The group also failed to file a report as required, of the fair market value of writing a song, producing the music at a studio, recording the music, the use of their musical equipment and automobiles and actual performance of the music by the several members of the group. Additionally, they have not accounted for the continued use of their material in use or royalties that again exceed the maximum contribution. MCA 13-37-225 (1) Except as provided in 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this chapter shall be filed

with the commissioner and with the election administrator of the county in which a candidate is a resident or the political committee has its headquarters.

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3. The Ringling 5 acted as a group, partnership or corporation. The exact entity is not known and should be investigated to determine if they have filed tax returns as a corporation and additionally violated Montana campaign laws. Montana Code Annotated § 13-35-227 prohibits direct corporate contributions and expenditures in connection with a candidate.
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4. A Question of Independence: The commissions "Pink Book" states that a "particular candidate committee" would come into being when a group of a candidate's friends and supporters decide to make an *independent* effort on behalf of the candidate instead of joining with the candidate's organization. While such a committee is legal, some problems and even risks can develop in forming and operating a separate committee. All activities of this type of committee must be completely independent of the candidate and the candidate's own organization. If, in any way, the committee comes under the influence or control of the candidate, either directly or indirectly, then it ceases to be a committee apart and becomes an integral part of the candidate's own campaign organization.

It appears the group did not act "separately and independently" from the candidate as required by law. The close association of one of the members with the candidate is evident. Don Seifert, a member of the Ringling 5, is also Chairman of the Gallatin County Gravel Pit Task Force which is involved in litigation between the county and residents.

Additionally, Seifert is a member of the Gallatin County Planning Board. The candidate uses the music, has it posted on his campaign website and names it "Joe's campaign song" showing the bond between the musicians and the candidate. The likely hood of independent action is called into question.

The issue at hand is whether there is "complete independence" with the candidate as required by law, or if the gentleman has mingled the groups support and his personal involvement in the planning board and commission appointment as Chairman together with the candidate and his run for office. It is not the intent to cast a disparity on the person, but to bring the practice into the light of day.

If, in the final decision, the Commissioner decides that the group did not act completely independently, the group becomes a part of and the responsibility of, candidate Joe Skinner.

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The complainant requests decisions and consequences deemed appropriate by the Commissioner of Political Practices.

End

Best personal regards,  
Dennis Hardin  
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