

**BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES
STATE OF MONTANA**

In the Matter of the Complaints)	
Against Montanans In Action, Yes CI-97)	SUMMARY OF FACTS AND
Stop Overspending Montana, Citizens)	STATEMENT OF FINDINGS
Right to Recall Montana, Yes I-154)	
Protect Our Homes Montana, and Trevis)	
Butcher)	

Summary Complainant Jonathan Motl on July 17, 2006 filed separate complaints against:

- Montanans in Action (MIA)
- Yes CI-97 Stop Overspending Montana (CI-97)
- Citizens Right to Recall Montana (CI-98)
- Yes I-154 Protect Our Homes Montana (I-154)
- Trevis Butcher (treasurer for the CI-97, CI-98, and I-154 committees)

Motl's complaints alleged the following:

I. MIA Allegations

1. MIA failed to keep detailed, current, and adequate depository, contribution, and expenditure records in compliance with Montana law, Sections 13-37-205, 13-37-208, 13-37-229, and 230, MCA, and 44.10.411 and 44.10.503, ARM.
2. MIA and its Treasurer, Trevis Butcher, illegally "laundered" (failed to properly report the true source of) substantial contributions from out-of-state entities to support the CI-97, CI-98, and I-154 ballot issues, in violation of 13-37-217, MCA.
3. MIA was not an incidental political committee and subject to only limited campaign reporting requirements, as defined in 44.10.227, ARM. Instead, MIA was, according to Motl, organized for the primary purpose of influencing elections and was subject to the more rigorous reporting requirements of Montana law.
4. MIA unlawfully used electronic funds transfers to receive contributions and make expenditures in violation of 44.10.503(3), ARM.
5. MIA failed to timely file reports of contributions and expenditures.

II. CI-97, CI-98, and I-154 Allegations

1. The three ballot issue committees failed to keep detailed accounts and bank records current and available for inspection as required by Section 13-37-208, MCA, and 44.10.503, ARM. Included in this allegation is Motl's assertion that all ballot issue committees must route expenses

through a single bank account, and be based on a “bill and paid by check.” Each contribution must, according to Motl, “be deposited with a written receipt showing the source and amount of the contribution.”

2. The three ballot issue committees failed to report or failed to timely report expenses, expenditures, and loans as provided in 44.10.535, ARM.
3. The three ballot issue committees failed to report or failed to timely and accurately report in-kind and cash contributions.
4. The three ballot issue committees improperly used wire transfers rather than checks to pay campaign expenses in violation of 44.10.503, ARM.
5. The three ballot issue committees and their Treasurer, Trevis Butcher, illegally “laundered” (failed to properly report the true source of) substantial contributions to support the CI-97, CI-98, and I-154 ballot issues in violation of 13-37-217, MCA.

III. The Decision Makers and Major Participants

The following individuals and entities were involved in coordinating and implementing decisions related to the CI-97, CI-98, and I-154 ballot issue campaigns and MIA’s funding of the ballot issue campaigns:

Trevis Butcher

Butcher is a resident of Winifred and Lewistown, Montana. He served as treasurer for all four of the committees named in the Motl complaints – MIA, CI-97, CI-98, and I-154. Butcher was involved in making decisions concerning all aspects of the CI-97, CI-98, and I-154 ballot issue campaigns, including:

- Financing.
- MIA’s receipt of funds and subsequent contributions of those funds to the CI-97, CI-98, and I-154 ballot issue committees.
- Expenditure of CI-97, CI-98, and I-154 campaign funds.

Butcher publicly represented that he was the “campaign coordinator” for the CI-97, CI-98, and I-154 campaigns in letters and news articles.

Butcher has extensive experience running Montana ballot issue campaigns. He has a past association with at least two other important players in the 2006 CI-97, CI-98, and I-154 ballot issue campaigns. In 2004, Butcher’s “No On CI-42/Montanans for Term Limits” committee received significant contributions from Americans for Limited Government (ALG) and William (Bill) Wilson on behalf of U.S. Term Limits. Both ALG and U.S. Term Limits were founded and financed by New York real estate mogul, Howard Rich.

Trevis Butcher’s political involvement with national organizations financed by, or affiliated with Howard Rich continues a family tradition begun by his father, Representative Ed Butcher. In 1992, Representative Butcher co-chaired the 1992 ballot issue committee that successfully advocated adoption of Montana’s term limit laws (“Citizens for CI-64”). Citizens for CI-64 received almost 85 percent of its 1992 contributions (\$37,500) from U.S. Term Limits. Representative Butcher was also extensively involved in the 2006 CI-97, CI-98, and I-154 ballot issue campaigns.

MIA

Montanans In Action was incorporated as a Montana non-profit corporation on December 20, 2005. Russell Bradley of Garneill, Montana was listed as MIA's registered agent. MIA's 2006 Corporation Annual Report filed with the Montana Secretary of State listed Bradley, Scott Hill of Mosby, Montana and Roald Torgerson of Lewistown, Montana as Directors (Hill was listed as MIA's secretary and Torgerson as treasurer).

MIA's Articles of Incorporation state MIA "shall be operated exclusively for social welfare and educational purposes," shall "encourage full civic participation by the citizens of Montana," and "shall advocate for smaller government, lower taxes, greater individual liberty and responsibility."

Washington, D.C. tax attorney Amber Wong Hsu was MIA's incorporator. Hsu also has been the incorporator for several other state corporations tied to Howard Rich, including "Colorado At Its Best" (Rich was listed as a director in the 2001 incorporation documents filed by Hsu for Colorado At Its Best).

MIA registered as an incidental political committee (Form C-2) with the Commissioner's office (CPP) on May 10, 2006. MIA's C-2 filing indicated MIA was incorporated with the following officers:

- Trevis Butcher – treasurer "for committee"
- Robert Snyder of Lewistown, Montana was named in the "deputy treasurer" space, however, the word "deputy" was crossed out and "MIA" inserted
- Don Crabbe – deputy treasurer
- Russell Bradley – chairman
- Roald Torgerson – secretary

MIA's C-2 filing was signed by Butcher as "treasurer (committee)." MIA's address in its C-2 filing was the same Garneill, Montana address listed for Bradley in MIA's Articles of Incorporation and the 2006 and 2007 Annual Reports.

MIA's 2006 Tax Form 990 filing indicated MIA's primary tax exempt purpose was to provide information to the public.

MIA's 2007 Form 990 filing indicated MIA was in possession of its books/records but the phone number listed for MIA was ALG's phone number (703-383-0880) in Fairfax, Virginia.

Chris Gallus

Gallus is an attorney residing in Helena, Montana. He was initially paid to provide legal services related to the CI-97, CI-98, and I-154 ballot issue campaigns by ALG in 2005. ALG subsequently sought reimbursement for payments made to Gallus from MIA, CI-97, CI-98, and I-154. Gallus represented MIA and the CI-97, CI-98, and I-154 ballot issue proponents in all of the litigation described in Parts IV and V of this decision. He was also one of the attorneys representing all four committees and Trevis Butcher at various times during the Commissioner's investigation of the Motl complaints.

Don Crabbe

Crabbe is a resident of Helena, Montana and served as Deputy Treasurer for the MIA, CI-97, CI-98, and I-154 political committees. Crabbe prepared and signed the contribution and expenditure reports filed by the four political committees with CPP.

Americans For Limited Government (ALG)

ALG had offices in Illinois in 2006-07. ALG's October 11, 2006 Web site featured a picture and biographical information about Howard S. Rich. The Web site indicated Rich "serves as Chairman of Americans for Limited Government" and that Rich has been a "leading force in the limited government movement since 1992." Tax and spending reform, property rights, and judicial reform were listed under the "Our Campaigns" portion of the ALG Web site.

Other ALG Web site postings in 2006 included the following:

- Montana was listed as one of at least thirteen states in which ALG was working with local activists to enact initiatives similar to CI-97, CI-98, and I-154. The other states listed were Arizona, California, Idaho, Maine, Michigan, Missouri, Nevada, Nebraska, North Dakota, Oklahoma, Oregon, and Washington. ALG said it was "leading the way" to enact state spending caps, the Protect Our Homes initiative, and restore judicial accountability by allowing "Montanans to vote out irresponsible judges who ignore the rule of law."
- ALG expressly described CI-97 activities in Montana in at least two postings. In one, ALG indicated that "Montanans in Action, with the support of Americans for Limited Government, filed the Stop OverSpending Initiative (SOS) to prevent future spending binges in Helena" and urged readers to "keep an eye out for the November 2006 ballot." Another Web site posting eliminated the reference to ALG's involvement in CI-97 and noted that "Montanans in Action has filed the Stop OverSpending initiative to give taxpayers control over state spending."
- ALG described both political parties and their congressional delegations as "corrupt." ALG declared that "the time is ripe for an independent political movement that represents hardworking taxpayers against the bipartisan tax eaters and career politicians who have come to dominate politics today." ALG touted its ability to fill a "potentially huge niche" using "direct initiative to circumvent politicians, whose self-interest is anti-liberty." ALG, according to its 2006 Web site, has "no hidden or personal agenda" and will work with local groups to "achieve great things." ALG helps local groups seeking "more responsible, accountable government" by offering assistance via one or more of the following options: financial support; assistance in networking and linkage with like-minded groups; training on the logistics of campaigns; or temporary logistical support.
- ALG posted the December 14, 2005 press release issued by the CI-97 proponents titled "Mendenhall and Balyeat tell governor and legislature: 'Stop OverSpending!'" Potential contributors were urged to contact John Tillman. Paul Jacob and his nationally syndicated radio show, "Common Sense," received prominent publicity on the ALG Web site.

ALG made substantial contributions to 2006 ballot issue campaigns similar to Montana's CI-97 and I-154 initiatives in the following states:

- Arizona (at least \$1,000,000)
- California (\$1,000,000)
- Oklahoma (\$115,000).

In California, for example, ALG and groups affiliated with ALG and /or Howard Rich made the following contributions to support California’s 2006 Protect Our Homes initiative (an initiative similar to I-154):

- \$1,500,000 from the Fund for Democracy
- \$600,000 from MIA
- \$220,000 from Club for Growth State Action
- \$1,000,000 from ALG
- \$50,000 from Colorado At Its Best

ALG’s “Primary Exempt Purpose” as stated in its 2006 Form 990 IRS filing was “to inform, educate, and rally Americans to restore a smaller government by promoting limited government ideas that reduce the size and scope of our government.” ALG’s 2006 Board of Directors included Howard Rich, Ed Crane (founder and president of the Cato Institute, the primary Libertarian think tank in Washington, D.C.), and William Wilson (political director of U.S. Term Limits).

ALG and other individuals and groups affiliated with ALG and Howard Rich were involved in Trevis Butcher’s 2004 ballot issue campaign opposing the modification of term limits in Montana. ALG made cash and in-kind contributions of \$18,161 to Butcher’s 2004 term limits ballot issue committee. ALG’s 2004 incidental political committee registration with CPP named John Tillman as its treasurer. U.S. Term Limits and its President, William Wilson, contributed \$64,743.70 to Butcher’s 2004 term limits committee (Wilson was also designated the treasurer for U.S. Term Limits in its Montana incidental political committee filing).

Americans For Limited Government Foundation (ALGF)

ALGF’s “Primary Exempt Purpose” as stated in its 2006 Form 990 filing was identical to ALG’s (“to inform, educate, and rally Americans to restore a smaller government by promoting limited government ideas that reduce the size and scope of our government”). ALGF’s 2006 board of directors was comprised of the same members as ALG’s 2006 board. ALGF paid John Tillman \$116,443 in 2006.

Howard Rich

ALG’s October 11, 2006 Web site identifies Howard “Howie” Rich as the Chairman of Americans for Limited Government and an “entrepreneur in real estate and business since 1965.” He was described as a “leading force in the limited government movement since 1992, when he founded U.S. Term Limits.” ALG noted that Rich “heads the Club for Growth State Action (his official title was “president”), which establishes and supports state affiliates of the Club for Growth across the nation, and the Fund for Democracy, which provides seed money to state initiative campaigns.” Rich served on the ALG, ALGF, and U.S. Term Limits Foundation boards and as chairman of U.S. Term Limits in 2006. He was also a member of the Cato Institute board of directors in 2006.

In a July 24, 2006 cover story in the High Country News, published in Paonia, Colorado, Rich acknowledged that he had funneled nearly \$200,000 through

MIA to support CI-97, CI-98, and I-154. State Senator Joe Balyeat of Bozeman, who chaired the I-154 ballot issue committee, stated that Howard Rich was the “main one” funding the ballot measure campaigns during a September 21, 2006 National Public Radio debate on I-154.

Paul Jacob

Jacob served as president of the Citizens in Charge Foundation and U.S. Term Limits in 2006. He founded Citizens in Charge as an organization “committed to expanding and protecting citizen initiative and referendum rights.”

Jacob was directly involved in coordinating signature gathering efforts in Montana by the same paid out-of-state signature gatherers being used by ALG and its affiliates in other states.

Jacob, on behalf of Citizens in Charge, also coordinated a request for public documents from Montana state and local government entities with Trevis Butcher in October and November of 2006. Butcher signed the requests for public documents but referred media inquiries about the requests to Jacob and Citizens in Charge. ALGF paid Jacob \$70,000 in 2006.

William (Bill) Wilson

Wilson succeeded John Tillman as president of ALG in 2006. He originally served as the registered agent for Virginia At Its Best, which later became America at Its Best (AAIB). In 2006, Wilson was also the U.S. Term Limits’ political director and an ALG, ALGF, AAIB, U.S. Term Limits, and U.S. Term Limits Foundation director. Wilson signed the 2006 Form 990 filings for ALG and ALGF as president. Wilson made contributions on behalf of ALG to Trevis Butcher’s ballot issue committees in 2004.

National Voter Outreach (NVO)

NVO listed a Ludington, Michigan address in 2006, but is a Nevada corporation. The company was founded by the father of Lorianne Horner Kaserman. Kaserman was directly involved in the 2006 Montana signature gathering effort. Susan Johnson was NVO’s president in 2006. NVO’s 2006 Montana signature gathering activities were being coordinated with Paul Jacob and Trevis Butcher. NVO was also coordinating 2006 ballot issue signature gathering activities in other states with Paul Jacob.

NVO coordinated its 2006 signature gathering efforts in several states, including Montana, with ALG and Jacob.

NVO was paid at least \$952,977.74 to gather signatures for a ballot issue similar to CI-97 in Montana – Michigan SOS. Michigan SOS received substantial contributions from the several organizations with ties to ALG and Howard Rich:

- \$310,000 from AAIB.
- \$623,000 from the Democracy Fund (a/k/a the Fund for Democracy).
- \$155,000 from the National Taxpayers Union (NTU).

When Michigan SOS closed its books in November of 2006, surplus campaign funds were paid to ALG and the Idaho affiliate of AAIB, “This House is Our Home (Idaho).”

An NVO affiliate, Renewal Voter Outreach (RVO), was paid \$784,130 to gather signatures for a Nebraska ballot issue similar to Montana’s CI-97 in 2006.

Nebraska SOS received contributions of \$1,360,000 from AAIB and \$200,000 from NTU. The same media consultant used by the 2006 Montana ballot issue committees, Patrick Media of Marshfield, Ohio, was paid \$621,986.22 for campaign services in Nebraska. When Nebraska SOS closed its books in January of 2007, surplus campaign funds in the amount of \$20,000 were paid to ALG.

John Tillman

Tillman was ALG's president and was paid a salary of \$116,443 by ALGF in 2006.

Tillman also served as president, secretary, and directors of at least two other entities affiliated with Howard Rich and ALG in 2006 – the Sam Adams Alliance and the Sam Adams Foundation.

**Other
ALG/ALGF
Employees**

The following employees or agents of ALG and ALGF were involved in MIA, CI-97, CI-98, and I-154 campaign activities in 2006:

- **Jodi Bridges** - identified herself as ALG's controller in 2006.
 - **Krissy Thom** - identified herself as ALG's Executive Assistant in August 2006 e-mails.
 - **Nicole Burke-Likoudis** - identified herself as ALG's Executive Assistant in e-mails related to Montana campaign activities.
 - **Dan Tripp** - was ALG's Director of Government Relations in 2007 and was working on CI-97, CI-98, and I-154 campaign issues in 2006.
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**Paid Out-of-
State Signature
Gatherers and
Analysts**

The following out-of-state entities and individuals received substantial payments from the CI-97, CI-98, and I-154 ballot issue committees and their Montana signature gathering activities and services were being coordinated with Paul Jacob and Trevis Butcher:

- **Grace Meyer** and her "associated business," **American Voter Drives (ADV)**;
- **Ricca Petition Service**
- **Data Jogger, Inc.**
- **Campaign Finance Company (CFC)** and its principals/employees, **Derrick Lee** and **Marvin King**.

These out-of-state signature gatherers received substantial payments from the CI-97, CI-98, and I-154 ballot issue committees. Their 2006 Montana signature gathering activities were being coordinated with Paul Jacob and Trevis Butcher:

- **Larry Schumacher** \$84,103.30
 - **Lorianne Horner (Kaserman)** \$28,659.55
 - **Ron Cook** \$69,214.78
 - **Eric Rittberg, a/k/a Eric Dondero** \$18,155.68
 - **Jacob Witmer** \$7,225.59
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**Montana
Legislators**

The following Montana legislators were involved in the CI-97, CI-98, and I-154 campaigns:

- **Representative Ed Butcher** - chaired the CI-98 committee, was a public advocate for all three 2006 ballot issues, and appeared in public debates as a supporter for one or more of the initiatives. All references in this decision to Ed Butcher identify him as “Representative Butcher.”
- **Senator Joe Balyeat** - chaired the I-154 committee, was a member of the CI-97 committee (he listed himself as vice chair of the committee in March of 2006), and participated in public debates as a supporter of I-154 and CI-97.
- **Representative Scott Mendenhall** - chaired the CI-97 committee.

IV. 2006 Montana Signature Gathering Litigation

**Montana
District Court
Decision**

CI-97, CI-98, and I-154 generated significant public debate in Montana. Opponents of the three ballot issues challenged the validity of the initiative signatures collected by the proponents of CI-97, CI-98, and I-154. In *Montanans for Justice vs. State of Montana, Montanans in Action, et al.*, Eighth Judicial District, September 13, 2006 Order and Judgment (hereinafter *MFJ vs. MIA I*), District Judge Dirk M. Sandefur invalidated the CI-97, CI-98, and I-154 initiative signatures gathered by 44 paid signature gatherers hired by the proponents of the three ballot issues. Judge Sandefur also invalidated the Montana Secretary of State’s certification of the CI-97, CI-98, and I-154 ballot issues for placement on the 2006 November election ballot. The District Court order was based on the following findings and conclusions:

- MIA provided the funding to the proponents of CI-97, CI-98, and I-154 to pay signature gatherers. At least “43 of the out of state signature gatherers were not Montana residents and were in Montana only for the time necessary to gather signatures for . . .” CI-97, CI-98, and I-154. (*MFJ vs. MIA I*, p. 5.)
- Paid signature gatherers received “a total of \$673,658.81” and “94 percent (\$633,073.09) of this total” was paid to “professional, out of state, migrant signature gatherers. . .” Only \$40,585.72 (6 percent of the total) was paid to Montana signature gatherers. *Id.*, p. 6.
- Trevis Butcher testified that “out of state national organizations” provided the “financial backing for the Proponents’ signature gathering efforts” and the “vast majority” of the money used to finance the CI-97, CI-98, and I-154 campaigns. *Id.*; and Transcript of September 8, 2006 Eighth Judicial District Court Proceedings, *Montanans for Justice v. State of Montana*, Cause No. CDV-06-1162, pp. 232-233, hereinafter “District Court Transcript.” The Court declined to compel Butcher to identify the out of state contributors based on relevance. *Id.*
- The proponents of CI-97, CI-98, and I-154 also made petition gathering payments to out-of-state entities such as National Voter Outreach, Campaign Finance Company, Ricca Petition Service, and Renewal Voter Outreach. *Id.*, pp. 9-10.
- Marvin King, Ronald Cook, Grace Meyer, Larry Schumacher, Jacob Witmer, and Eric Rittberg were identified as some of the professional, out-of-state, migrant signature gatherers who were paid substantial sums

by the proponents of CI-97, CI-98, and I-154. *Id.*, pp. 10-25.

- The CI-97, CI-98, and I-154 signature gathering process “was permeated by a pervasive and general pattern and practice of deceit, fraud, and procedural non-compliance.” *Id.*, p. 42.
- The “deceptive, fraudulent, and procedurally defective [petition gathering] practices seriously and substantially undermined the fundamental integrity, fairness, and purpose of our precious right and process of self-government by initiative of the people.” *Id.*, p. 43.
- To “preserve and ensure the integrity of the initiative process inviolate, it is necessary to invalidate all of the signatures *tainted by or associated with* [emphasis in the original] the pervasive pattern and practice of deceptive, fraudulent, and procedurally defective practices employed in this case by the migrant out of state signature gatherers.” *Id.*
- It is more probable than not that “in excess of 50 percent of the signatures certified by the migrant, out of state signature gatherers are *tainted by or associated with* [emphasis in the original] a pervasive pattern and practice of fraud and procedural non-compliance.” *Id.*, at pp. 44-45.
- MIA, CI-97, CI-98, and I-154, and the other proponents of the three ballot issues “were unwilling or themselves unable to locate” the migrant, non-resident signature gatherers to rebut the evidence of fraud and procedural non-compliance. The CI-97, CI-98, and I-154 proponents “failed to present any direct evidence from the best and most knowledgeable source to rebut” evidence of fraud and procedural non-compliance. *Id.*, p. 42.
- The CI-97, CI-98, and I-154 signature gathering process “is permeated by a pervasive and general pattern and practice of fraud and procedural non-compliance perpetrated by paid, out of state, migrant signature gatherers commissioned by. . .” the proponents of the three ballot issues. *Id.*, p. 46.
- All signatures gathered by the 44 non-resident signature gatherers were “invalidated.” *Id.*
- The Secretary of State’s certifications of the necessary initiative signatures for placement of CI-97, CI-98, and I-154 on the 2006 November ballot were also “invalidated.” *Id.*

**Montana
Supreme Court
Decision**

The proponents of CI-97, CI-98, and I-154 appealed Judge Sandefur’s decision to the Montana Supreme Court. The appeal was submitted on briefs and decided on October 26, 2006. (*See Montanans for Justice vs. State of Montana, Montanans in Action, et al.*, 2006 MT 227, 334 Mont. 237, 146 P. 3d 759 (2006) (hereinafter *MFJ vs. MIA II*)). A unanimous Supreme Court upheld Judge Sandefur’s decision based on the following determinations:

Trevis Butcher acknowledged he had been contacted by the Secretary of State’s office during the signature gathering process (March through June 23, 2006) and advised that numerous complaints had been made about “address falsification on paid signature gatherers’ affidavits.” (*MFJ vs. MIA II*, 334 Mont. 248-249.) The Supreme Court concluded that Trevis Butcher’s knowledge of the address falsification issue during the signature gathering process was one reason why the

CI-97, CI-98, and I-154 proponents could not validly assert that they were denied proper notice of the address falsification issue in the District Court proceedings. *Id.*, p. 249.

The Supreme Court rejected the CI-97, CI-98, and I-154 proponents' assertion that the District Court denied them a "meaningful hearing" because "any deprivation of a meaningful hearing. . . was more the construct of Proponents' own failure to act than it was a function of the District Court's denial of more time for trial preparation." *Id.*, p. 251.

The Supreme Court found that the CI-97, CI-98, and I-154 proponents "did not answer Opponents' Complaint, request any discovery, move for a continuance, take any depositions, or file a pre-trial brief."

The proponents also "acquiesced without objection" in the District Court's prehearing schedule, failed to attend the three depositions taken by the opponents (and conducted to accommodate the schedule of proponents' counsel), and did not file proposed findings of fact or conclusions of law despite the District Court's request for all parties to file such pleadings. *Id.*, p. 250.

At the District Court hearing, the proponents "declined to make an opening statement or a closing argument," opted "not to cross-examine Opponents' main witness," and did not object as multiple hearsay statements damaging to Proponents' case came into evidence through the witnesses who testified." *Id.*, p. 251.

The Supreme Court affirmed the District Court's conclusion that Montana's signature gathering statutes contemplate "something more than mere oversight of the process by a geographically remote affiant." *Id.*, p. 256. The Court affirmed that an affiant to an initiative petition "must be present at the time the petition is signed" in order to swear that the signer "gathered or assisted in gathering" signatures, that the petition signatures are genuine, and that the petition signers knew the content of the petition. *Id.*, p. 256.

The proponents offered no evidence to contest the opponents' facts on this issue, including evidence that one of the proponents' most prolific paid signature gatherers, Marvin King, would "have had to secure approximately one signature every minute" during the two-week period that King attested to 15,000 signatures. *Id.*, p. 254.

The Supreme Court affirmed the District Court's conclusion that an initiative signature gatherer must provide an address, even if it is a temporary address, where the signature gatherer "can be contacted throughout the collection and certification process. *Id.*, p. 259. The purpose of the address requirement "is to provide a mechanism by which the affiants may be contacted by county election officials or the Secretary of State during the certification process." *Id.*, p. 258.

The CI-97, CI-98, and I-154 proponents did not rebut testimony establishing that all of the proponents' non-resident signature gatherers used false or fictitious addresses. Robert Colby, one of the proponents' paid out-of-state signature gatherers, testified in an Oklahoma Supreme Court proceeding similar to the Montana litigation that it "was a common practice for signature gatherers to use false or fictitious addresses in an effort to conceal personal information, avoid harassment, and 'leave no trail.'" Colby admitted using a fictitious address while working for the CI-97, CI-98, and I-154 proponents in Montana. Trevis Butcher, the lone witness for the proponents, did not refute Colby's testimony. *Id.*, p. 257.

The CI-97, CI-98, and I-154 proponents' use of "bait and switch" tactics to induce people who knowingly signed one petition to unknowingly sign the other

two was unequivocally rejected by Montana’s Supreme Court. *Id.*, p. 260. The Supreme Court upheld the District Court’s determination that the proponents’ use of the deceptive “bait and switch” tactic was pervasive and supported by substantial evidence. *Id.*, p. 261-262.

The Supreme Court affirmed the District Court decision to invalidate the ballot issue petition signatures gathered by the CI-97, CI-98, and I-154 proponents’ out-of-state signature gatherers. *Id.*, p. 264. The “District Court did not err when it invalidated the signatures of Proponents’ out-of-state signature gatherers that were obtained in a manner that did not comply with Montana statutes and were tainted by or associated with deceptive practices and misrepresentations.” *Id.*

V. Summary of Facts

8/29/2005 and 9/19/2005	ALG and ALGF conducted and paid for \$2,150 of polling in Montana on issues related to CI-97, CI-98, and I-154.
On or before 12/7/2005	ALG and ALGF paid Chris Gallus \$4,000 for legal services related to the CI-97 and I-154 ballot issues.
12/15/2005	The Billings <i>Gazette</i> reported in an article titled “GOP effort on spending cap fails” that Montana Republican legislators failed to get enough votes to expand the upcoming special session to include consideration of a constitutional spending cap. Representative Scott Mendenhall said he and other backers would gather thousands of signatures to place an initiative on the November 2006 ballot to limit increases in state spending to a percentage based on inflation and population growth.
On or about 12/19/2005	ALG and ALGF paid John Balyeat, a Missoula attorney, \$1,000 for legal services related to the CI-98 ballot issue.
12/20/2005	Trevis Butcher submitted a four-page letter containing proposed ballot issue language for CI-97 to the Montana Legislative Services Division (Legislative Services). Butcher identified himself as the “Coordinator” for “Stop Over Spending Montana” and indicated that Representative Scott Mendenhall was an additional contact person regarding the proposed language.
12/21/2005	Montana’s Secretary of State approved MIA’s incorporation as a Montana nonprofit, public benefit corporation. MIA’s Articles of Incorporation state that MIA “shall be organized and operated exclusively for social welfare and educational purposes;” promote “public awareness on local government issues and encourage full civic participation by” Montana’s citizens; and “advocate for smaller government, lower taxes, and greater individual liberty and responsibility.”

12/28/2005	Legislative Services submitted fifteen pages of comments and suggested revisions of the proposed language for CI-97.
12/30/2005	Trevis Butcher submitted proposed ballot issue language for an initiative similar to I-154 to Legislative Services. Butcher identified himself as the “Coordinator” for “Protect Our Homes.”
On or before 12/31/2005	ALG and ALGF paid for or provided \$1,250 of “ALG legal services” and \$150 of conference calling services related to the CI-97, CI-98, and I-154 ballot issues.
1/4/2006	Trevis Butcher submitted a three-page letter containing proposed ballot issue language for CI-98 to Legislative Services. Butcher identified himself as the “Coordinator” for “Judicial Recall Montana.”
1/5/2006	Washington, D.C. tax attorney Amber Wong Hsu submitted necessary documents and applications to the Internal Revenue Service (IRS) requesting that MIA be granted a 501(c)(4) exemption from federal taxation. Hsu’s cover letter stated, in pertinent part, that: <ul style="list-style-type: none"> • MIA would be “operated exclusively for educational purposes;” • MIA was not seeking a 501(c)(3) exemption “since a portion of . . . [MIA’s] activities may include attempts to influence legislation;” MIA was “a social welfare organization;” • MIA’s “principal activity” would be to “educate the public on issues of concern to residents of Montana, including limited government, property rights and taxes;” • MIA would “encourage greater citizen participation in local government issues and seek to educate the public through meetings, conferences, and mailings.” MIA’s Form 1024 Application to the IRS was signed by Russell Bradley, MIA’s President. The application stated that MIA: <ul style="list-style-type: none"> • Was created to promote “public awareness on local government issues and promote broader civic participation;” • Would “sponsor meetings for local residents. . . , distribute newsletters or mailings to educate the public on social and political issues of concern; and. . . engage in any other educational activities locally that would further its purpose.” MIA indicated its educational activities would “be initiated at the beginning of 2006” and be carried out by “its voluntary board of directors and any other volunteers that are interested in furthering. . .” MIA’s “educational mission.” MIA assured the IRS that all of its activities would be “carried out in the State of Montana.” <p>MIA also told the IRS it “presently” had “no sources of financial support, being newly created” and that future financial support would “come from local residents and businesses that wish to support. . . [MIA’s] educational programs.”</p> The Form 1024 Application projected that MIA would have \$15,000 of revenue

in 2006, \$25,000 in 2007, and \$50,000 in 2008.

- 1/12/2006** Legislative Services submitted five pages of comments and suggested revisions to the proposed language for CI-98. The Legislative Services' letter references conversations with both Butcher and Gallus concerning the proposed CI-98 language.
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- On or before 1/18/2006** ALG and ALGF paid for or provided \$1,546.68 of "Website Services via Page 16.com" related to the CI-97, CI-98, and I-154 ballot issues.
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- On or before 1/31/2006** ALG and ALGF paid for or provided \$1,250 of "ALG legal services" and \$150 of conference calling services related to the CI-97, CI-98, and I-154 ballot issues.
-
- On or before 2/2/2006** ALG and ALGF paid Chris Gallus \$6,000 for legal services related to the CI-97 and I-154 ballot issues.
-
- 2/3/2006** Trevis Butcher submitted letters containing revised ballot issue language for CI-97 and CI-98 to Legislative Services and proposed ballot issue petitions for CI-97 and CI-98 to Montana's Secretary of State. On the same date, the Secretary of State's Office sent letters to Montana's Attorney General seeking approval of the proposed CI-97 and CI-98 initiative petition forms.
-
- 2/21/2006** The IRS approved MIA's 501(c)(4) exemption effective December 20, 2005.
-
- 2/22/2006** Montana's Attorney General approved the CI-97 and CI-98 ballot issues as to form and legal and constitutional sufficiency.
-
- 2/26/2006** A Billings *Gazette* news story titled "Sides gear up for fight over spending cap" indicated that a "handful of Republican legislators," Trevis Butcher, and ALG would work together to place a spending cap initiative on the 2006 general election ballot. Paul Jacob was identified as one of ALG's leaders. Butcher acknowledged that ALG has helped pay legal expenses to draft what the spending cap initiative and that ALG's monetary support would be reported in subsequent CPP reports.
- A spokesperson for ALG declined to indicate how much ALG would spend on CI-97. (The article noted ALG's financial support of a similar initiative in Oregon.)
- Butcher said the goal was to raise money for the spending cap initiative mostly in Montana. According to Butcher and Representative Mendenhall, the idea for the initiative originated in Montana, because the 2005 Montana Legislature increased expenditures instead of refunding the budget surplus to taxpayers.
- Representative Mendenhall said he and six other Republican legislators would coordinate signature-gathering for the constitutional spending cap. The article

quoted Americans for Tax Reform (ATF) as stating that it had made no decision yet on whether to support CI-97 but indicated that “we will be weighing in.”

**On or before
2/28/2006**

ALG and ALGF paid for or provided \$1,250 of “ALG legal services” and \$150 of conference calling services related to the CI-97, CI-98, and I-154 ballot issues.

3/2/2006

Secretary of State Brad Johnson wrote Attorney General McGrath requesting modifications of the Attorney General’s statement of purpose and fiscal statement. The Secretary of State’s letter was prompted by an unnamed “sponsor of several proposed ballot issues. . .”

3/3/2006

Attorney General answers Secretary of State’s letter

Attorney General McGrath answered Secretary of State Brad Johnson’s March 2 letter and rejected the request to modify the approval of the statements pertaining to the CI-97 and CI—98 ballot issues. The Attorney General noted that his staff had met with Butcher and his attorney, Gallus, and that the concerns expressed in Johnson’s letter had been considered.

Secretary of State approves petitions

The Secretary of State’s Office approved the CI-97 and CI-98 petitions for signature gathering.

3/9/2006

Trevis Butcher submitted a revised ballot issue proposal for I-154 to Legislative Services. Butcher identified himself as the “Coordinator” for “Protect Our Homes” and indicated that Representative Rick Maedje was an additional contact person for the proposed initiative.

3/10/2006

MIA and the CI-97 and CI-98 ballot issue committees filed their C-2 statements of organization with the Commissioner’s Office (CPP). All of the C-2 statements were signed by Trevis Butcher. MIA registered as an “incidental committee” and listed Butcher as its political “committee” treasurer. Robert Snyder of Lewistown, Montana was listed as MIA’s corporate treasurer. Bradley was listed as corporate chairman and Roald Torgerson of Lewistown, Montana as the corporation’s secretary.

MIA designated Western Security Bank of Lewistown, Montana as its committee depository and indicated it did not have a secondary account.

MIA indicated its purpose was to support CI-97, CI-98, and a “property right initiative.” The CI-97 and CI-98 committees registered as “ballot issue” committees and named Trevis Butcher treasurer, Don Crabbe deputy treasurer, and Western Security Bank in Lewistown, Montana as the campaign depository (no secondary account was designated for either committee).

3/13/2006

CI-98 lawsuit

The CI-98 ballot issue committee, Trevis Butcher, and Representative Ed Butcher filed a complaint in the First Judicial District challenging the accuracy and truthfulness of the Attorney General’s statements of purpose and implication

for CI-98.

CI-97 lawsuit

The CI-97 ballot issue committee, Trevis Butcher, and Representative Scott Mendenhall filed a complaint in the First Judicial District challenging the accuracy and truthfulness of the Attorney General's statement of purpose, statement of implication, and fiscal statement for CI-97.

3/17/2006	CPP e-mailed Trevis Butcher and reminded him of his duties as treasurer for the MIA, CI-97, and CI-98 committees. The CI-97 and CI-98 e-mails advised Butcher, in pertinent part, that the initial CI-97 and CI-98 reports "must include all expenditures and contributions, both monetary and in-kind, made prior to the time that your committee became a political committee as defined in 13-1-101 until the fifth day before the date of filing the appropriate reports under section 13-37-226 and section 13-37-228, Montana Code Annotated." CPP's MIA e-mail acknowledged MIA's incidental committee filing and reminded Butcher of the more limited reporting requirements applicable to incidental committees.
3/20/2006	Legislative Services submitted four pages of comments and suggested revisions to the proposed language for I-154.
3/21/2006	Trevis Butcher submitted letters containing revised ballot issue language and proposed petitions for I-154 to Legislative Services and to Montana's Secretary of State.
3/22/2006	The Secretary of State's Office sent letters to Montana's Attorney General seeking approval of the proposed I-154 initiative petition forms.
3/29/2006	Derrick Lee ("uspetition@aol.com") provided Trevis Butcher with address and account numbers for Campaign Finance Company, LLC. Butcher was advised that Lee's "project manager will give you a call today." Lee's project manager was Marvin King.
On or before 3/31/2006	ALG and ALGF paid Chris Gallus \$500 for legal services and also paid or provided \$800 of "ALG legal services" related to the CI-97, CI-98, and I-154 ballot issues. ALG and ALGF also paid for or provided \$100 of conference calling services related to the CI-98 and I-154 ballot issues on or before March 31, 2006.
4/3/2006	MIA's bank sent Trevis Butcher the forms he requested to allow John Tillman, ALG's president, and Craig Regens, an employee in 2006 of the Club for Growth, State Action, to monitor and make inquiries about MIA's account and all transactions. MIA's bank directed Butcher to "sign & fax back to me & I'll set up for you." The documents requested by Butcher were titled "CASH MANAGEMENT ADMINISTRATOR USER PROFILE." The forms allowed ALG's two

employees to download current account information, including current day and prior day balances, and make inquiries about account statements, stop payments, and transactions.

4/5/2006

Trevis Butcher forwarded to John Tillman, ALG's President, a fax listing the deposits and withdrawals from MIA's bank account for the period of January 11, 2006 through March 30, 2006. Deposits included \$100 on January 11, 2006, \$700 on January 25, 2006, and \$20,000 on March 8, 2006. Withdrawals included "Telephone Transfer Debits" of two \$5,000 payments on March 15, 2006 (\$10,000 total), \$1,000 on March 27, 2006, and \$5,000 on March 29, 2007. "DDA Regular Checks" in the amount of \$660 (January 26, 2006) and \$80 (March 30, 2006) were written during the period. The fax showed MIA had a balance of \$3,963.95 on April 2, 2006.

4/6/2006

Attorney General approves ballot issue

Montana's Attorney General approved the I-154 ballot issue as to form and legal and constitutional sufficiency.

Butcher e-mail to Lee

Trevis Butcher responded to Derrick Lee's March 29, 2006 e-mail by indicating that Butcher would "try to get the 5K transferred tomorrow morning." Butcher asked Lee to send him "the international number I finally had to use the last time to get this transferred. . ." Copies of Butcher's e-mail were sent to ALG's John Tillman, Paul Jacob, and "cregens@cfgsa.org."

4/7/2006

Derrick Lee provided Trevis Butcher the requested "Montana Wiring info" in response to Butcher's April 6, 2006 e-mail.

4/10/2006

Crabbe and Butcher e-mails

Don Crabbe and Trevis Butcher exchanged e-mails about what must be included in the initial reports to be filed with CPP. Crabbe asked Butcher if there were any "prior fund raisers" and asked what the initials "BRM" stood for. Butcher responded that the "BRM" initials were for a CI-97 fundraiser but indicated that "the money had not been deposited yet so my assumption is it will go on the next report." Crabbe's e-mail included a reporting schedule for incidental political committees that he had received from CPP.

CPP fax

CPP faxed Trevis Butcher a blank form C-6 "Political Committee Finance Report."

Bank fax to Butcher

Western Security Bank faxed Trevis Butcher MIA bank account statement summaries for the period of January 11, 2006 through April 10, 2006. The listing of transactions from January 11, 2006 through March 30, 2006 is identical to the transactions listed in Butcher's April 5, 2006 e-mail to John Tillman. The listing of MIA deposits and debits from April 1 through April 10, 2006 identifies receipt of a \$25,000 contribution on April 7, 2006, a \$10 wire transfer fee on the same date, and \$5,000 contributions to each of the three ballot committees on April 10,

2006.

4/11/2006

Lee e-mail to Butcher

Derrick Lee sent Trevis Butcher an e-mail advising him that “I sent Marvin the money yesterday” and that Lee had directed Marvin King to move some people around in order to avoid stepping “on each other’s toes.” Paul Jacobs (pj@citizensincharge.org) received a copy of Lee’s e-mail.

CI-98 wire transfer

Trevis Butcher paid CFC (“Campaign Finance Co. LLC – King”) via wire transfer \$5,000 from the CI-98 account.

I-154 wire transfer

Trevis Butcher paid CFC (“Campaign Finance Co. LLC – King”) via wire transfer \$5,000 from the I-154 account.

4/12/2006

Don Crabbe sent Trevis Butcher an e-mail stating that he had met with Lorna Kuney and they had agreed she would not be retained to keep a second set of books “on the three bank accounts.” Crabbe said that “the Committee” would save at least \$300 per month by not using Kuney’s services. Crabbe said he would do whatever banking was necessary and “continue to process the data for the ultimate production of the required reporting for the Committees.”

4/13/2006

Butcher e-mail to “First Christian Church”

Trevis Butcher forwarded an e-mail with attachments from his personal e-mail site to an e-mail address for the “First Christian Church.” The e-mail included registration forms for gun shows to be held throughout Montana in April, May, and June of 2006. The gun shows were sponsored by Sports Connection, Inc.

MIA CPP report

Trevis Butcher filed MIA’s initial report for the period from January 1, 2006 through April 3, 2006.

Contributions/Receipts	Expenditures
\$22,500.00	\$16,150.00

Analysis

- MIA listed contributions of \$22,500 from ALG. The ALG contributions constituted 100 percent of the contributions received.
- MIA made expenditures of \$16,150 to the CI-97, CI-98, and I-154 ballot issue committees.
- MIA’s report did not include any in-kind contributions or expenditures.
- MIA’s bank account statements for the same period (January 1 through April 3, 2006) show cash deposits of \$20,800.

CI-97 CPP report

Trevis Butcher filed the CI-97 committee’s initial report for the period from January 1, 2006 through April 5, 2006.

Contributions/Receipts	Expenditures	Cash Balance
\$10,050.00	\$8,383.70	\$1,666.30

Analysis

- CI-97 received 100 percent of its contributions for the period from MIA.
- CI-97 also reported an in-kind contribution of \$6,000 by Trevis Butcher for “Office & Travel – Oct/Mar.”
- The report indicated “no loans” had been made to the committee “this period.” Reported expenditures included a payment of \$2,650 to Chris Gallus for legal services.

CI-98 CPP report

Trevis Butcher filed the CI-98 committee’s initial report for the period from January 1, 2006 through April 5, 2006.

Contributions/Receipts	Expenditures	Cash Balance
\$5,050.00	\$3,682.16	\$1,367.84

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- CI-98 also reported an in-kind contribution of \$6,000 by Trevis Butcher for “Office & Travel – Oct/Mar.”
- The report indicated “no loans” had been made to the committee “this period.” Reported expenditures included a payment of \$2,650 to Chris Gallus for legal services on March 16, 2006.

4/14/2006

Don Crabbe reported to Trevis Butcher that he had made a deposit of funds into the “Valley Bank SOS.”

4/19/2006

MIA

Trevis Butcher and Don Crabbe came to the CPP office and Butcher amended MIA’s April 13, 2006 C-4 report. Butcher manually crossed-out the ALG contribution to MIA reported on April 13, 2006 and indicated that the funds provided by ALG were “not earmarked.” Butcher manually wrote “0” as the amount of receipts and contributions received by MIA during the reporting period. MIA’s amended April 19, 2006 report continued to show expenditures of \$16,150 for the period of January 1 through April 3, 2006. MIA’s report did not include any in-kind contributions or expenditures. MIA also amended its C-2 statement of organization to add Don Crabbe as deputy treasurer.

Secretary of State approves petitions

The Secretary of State’s Office approved the I-154 petitions.

I-154 C-2 filing

The C-2 statement of organization for the I-154 ballot issue committee was hand-delivered to CPP. The C-2 listed Trevis Butcher as treasurer, Don Crabbe as deputy treasurer, and Western Security Bank of Lewistown, Montana as the secondary committee account depository (no primary account was designated).

4/20/2006 CPP sent two e-mails to Don Crabbe and Trevis Butcher. One e-mail advised that the CI-97 and CI-98 reports filed on April 13, 2006 must provide complete addresses and describe the purpose of the expenditures reported. A second e-mail included a letter addressed to Butcher regarding reporting requirements for the I-154 ballot issue committee.

4/21/2006 **“Pig” purchase**
Trevis Butcher wrote a check for \$2,000 from the CI-97 committee account to pay MIA for the “Pig” prominently featured in the CI-97 campaign. The check was deposited in the MIA account on April 24, 2006.

History of the “Pig”

The oversize pink pig used in the Montana CI-97 campaign appears to be a standard prop made available by ALG to its state partners involved in “stop overspending” ballot issue campaigns. The pig, which symbolizes government waste and pork barrel projects, made appearances in Michigan’s 2006 “stop overspending” ballot issue campaign and a 2006 New York effort to “stop the pork” in Albany. The pig was also used by Americans for Prosperity to protest a 2008 \$5,000 a plate fundraiser by Congressman Jack Murtha. A 2006 ALG Web site posting prominently featured a picture of the ALG staff standing in front of the pig, and Butcher acknowledged he got the idea for the pig from ALG in an April 2006 news story.

“Pig” Generates News Coverage

Trevis Butcher stated in an April 21, 2006 Billings *Gazette* article titled “Stucco pig tours state to promote constitutional initiative” that CI-97 “couldn’t be more Montanan.” Butcher noted that Republican state legislators were early supporters of the initiative effort and would be its main coordinators. Butcher said he acquired the pig from a Wisconsin pork producer but acknowledged that he got the idea to use the pig in the CI-97 campaign from ALG.

4/24/2006 **I-154 wire transfer**
Trevis Butcher paid CFC (“Campaign Finance Co. LLC – King”) via wire transfer \$3,500 from the I-154 account.

4/26/2006 Don Crabbe responded to CPP’s April 20, 2006 e-mail and indicated that he should have the necessary information within the next few days.

4/28/2006 **Crabbe e-mail to Butcher**
Don Crabbe advised Trevis Butcher via e-mail that Butcher must provide necessary information (full name and complete mailing address for each payee) regarding expenditures made by the three ballot issue committees. Crabbe also advised that he needed to know the purpose for each expenditure, including wire transfers made to each ballot issue committee.

Crabbe told Butcher he was “getting nervous about not having the information so that I can submit a revised report for the first reporting period, and don’t want to repeat for the next cycle. . .” The attachment to the e-mail contains missing information for 17 of 26 expenditure items.

Rittberg package

Eric Rittberg shipped a package from Butte, Montana to Trevis Butcher, “Montanans 4 Limited Government,” Winifred, Montana.

4/29/2006

Don Crabbe e-mailed Trevis Butcher containing a spreadsheet for expenditures made by “the three committees” and seeking information about the purpose of several expenditures.

5/1/2006

Trevis Butcher e-mailed Neil Hoffmann a copy of the committee expenditure spreadsheet received from Don Crabbe on April 29, 2006.

5/2/2006

John Tillman sent Trevis Butcher a fax regarding “Invoices.” The fax stated that ALG was “catching up on our invoicing for services provided to your three committees in Montana.” Attached to the fax were invoices for “December of 2005, plus January, February and March of 2006.” Tillman apologized for “the lateness” of the invoices and told Butcher to contact Jodi Bridges, ALG’s Controller, if he had any questions. Tillman also indicated that he hoped to have the April invoices “completed in a few weeks and I will forward these at that time.”

Each invoice indicated that the requested payment was for “Payment for Services” and instructed that “all checks” be made “payable to **Americans for Limited Government Foundation**” (emphasis in the original). The services include polling, legal services, Web site services, and conference calls (these services are described in more detail in the Summary of Facts dated August 29, 2005, September 19, 2005, December 7, 19, and 31, 2005, January 18 and 31, 2006, February 2 and 28, 2006, and March 31, 2006).

5/3/2006

Burke-Likoudis e-mail to Butcher

Nicole Burke-Likoudis, an ALG employee, sent Trevis Butcher an e-mail stating that “invoices” “were faxed to you yesterday.” Nicole Burke-Likoudis asked Butcher to send her his fax number so that she “can make sure I’m sending to the correct #.” The e-mail was given an “importance” level of “High” by Burke-Likoudis.

Butcher e-mail to Tillman

Trevis Butcher sent John Tillman an e-mail stating that “I have to have the invoices today.” Butcher sent Nicole Burke-Likoudis a copy of his e-mail.

CI-97 and CI-98 CPP amended reports

Don Crabbe filed amended CI-97 and CI-98 reports to replace the reports filed on April 13, 2006. The amended CI-97 report showed the same cash balance and total contributions and expenditures for the January 1 through April 5, 2006 reporting period but a \$5,000 payment to Campaign Finance Company not reported in the April 13, 2006 report was included.

The CI-98 amended report contained the same contribution and expenditure information reported on April 13, 2006. The amended reports included the necessary information (addresses and purpose) requested by CPP on April 20, 2006.

5/4/2006

Pig contribution

Trevis Butcher and Don Crabbe exchanged e-mails concerning the name of a contributor who stopped Butcher in Great Falls and gave him a \$100 bill for the "PIG – Stop Over Spending." Butcher indicated he received the contribution from Jim Flipowicz, a Great Falls self-employed "Retailer and Recycler." Flipowicz's contribution was reported in the CI-97 report filed with CPP on May 9, 2006 and the amended report filed on May 17, 2006.

Wire transfer

MIA received a \$650,000 wire transfer from an unidentified source.

5/5/2006

Trevis Butcher signed a wire transfer contributing \$600,000 from the MIA account to the "California Protect Our Homes Collision (sic) [Coalition]."

5/8/2006

California POH report

The California "Protect Our Homes Coalition, Major Funding Provided by The Democracy Fund," a group sponsoring a takings initiative similar in effect and purpose to Montana's I-154, reported receiving a \$600,000 contribution from MIA. California POH Coalition reported that the Coalition also received contributions from three other entities affiliated with Howard Rich: \$1,500,000 from the Fund for Democracy; \$1,000,000 from ALG; and \$220,000 from the Club for Growth State Action.

Web site services invoice

Trevis Butcher received an invoice from "Page16.com" for Web site services. Page16.com is located in Bozeman and the invoice was submitted to MIA at Butcher's Winifred address. The invoice sought payment of \$3,000 for Web sites established for the CI-97, CI-98, and I-154 ballot issue committees.

CI-97 contributions

Don Crabbe advised Trevis Butcher via e-mail that he had just "received 39 'Stop Over Spending Montana, Urgent Reply' letters with checks and cash from Nicole at Americans for Limited Terms."

Crabbe advised Butcher that only three of the 39 contributors had complete occupation/place of business information and asked if he had "any thoughts on how to get more complete information from the 'folks.'" Crabbe told Butcher that these contributions would have to be included in the next CPP reporting cycle "but it will mean extra work to secure missing information."

5/9/2006

CI-97 CPP filing

Don Crabbe filed the CI-97 report for the period from April 6 through May 5, 2006. CI-97 began the reporting period with a cash balance of \$1,666.30.

Contributions/Receipts	Expenditures	Cash Balance
\$12,860.00	\$21,629.20	(\$7,102.55)

Analysis

- Reported cash contributions included \$10,000 from MIA, \$2,000 from

32 named Montanans, and \$840.35 from persons who contributed less than \$35 cash.

- \$8,465.25 of services provided by ALG was reported as both an in-kind contribution and “loan payment” expenditures.
- ALG services included polling, legal services, conference call services, and “Website.”
- An in-kind contribution of \$1,000 from Trevis Butcher for “Office and Travel – April.”
- Other reported expenditures included:
 - Payments to Chris Gallus for legal services (\$1,500).
 - Eric Rittberg for “professional signature gathering coordinator” services (\$1,298).
 - CFC for signature gathering consulting (\$3,500).
 - MIA for purchase of the pink pig used in the CI-97 campaign (\$2,000).
 - Keith Duren for “event coordinator” and “trade show consulting” (\$922.14).

CI-98 CPP filing

Don Crabbe filed the CI-98 report for the period from April 6 through May 5, 2006. CI-98 began the reporting period with a cash balance of \$1,367.84.

Contributions/Receipts	Expenditures	Cash Balance
\$13,000.00	\$21,819.47	(\$7,451.63)

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- CI-98 reported an in-kind contribution of \$1,000 from Trevis Butcher for “Office & Travel – Oct/Apr.”
- \$8,465.25 of services provided by ALG was reported as a loan, in-kind contributions, and “loan payment” expenditures on May 2, 2006.
- ALG services included polling, legal services, conference call services, and “Website.”
- CI-98’s expenditures also included:
 - Payments to Chris Gallus for legal services (\$1,500).
 - Eric Rittberg for “signature gathering coordinator” (\$662.50).
 - CFC for signature gathering consulting (\$8,500).
- CI-98 reported it had no “Debts or Loans Outstanding.”

I-154 CPP filing

Don Crabbe filed the I-154 committee’s initial report for the period from January 1, 2006 through May 5, 2006.

Contributions/Receipts	Expenditures	Cash Balance
\$11,050.00	\$17,163.81	(\$6,113.81)

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- I-154 also reported an in-kind contribution of \$7,000 from Trevis Butcher for “Office & Travel – Oct.-April.”
- ALG made an in-kind contribution of \$7,500 for polling, legal services, Web site services, and conference calls.
- I-154’s expenditures included:
 - Payments to Chris Gallus for legal services (\$2,000).
 - Loan repayments to ALG totaling \$8,465.26 on May 2, 2006.
 - Payments to Eric Rittberg for professional signature gathering coordination (\$562).
 - Payment of \$3,500 to CFC for signature gathering consulting.
- The report indicated the I-154 committee still owed ALG \$4,159.75 as a loan repayment amount.

CPP letter to ALG

CPP advised ALG that it must register as an incidental political committee because the CI-97, CI-98, and I-154 ballot issue committees reported receiving in-kind contributions from ALG. ALG did not respond to the CPP letter.

CPP e-mail to Crabbe

CPP advised Don Crabbe that the CI-97, CI-98, and I-154 committee reports must be corrected to provide “missing occupation and/or employer information” and eliminate negative cash balances.

5/10/2006

Don Crabbe responded to the “negative balance” issue in CPP’s May 9, 2006 e-mail by stating that on the May 5, 2006 “due date” for the reports, “checks written on May 2 to Americans for Limited Government placed the bank accounts in the negative position that you see on the reports.” Crabbe added that the checks written to ALG “were not covered in the bank account by fund deposits until after May 5, 2006.” He then asked CPP if it was permissible to “back-date deposits” or delay reporting the checks written to ALG “until they clear the bank.” CPP advised Crabbe that “once a check is written it has to be reported so you have reported expenditures correctly.” CPP suggested that Crabbe file an amended report and avoid filing any future reports containing negative cash balances.

5/12/2006

Trevis Butcher sent Katie Butcher an e-mail titled “files” with attachments designated “04-05-06; csv; 01-01-06 TO 04-04-06. CSV.” Two pages of attachments contain an expurgated listing of debits and credits to MIA’s account. The attachment listing transactions from January 1, 2006 through March 30, 2006 is identical to the transactions listed in Butcher’s April 5, 2006 e-mail to John Tillman. The second page lists deposits and withdrawals that were made April 7, 2006 through May 4, 2006 and identifies the following contributions from MIA to the CI-97, CI-98, and I-154 ballot issue campaigns: \$5,000 to each of three ballot committees on April 10, 2006 and \$5,000 to each of the committees on April 24, 2006. MIA received wire transfer deposits of \$25,000

on April 7, 2006, \$15,000 on April 20, 2006, \$2,000 on April 24, 2006, and \$650,000 on May 4, 2006. The \$650,000 deposit into MIA's account was made the day before MIA made a wire transfer contribution of \$600,000 to the California Protect Our Home Coalition ballot issue campaign.

5/16/2006

Deposit e-mail

Alan (alan@petitionsystems.com) sent Paul Jacob and Trevis Butcher an e-mail re "deposit." The e-mail listed Mike Rice and a California account number and stated "Routing should not matter \$300."

CPP filings

The Billings *Gazette* published an article titled "Private group backs initiatives" that discussed MIA's and the three ballot issue committees' CPP filings. Trevis Butcher told the *Gazette* that MIA, which had provided virtually all of the financial backing for the initiatives, did not have to disclose its donors because MIA was "an educational group... working on all sorts of issues along these lines, especially private property rights."

Butcher said MIA's backers didn't wish to be known publicly and the law does not require such disclosure. The article noted that the ballot issue committees had repaid \$25,500 in start-up loans from ALG.

Trevis Butcher's \$21,000 in-kind contribution for time and office use was noted in the article. Butcher said he would be reimbursed for his time if there was money left over after the campaigns ended, but that he was not counting on reimbursement.

5/17/2006

Amended CI-97 CPP filing

Don Crabbe filed an amended CI-97 report for the period from April 6 through May 15, 2006.

Contributions/Receipts	Expenditures	Cash Balance
\$23,494.35	\$22,349.84	\$2,810.81

Analysis

- The amended report included virtually the same information reported on May 9, 2006 but with the following amendments:
 - Cash contributions from MIA increased from \$10,000 to \$20,000 (CI-97 expanded the reporting period to include a \$10,000 contribution from MIA on May 15, 2006).
 - The total amount of cash contributions of less than \$35 increased from \$840.35 to \$1,184.35 (included in this amount was \$20 from 15 attendees at a Billings fund-raiser).

Amended CI-98 CPP filing

Don Crabbe filed an amended CI-98 report for the period from April 6 through May 15, 2006.

Contributions/Receipts	Expenditures	Cash Balance
\$23,000.00	\$17,225.92	\$7,141.92

Analysis

- The amended report included virtually the same information reported on May 9, 2006 but with the following amendments:
 - MIA's cash contributions increased from \$13,000 to \$23,000 (CI-98 expanded the reporting period to include a \$10,000 contribution from MIA on May 15, 2006).
 - ALG's in-kind services contribution was reduced from \$8,465.26 to \$7,500.
 - The loan repayment expenditure to ALG was reduced from \$8,465.26 to \$3,340.25.
 - CI-98 reported that it owed ALG \$4,159.75 as a loan repayment amount.
 - Payments to Eric Rittberg increased to \$1,128.50.

Amended I-154 CPP filing

Don Crabbe filed an amended report to replace I-154's May 9, 2006 report.

Contributions/Receipts	Expenditures	Cash Balance
\$21,050.00	\$17,679.27	\$3,370.73

Analysis

- The amended report included virtually the same information reported on May 9, 2006 but with the following amendments:
 - Cash contributions from MIA increased from \$11,050 to \$21,050 (I-154 expanded the reporting period to include a \$10,000 contribution from MIA on May 15, 2006).
 - The \$7,000 in-kind contribution by Trevis Butcher was listed as "Office & Travel – Oct. – April."
 - Payments to Eric Rittberg increased to \$962.
 - The outstanding loan balance to be repaid to ALG was eliminated.

I-154 wire transfer

Trevis Butcher paid CFC ("Campaign Finance Co. LLC – King") via wire transfer \$10,000 from the I-154 account.

5/18/2006

American Voter Drives e-mail to Jacobs

Eric Stanley of AVD sent Paul Jacob an e-mail and invoice for payment of \$5,457 of lodging, bus and plane tickets, and car rental expenses related to Montana ballot issue signature gathering efforts. The e-mail provided bank names and account numbers for wire transfers.

Rittberg e-mail to Butcher

Eric Rittberg e-mailed Trevis Butcher and Paul Jacob describing his successful collection of ballot issue signatures in Willow Creek and Three Forks, Montana.

Rittberg advised that he had just sent a Fed-Ex package containing 1,504 signatures and requested that \$2,250 plus reimbursement for the Fed-Ex package be deposited in his "Wells Fargo account." He directed Butcher to send materials

for the “Gun Show” to him “c/o the Capri Motel” in Butte, Montana.

Rittberg described himself as a “US Navy Veteran, former Libertarian Party National Committeeman, fmr. Senior Aide to US Congressman Ron Paul R-TX, and Founder of the Republican Liberty Caucus.” He also stated that he is the editor of the “Libertarian Republican Political Report” that provides “insider news” on libertarians running for political office and encouraged subscriptions via e-mail at ericdondero@yahoo.com.

Rittberg’s e-mail touted his success in gathering a significant number of signatures in Willow Creek and Three Forks, Montana and asked: “Am I the best and most committed friggin’ Political Petitioner in the Country or what????!!!”

5/19/2006

Jacob e-mail to Butcher

Paul Jacob forwarded the May 18, 2006 invoice from American Voter Drives (AVD) to Trevis Butcher. Jacob designated the e-mail’s importance as “High” and wrote “Oops! Here’s this for Grace. Anyway (sic) to still get it into her account today?” It appears the reference to “Grace” is to Grace Meyer, a major player in the Montana signature gathering efforts and a principal in AVD.

American Voter Drives’ e-mail to Butcher

Eric Stanley of American Voter Drives sent an invoice for signature gathering services dated May 18, 2006 directly to Trevis Butcher. Stanley advised Butcher that “we have to renew 2 rooms tomorrow (sic), and 4 more mon.” He added that the cars were due back Monday evening.

5/22/2006

Crabbe e-mail to CPP

Crabbe sent CPP an e-mail stating that Trevis Butcher had contacted him last night and “asked me to file the required report for. . .” MIA. The e-mail indicated that Crabbe would file MIA’s report for the period ending May 3, 2008 the afternoon of May 22, 2006.

MIA CPP filing

Don Crabbe filed MIA’s report for the period from April 4 through May 3, 2006.

Contributions/Receipts	Expenditures
\$0.00	\$33,000.00

Analysis

- MIA’s report did not include any in-kind contributions or expenditures.
- MIA’s total reported expenditures to support CI-97, CI-98, and I-154 through May 3, 2006 were \$49,150.

Wire transfer

Trevis Butcher paid Larry Schumacher via wire transfer \$3,000 from the CI-98 account.

- 5/23/2006** **Wire transfer**
Trevis Butcher paid Data Jogger Inc. via wire transfer \$15,000 from the CI-97 account.
-
- 5/24/2006** **Rittberg e-mail**
Eric Rittberg (a/k/a “Dondero”) e-mailed Trevis Butcher and Paul Jacob regarding an express mail package containing 852 signatures from the Dillon Post Office. Rittberg requested that \$1,752 plus reimbursement for miscellaneous expenses incurred be deposited in his Wells Fargo account “Thursday or at least by Friday.” Rittberg designated himself as an “Official Member – “Vast Right-wing Conspiracy”” concluded with “Thanx boss(es).” Trevis Butcher acknowledged receipt of Rittberg’s May 24, 2006 e-mail via a one-word reply – “Great. . .”
- Cook bank account**
Ron Cook opened a checking account at First Security Bank in Missoula. A deposit of \$4,000 was made into the account on May 24. Seven deposits totaling \$26,844.79 were made into the account between May 24 and June 24, 2006. Cook used the account to pay numerous signature gatherers for collecting CI-97, CI-98, and I-154 ballot issue signatures and to reimburse himself and other signature gatherers for travel, lodging, and meal expenses incurred.
-
- 5/25/2006** Eric Stanley sent Trevis Butcher an e-mail invoice for signatures gathered by American Voter Drives at the rate of \$1.75 per signature. The amount billed was \$8,701.
-
- 5/26/2006** Trevis Butcher used his personal computer to forward the May 25, 2006 e-mail invoice from Eric Stanley to the “First Christian Church” in Lewistown (the Stanley e-mail sought payment of \$8,701 for ballot issue signatures collected by American Voter Drives). Butcher was an elder in the First Christian Church and served on the Church’s Board of Directors in 2006.
-
- 5/27/2006** Ron Cook sent a package to “C.A.T.” in Post Falls, Idaho. Cook identified his company as “A.L.G.”
-
- 5/29/2006** Jacob Witmer shipped a package from Butte, Montana addressed to Trevis Butcher, “Americans for Limited Government,” in Winifred, Montana.
-
- 5/29/2006 to 5/31/2006** Trevis Butcher and Don Crabbe exchanged numerous e-mails concerning the need for information regarding various wire transfers by the ballot issue committees and MIA and how the committee expenditures and receipts are to be reported in the June 2006 CPP reports. Crabbe advised that he determined that Grace Meyer “is a ‘Petition Consultant’” but that he still needed her address and the purpose of the payment to her. Meyer provided her Michigan address and bank account number in a May 30, 2006 e-mail. Butcher provided Crabbe with copies of wire transfers to CFC, Data Jogger, Inc., and Larry Schumacher.

5/30/2006

Financial reports to Tillman

Trevis Butcher e-mailed John Tillman copies of the “revised reports” listing the contributions received and the expenditures made by the CI-97, CI-98, and I-154 ballot issue committees through the end of May 2006. Butcher stated that “I think with this you should be up to date.” The attachment to the e-mail contained 15 pages listing expenditures made by the CI-97, CI-98, and I-154 ballot issue committees.

Wire transfers to Schumacher

Trevis Butcher paid Larry Schumacher for petition signatures via three separate wire transfers as follows:

- \$2,714.25 from the CI-98 account
- \$2,738.75 from the I-154 account
- \$2,719.50 from the CI-97 account

5/30/2006 and
5/31/2006

Wire transfer credit discussion

Don Crabbe and Trevis Butcher exchanged e-mails regarding the reporting of certain wire transfer credits. Butcher advised Crabbe that “all transfers into the accounts are not wired but bank transferred from Montana’s (sic) in Action.” Crabbe indicated the bank was showing the credits as “Wire Transfer Credits rather than the usual Telephone Transfer Credit.” Crabbe said he would show the telephone transfer credits to the CI-97, CI-98, and I-154 accounts “as incoming from Montanan’s in Action.”

5/31/2006

Eric Rittberg (a/k/a “Dondero”) e-mailed Trevis Butcher and Paul Jacob regarding an express mail package containing 1,015 signatures and numerous affidavits from Dillon. Rittberg advised Butcher that “Paul [Jacob] agreed to still pay the override of 25 cents a POH [CI-154] signature for hotel expenses, so that comes out to 75 cents a POH sig for the remainder of the drive.” Rittberg said he was “owed” \$1,857 and requested that the payment be made “before the weekend.”

5/31/2006
through
6/12/2006

MIA shipping receipts

MIA received numerous packages at the Shipping Center in Lewistown, Montana. Trevis Butcher and David Kaserman, the husband of Lorianne Horner Kaserman, signed many of the shipping receipts. Butcher signed shipping receipts on May 31, 2006 that included the hand-written name of “Suzzan Page” and two phone numbers at the top of the receipts.

6/1/2006

Witmer package

Jacob Witmer shipped a package from Butte, Montana addressed to Trevis Butcher, “Americans for Limited Government,” in Winifred, Montana.

6/2/2006

A Helena *Independent Record* article titled “Signature gatherers accused of deception” quoted Trevis Butcher and identified him as the campaign coordinator for CI-97, CI-98, and I-154. Butcher asserted that complaints about signature gathering deception were “completely unfounded” and asserted that “[w]e

certainly would never endorse anybody misleading anybody.” Butcher said many of the signature gatherers are from Montana, but some are not.

The steering committees for all three ballot issues were, according to Butcher, made up entirely of Montanans and he asserted that many state legislators are involved in the CI-97 campaign. Butcher accused CI-97 opponents of being part of a national effort to resist enactment of laws limiting government spending.

6/3/2006

Trevis Butcher sent Don Crabbe copies of wire transfers from the CI-97, CI-98, and I-154 ballot issue accounts. Butcher advised that the transfers would be “wired Monday.” He reaffirmed that the payments were a “reimbursement to one company for getting another company paid over the weekend.” The wire transfers paid Renewal Voter Outreach, LLC, the following amounts: \$14,000 from the I-154 account; \$14,895.69 from the CI-97 account; and \$14,000 from the CI-98 account. All of the wire transfers contained an identical memo: “Reimb. for Sigs [Campaign Finance Co., LLC].” The June 7, 2006 CPP reports filed by the CI-97, CI-98, and I-154 ballot issue committees reported these payments to Renewal Voter Outreach. Butcher concluded the e-mail by advising Crabbe that he would “find a 1,000 dollar check to Wal-Mart with the same scenario.” The July 7, 2006 CI-98 CPP report included an expenditure of \$1,000 to Wal-Mart and listed the transaction as a “Fund Transfer – Grace Meyer.”

Ricca Petition invoice

Ricca Petition Service sent Trevis Butcher an invoice seeking payment of \$9,141.60 for signature gathering services.

6/4/2006

Rittberg e-mail to Butcher/Jacob

Eric Rittberg (Dondero) e-mailed Trevis Butcher and Paul Jacob concerning signature gathering efforts in the Bitterroot Valley. Rittberg asked Jacob to call him “regarding flight schedule for my return to Houston and also to Oregon” and indicates he really needs “to know ASAP.” Rittberg asked if Jacob and Butcher have “Ron Cook people in Hamilton” and whether he should work “Darby” and “Lolo.”

Butcher/Ron Cook e-mails

Trevis Butcher e-mailed Ron Cook and asked if he had “people working Hamilton.” Cook responded that he had “3 people in Hamilton.” Butcher answered by asking if Cook had anyone in Darby and indicated Rittberg would be willing to work Darby.

Ricca Petition invoice

Ricca Petition Service sent Trevis Butcher an invoice seeking payment of \$1,865.76 for signatures gathered and shipped on June 2.

6/5/2006

Cook e-mail

Ron Cook’s response to Trevis Butcher’s June 4, 2006 e-mails indicated that current “receipts for slush fund totals: \$1,818.99.” Cook provided a Wells Fargo account number in the e-mail.

MIA CPP C-4 filing

Don Crabbe filed MIA’s C-4 report for the period from May 4 through June 3,

2006. MIA received zero contributions/receipts but made expenditures of \$125,000 to the CI-97, CI-98, and I-154 ballot issue committees. MIA contributed \$174,150 to support CI-97, CI-98, and I-154 during the reporting period.

Butcher e-mail to Tillman and Jacob

Trevis Butcher e-mailed John Tillman, President of ALG, Paul Jacobs, and an unnamed person at the Winifred Rural Volunteer Fire Department (wrvfd@3riversdbs.net) “spreadsheets” containing information about the signature gathering activities. The 28 pages of attachments included detailed statements indicating the number of signatures gathered for each ballot issue and payments made to out-of-state signature gatherers Marvin King, Ron Cook, Ricca Petition Service, Theresa Moore, Cat (Caroline) T’Star, Jacob Witmer, and individuals who worked for them.

Wire transfers

Trevis Butcher sent three wire transfers to Renewal Voter Outreach, LLC as reimbursement for signatures to CFC in the following amounts: a payment of \$14,000 from the I-154 account; a payment of \$14,895.69 from the CI-97 account; and a payment of \$14,000 from the CI-98 account. The signed wire transfers bearing Butcher’s signature were faxed from the “1st Christian Church (14065383712)” on June 3, 2006. The cover e-mail from Butcher to Don Crabbe on June 3, 2006 stated that the wire transfers were “reimbursement to one company for getting another company paid over the weekend.”

6/6/2006

An unnamed person at the Winifred Rural Volunteer Fire Department e-mailed the spreadsheets attached to Butcher’s June 5, 2006 e-mail to Trevis Butcher at his personal e-mail address.

**6/6/2006
through
6/15/2006**

Receipts for signatures gathered by the CI-97, CI-98, and I-154 signature gatherers are signed by a paid non-resident worker, Sara Key. Key signed all of the receipts on behalf of “MIA.”

6/7/2006

CI-97 CPP filing

Don Crabbe filed the CI-97 report for the period from May 16 through June 5, 2006. CI-97 began the reporting period with a cash balance of \$2,810.81.

Contributions/Receipts	Expenditures	Cash Balance
\$95,000.00	\$92,926.56	\$4,884.25

Analysis

- CI-97 received 100 percent of its contributions for the period from MIA.
- No loans were incurred or petty cash expenditures made during the reporting period.
- CI-97 reported “No Debts or Loans Outstanding.”
- Reported expenditures included:
 - Payment to Chris Gallus for legal services (\$2,000).
 - “Purchase of Signature” payments totaling \$85,785.42 to 12 non-

resident individuals and entities, including Eric Rittberg (\$1,200), CFC (\$18,000), Data Jogger, Inc. (\$25,000), Ron Cook (\$7,000), Renewal Voter Outreach (\$14,895.69), American Voter Drives (\$2,702), Grace Meyer (\$11,022.33), Larry Schumacher (\$2,719.50), Jacob Witmer (\$650), Ricca Petition Service (\$1,000), and Theresa Moore (\$843.77).

- o Payments to three Montanans totaling \$585 for signatures gathered.

CI-98 CPP filing

Don Crabbe filed the CI-98 report for the period from May 16 through June 5, 2006. CI-98 began the reporting period with a cash balance of \$7,141.92.

Contributions/Receipts	Expenditures	Cash Balance
\$80,000.00	\$78,113.80	\$9,028.12

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- No loans were incurred or petty cash expenditures made during the reporting period but CI-98 listed a “debt or loan not yet paid” to ALG of \$4,159.75. Reported expenditures included:
 - o A payment to Chris Gallus for legal services (\$2,000).
 - o “Purchase of Signature” payments totaling \$68,621.45 to 12 non-resident individuals and entities, including Eric Rittberg (\$1,200), CFC (\$18,000), Data Jogger, Inc. (\$10,000), Ron Cook (\$4,375.29), Renewal Voter Outreach (\$14,000), American Voter Drives (\$2,693.25), Grace Meyer (\$5,371.04), Larry Schumacher (\$5,714.25), Jacob Witmer (\$650), Ricca Petition Service (\$4,802.39), and Theresa Moore (\$1,075.91).
 - o Payments to two Montanans totaling \$300 for signatures gathered.
 - o A payment to Hoffmann Services (Neil Hoffmann) of \$657.84 for office management.

I-154 CPP filing

Don Crabbe filed the I-154 report for the period from May 16 through June 5, 2006. I-154 began the reporting period with a cash balance of \$3,370.73.

Contributions/Receipts	Expenditures	Cash Balance
\$85,000.00	\$84,699.68	\$3,671.05

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- The I-154 report did not include a Schedule B listing expenditures or a Schedule D listing unpaid loans or debts.

6/8/2006

I-154 reporting deficiencies

CPP advised Don Crabbe that the June 7, 2006 I-154 report did not include a Schedule B listing expenditures made during the reporting period and that the missing information must be submitted “right away.” Crabbe responded via e-

mail within fifteen minutes. He apologized for the “oversight,” attached the missing Schedule B to his e-mail, and promised to deliver a printed copy of the Schedule B to CPP the next morning. The June 8, 2006 Schedule B filing did not include any information about unpaid loans or debts or indicate whether the I-154 committee had incurred any loans during the May 16 through June 5, 2006 reporting period. The I-154 Schedule B reported:

- “Purchase of Signature” payments totaling \$80,608.79 to 12 non-resident individuals and entities, including Eric Rittberg (\$1,200), CFC (\$28,000), Data Jogger, Inc. (\$10,000), Ron Cook (\$9,000), Renewal Voter Outreach (\$14,000), American Voter Drives (\$3,305.75), Grace Meyer (\$8,704.80), Larry Schumacher (\$2,738.75), Jacob Witmer (\$650), Ricca Petition Service (\$1,000), Caroline T’Star (\$1,277.51), and Theresa Moore (\$732.78).
- Payments of \$351 to two Montanans for signatures gathered.
- A payment to Hoffmann Services (Neil Hoffmann) of \$657.84 for office management.

6/9/2006

Ricca Petition invoices

Ricca Petition Service sent Trevis Butcher two invoices seeking payment of \$11,697.12 for signatures gathered and shipped on June 7 and \$58.40 for signatures shipped on June 9. Ricca also sent Butcher an invoice seeking reimbursement of \$545 for travel expenses incurred by Ricca employee Chris Dinhoff.

6/10/2006

Lorianne and David Kaserman, of “OK BALLOT ACCESS,” sent “MONTANANS in Action, Trevis Butcher, Executive Director,” a bill for \$7,383.33 for “Montana Elections & Coordination of Final Submission.” The bill includes a request for reimbursement for such campaign related expenses as travel from Oklahoma City to Montana (the Kasermans were also involved in collecting and coordinating signature gathering efforts for the Oklahoma SOS ballot issue), training posters and supplies, circulator reimbursement, and advertising for “Circulators/Election Workers Classified Advertising” in the *Billings Gazette*. The ads placed in the *Gazette* listed the account name as “National Voter Outreach.”

6/12/2006

Expenditure reports

Don Crabbe e-mailed Trevis Butcher 21 pages of expenditure reports for the three ballot issue committees showing “all checks written and cleared through the bank” as of June 12, 2006. Crabbe’s report included the loan repayment checks (four checks on each ballot issue account) written on May 2, 2006. Crabbe subsequently claimed that the checks had been lost and the May 2, 2006 loan repayments to ALG not made.

Cartoons

Blair Patton of Choteau sent Trevis Butcher an invoice seeking payment of \$125 for cartoons of a “Pig” for CI-97, a “Bulldozer” for I-154, and a “Judge” for CI-98. The August 2006 CPP reports filed by the three ballot issue committees reported payment of these expenditures.

6/13/2006

Slush fund account payment

A packet labeled “Expenses Ron Cook paid 6/13” includes a one-page hand-written statement bearing Ron Cook’s signature. The one-page statement lists a total of \$395.90 for such items as “fuel, office, refreshments, and notary.” Notations in the statement include “pay from POH [I-154]” and “deposit in slush fund account Wells Fargo Acc # *****3800.”

**6/13/2006
through
6/16/2006**

Schumacher payment e-mails

Trevis Butcher and Don Crabbe exchanged a series of e-mails verifying wire transfer payments to Larry Schumacher for the following signature gathering payments: \$7,000 from CI-97 on June 6; \$5,000 from CI-98 on June 6; \$6,000 from I-154 on June 8; and \$1,800 payments from CI-97 and CI-98 on June 14.

6/14/2006

CI-97 District Court ruling

Judge Dorothy McCarter ruled that all three of the Attorney General’s statements for CI-97 were untrue or inaccurate. Judge McCarter rewrote all of the statements and directed that her revised statements be placed on the general election ballot if sufficient signatures were gathered to qualify CI-97 for the November 7, 2006 general election ballot. The Attorney General subsequently appealed Judge McCarter’s ruling to the Montana Supreme Court.

Rhodes accounting

Michael Rhodes sent Trevis Butcher an “accounting for the campaign” and requested that Butcher “send wire today if possible.” The 6/14/2006 accounting was a billing statement for “American Campaign Services” and sought payment for signatures gathered by four individuals (Andrianov, Ranger, Rhodes, and Zukowski), including “bonus” and “override” amounts, travel expenses. The bill sought payment of \$19,030.53 but acknowledged receipt of \$15,000 already paid.

Butcher package

Trevis Butcher shipped a package from the Shipping Center in Lewistown to Ralph Muecke in Gladstone, North Dakota. The contents of the package were identified as “Legal Documents.”

6/15/2006

Corrected invoice e-mail

Michael Rhodes e-mailed Trevis Butcher a “corrected invoice” for the signature gathering services and related expenses billed the previous day. The corrected invoice included “Dan’s rental car and the few signatures collected the last two days” and sought payment of a remaining balance of \$4,521.31.

NVO e-mail

Susan Johnson of NVO e-mailed Paul Jacob outlining the terms and conditions under which NVO would provide continuing signature gathering services in Montana, Missouri, and Arizona (Paul Jacob and ALG were also spearheading 2006 initiatives in Missouri and Arizona similar to CI-97 and I-154 in Montana).

NVO was “sending people in (13 at last count) to Billings to arrive in the next two days” and all of the signature gatherers “are going under Lorianne [Horner] including the 2-person mgt team from Ann Arbor.” Jacob was advised that the

payment for “the new management team is \$1000 with an additional \$2500 for Lorianne & Dave [Horner/Kaserman??],” plus travel expenses.

NVO insisted that all Montana travel expenses be covered “irrespective of production” but assured Jacob that “those coming [to Montana] are no slouchers.

NVO stated it would “take an additional \$10k consulting retainer plus all travel. . .upon receipt of invoice” but that “You can continue to pay Lorianne directly for signatures and hotels and 1 car for every 4 people.” NVO was “expecting the deposits we agreed upon in the morning for MO & AZ” and NVO “would like to add the retainer \$10k for MT and an additional \$10k deposit for Travel plus \$25k deposit on the processing & submission ready work being performed over the weekend.”

NVO advised Jacob to expect “another invoice on Monday for additional deposit on expenses” and that as “usual, NVO expects everything to be paid for in advance... (sic). That is:

MT	\$45k
AZ	\$60K
MO	\$255k = \$360k

Here we go. . . At your service, as always.

Susan”

6/16/2006

Paul Jacob e-mail

Paul Jacob [pj@citizensincharge.org] e-mailed Trevis Butcher re “Update on efforts.” Jacob wrote in his e-mail:

“Can you wire \$45,000 FAST to NVO for processing and petitioner expenses? Thanks. Info below.

Do you need more money? PJ”

CI-98 wire transfer to NVO

Trevis Butcher sent a wire transfer of \$23,000 to NVO for “signature processing.”

Butcher to Jacob e-mails

Trevis Butcher sent two e-mails to Paul Jacob. The “corrected invoice” e-mail received from Michael Rhodes on June 15, 2006 was sent to Paul Jacob at 9:13 am. At 9:37 pm, Butcher forwarded a fax of Missoula motel bills for Ron Cook and Michael Rhodes to Jacob, Michael Rhodes, and Sara Key.

Horner package

Lorianne Horner shipped a package from the Shipping Center in Lewistown “for Trevis Butcher.” The shipping order was signed by Horner and was sent to National Voter Outreach in Ludington, Michigan. The contents of the package were identified as “Legal Documents.”

Michael Rhodes room payments

Michael Rhodes paid for lodging at the C’mon Inn in Missoula. Rhodes’ payments are noted on the same room receipt listing payments via credit card by Ron Cook.

Motl requests review of campaign documents

Jon Motl made his initial written request to Trevis Butcher to review the MIA,

CI-97, CI-98, and I-154 ballot issue records of contributions and expenditures pursuant to Section 13-37-209, MCA.

6/17/2006

Key e-mails

Sara Key sent two e-mails to MIA for signature coordination services. One bill was for \$1,410 and the other bill for \$3,850.02 included a “Weekly Salary” from May 31 through June 23, 2006.

6/18/2006

Ron Cook sent Trevis Butcher an e-mail listing “current paid expenses” for Charles Burgess and Dexter Donnel.

6/19/2006

Ron Cook e-mailed Trevis Butcher requesting that Cook’s “signature account” be replenished because of the “good turnin” the previous day. Cook also told Butcher his “slush fund is down do to recent expeses (sic) [expenses] totaling \$1533.00.” An attachment to Cook’s e-mail listed the number of signatures gathered by 29 signature gatherers for the CI-97, CI-98, and I-154 ballot issues.

6/20/2006

Ron Cook sent a package to MIA, “ATTN: Trevis Butcher,” addressed to the Shipping Center in Lewistown. Cook identified his company as “A.L.G.”

6/22/2006

NVO sends bill to Jacob

Susan Johnson of NVO submitted a “Montana final billing” e-mail to Paul Jacob and sent copies to NVO’s founder, Rick Arnold, and Katie Butcher (katie@directdemocracy.com). The billing statement contained wire transfer account information and was directed to “STOP OVER SPENDING, PAUL JACOB.” The NVO statement said that \$52,133.18 was “DUE UPON RECEIPT.” Included in the amounts billed were payments for Oklahoma Team Management, Oklahoma Team Travel, Lorianne additional Team Travel, the NVO Retainer Fee of \$10,000, Detroit Management Team, Detroit Team Travel, and “Have Gun Will Travel Security – Mark Denny In State.” The text of the NVO e-mail acknowledged that the “Ann Arbor team, the very same one that did all those signatures in Franklin, MO that final 8 days and picked up so many of our extras at the end in MI, was truly a waste.” NVO acknowledged that the Ann Arbor (Detroit) team had misrepresented the number of signatures gathered. NVO was “embarrassed at their [the Ann Arbor team’s] performance” and credited back all payments for the Ann Arbor (Detroit) team.

Duncan Scott news article

The Missoula *Independent* cover story featured an interview of Duncan Scott and was titled “Puppet Master.” The article’s subtitle was “Pushing national ballot initiatives from Kalispell.” The story described Scott as “somewhat of a gun nut” who steers hundreds of thousands of dollars toward conservative ballot initiatives through AAIB. AAIB’s and Scott’s support of initiatives included ballot measures like CI-97 and I-154. Although Scott said AAIB had not yet started spending cash to support CI-97 and I-154 in Montana, Scott said he expected AAIB to do so soon. Scott discussed his career as a New Mexico legislator and attorney, stating that he “decided. . . [he] could better serve conservative causes by suing liberals rather than serving with them.” After working as a signature gatherer, writing initiatives, and coordinating initiative campaigns, he

acknowledged that now, with AAIB, he had moved behind the scenes to the money side of initiatives.

AAIB was based in Kalispell, Montana in 2006 and used Scott's law office address in its 2006 Form 990 IRS filing and its report to the Nebraska Accountability and Disclosure Commission. One of Scott's fellow AAIB board members in 2006 was Bill Wilson.

AAIB's Form 990 filing for 2006 was signed by Scott, who identified himself as "Treasurer/Director."

AAIB reported total 2006 revenue (receipts) of \$4,844,600 and total expenditures/contributions of \$4,835,869, leaving an "excess" of \$8,731 for the year.

AAIB contributed \$4,802,000 of its revenue to unspecified recipients and incurred office expenses of \$979 in 2006.

Based on other public documents and filings, AAIB reported receiving more than 80 percent of its 2006 funds from the following Howard Rich affiliated groups:

- \$3,900,000 from ALG
- \$400,000 from the Fund for Democracy
- \$190,000 from the National Taxpayers Union (NTU)
- \$50,000 from the Club for Growth, State Action

AAIB publicly reported \$3.7 million of contributions (donations) to ballot issue committees sponsoring initiatives similar to CI-97 and I-154 in Michigan, Missouri, Idaho, Nebraska, and North Dakota.

AAIB indicated on its Web site that it supported MIA in 2006 but no public documents have been uncovered to date indicating whether MIA may have received some or all of the remaining \$1,135,000 that AAIB reported spending (contributing/donating) in 2006.

AAIB's 2006 Form 990 statement of purpose indicated that AAIB was involved in "research and education regarding limited government" and promotes and advocates "sound public policy in education, government operations and efficiency, and representative democracy." Laird Maxwell, who was involved in numerous libertarian issues in Idaho before 2006, was listed as AAIB's president. William Wilson, the president of ALG and ALGF in 2006, was also an AAIB director in 2006.

All of AAIB's directors and officers listed Duncan Scott's law office address as their address (Wilson used a Fairfax, Virginia address in his 2006 Form 990 filings for ALG and ALGF).

AAIB's 2006 "books" are in the care of "the organization" located at Scott's law office address but the phone number (202-361-7257) listed for the custodian of the books is a Washington, D.C. cell phone number used by Jarad Ross and Jim Crumley in an AAIB press release and Ray Wotring in a U.S. Term Limits press release.

Duncan Scott and Trevis Butcher worked together on the 2004 "No on C-42/Keep Montana's 8 year Term Limits" campaign. Scott served as treasurer for the "No on C-42" ballot issue committee and Trevis Butcher's address in Winifred was listed as the address for the committee.

6/23/2006

Petition deadline

The deadline for submitting ballot issue signature petitions to the Montana Secretary of State and local election officials.

Rittberg billing

Eric Rittberg sent Paul Jacob and Trevis Butcher an e-mail billing for \$700. Rittberg also indicated that “we discussed a \$500.00 bonus for the entire drive” and that he would be “most appreciative” if the bonus amount was added to the payment. Rittberg said “Whew. . . It’s over” and indicated he was heading over the mountains to Wyoming and Yellowstone National Park “before I link up with Jake tonight to head to Oregon.” Rittberg worked on libertarian initiatives in Oregon and Colorado after he left Montana.

Cook e-mail

Ron Cook sent Trevis Butcher an e-mail listing the number of signatures turned in on June 22 by various paid non-resident signature gatherers.

6/24/2006

Butcher requests copies of deposited checks

Trevis Butcher asked Don Crabbe to identify and send him copies of six checks deposited between May 17 and June 5, 2006. Three checks for \$200, \$9,000, and \$10 were, according to Butcher, deposited into “western security” and three other checks for \$300, \$4,000, and \$3,000 “were deposited into Wells Fargo.”

Donnell rental car agreement

Dexter Donnell, who listed the same Texas address as Ron Cook, indicated he worked for ALG in a Missoula rental car agreement. Cook sought payment for signatures gathered by “Chuck and Dexter.”

6/24/2006 and
6/25/2006

Ron Cook paid for two nights lodging at the Yogo Inn in Lewistown. Cook listed his address as 8000 Butcher Road, Winifred, Montana.

6/26/2006

Crabbe e-mail to Butcher

Don Crabbe sent Trevis Butcher an e-mail attachment “covering Grace Meyers (sic) and her associated business ‘American Voter Drive.’” The attachment showed payments to Meyer and AVD of \$54,680.29 through June 20, 2006.

Butcher e-mail to Key

Trevis Butcher forwarded to Sara Key the summary of payments to Grace Meyer and AVD. Butcher asked Key to “compare. . .[the payment summary] to the file we have on Grace and determine where we are with her.”

6/27/2006

Paul Jacob forwarded to Trevis Butcher the June 22, 2006 bill from Susan Johnson of NVO and asked: “Can you pay this ASAP? All info should be there. PJ”

6/28/2006

Butcher e-mail to Jacob

Trevis Butcher e-mailed Paul Jacob and asked him to “verify what we are paying

for CRTR [CI-98]?” Butcher indicated there “was no verification done that I am aware of” and that no verification “showed up on our web site.” Butcher also stated that NVO had billed for extra copies of signatures, not actual extra signatures.

DDA transfers

Don Crabbe asked Trevis Butcher about 6/27/06 transfers “from DDA” involving the CI-97 and CI-98 accounts. Crabbe asked “What or who is DDA?”

6/29/2006

Jon Motl confirmed his request to review the records of contributions and expenditures made by MIA and the CI-97, CI-98, and I-154 ballot issue committees. Motl’s letter discussed previous contacts with Butcher, Crabbe, and Gallus and noted the requested records had not yet been made available for inspection.

7/5/2006

Mendenhall bill

Republican State Representative Scott Mendenhall, who represented a house district in the Boulder, Montana area in 2006, sent Trevis Butcher an e-mail from his business e-mail computer (smendenhall@markslumber.us) requesting reimbursement for CI-97, CI-98, and I-154 ballot issue signature gathering services. Representative Mendenhall asked for reimbursement to himself and “Melissa” and directed Butcher to send the checks to his home address (214 Solomon Mtn. Road, Clancy, MT 59634).

Summary of ALGF payments

Don Crabbe forwarded to Trevis Butcher a May 8, 2006 e-mail summary of the payments made by the CI-97, CI-98, and I-154 ballot issue committees to ALGF via checks dated May 2, 2006. The summary of payments made to ALGF was prepared on May 8, 2006 by Neil Hoffmann, who e-mailed the summary from the Winifred Volunteer Fire Department e-mail address. Hoffmann’s summary also indicated that the CI-97 committee wrote check #2047 to MIA on May 2, 2006 for \$100 “for trailer rental to transport pig.” The \$100 expenditure was not included in the May 2006 CPP reports filed by CI-97, but the committee did report a \$2,000 expenditure to purchase the pink pig.

7/6/2006

Jon Motl inspected campaign finance records provided by Trevis Butcher and Chris Gallus.

7/7/2006

CI-98 District Court hearing

Judge Thomas Honzel held a hearing on the complaint filed by the CI-98 ballot issue committee, Trevis Butcher, and Representative Ed Butcher.

CI-97 CPP filing

Don Crabbe filed the CI-97 report for the period from June 6 through July 5, 2006. CI-97 began the reporting period with a cash balance of \$4,884.25.

Contributions/Receipts	Expenditures	Cash Balance
\$150,900.00	\$164,200.55	\$48.95

Analysis

- CI-97 received \$150,100 from MIA during the reporting period.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – June.”
- No loans were incurred or petty cash expenditures reported during the reporting period.
- CI-97 reported “No Debts or Loans Outstanding.”
- Reported expenditures included:
 - A payment to Chris Gallus for legal services (\$6,832.50);
 - “Purchase of Signatures” and “Petition Processing” payments totaling \$133,421.08 to 14 non-resident individuals and entities, including Eric Rittberg (\$5,148.27), Lorianne Horner (\$10,384.92), Ron Cook (\$8,161.17), NVO (\$23,000), Grace Meyer (\$23,539.50), Larry Schumacher (\$31,172.60), Jacob Witmer (\$2,337.50), Ricca Petition Service (\$19,703.36), Dale Munk (\$3,295), Sara Key (\$1,283.34), Jose Pena Reynosa (\$1,182), and Theresa Moore (\$1,986.80);
 - Payments to 19 Montana individuals and entities totaling \$14,631.27 for signatures gathered, including payments to Dan Balyeat (\$2,137.51), Bob Balyeat (\$1,682.10), Butcher’s Rolling Hills Band, which used the same address as MIA (\$3,100), Citizens for Honest Ballots (\$1,135), and Rodney Hein (\$1,260); and
 - A payment to Hoffmann Services (Neil Hoffmann) of \$657.84 for office management.

CI-98 CPP filing

Don Crabbe filed the CI-98 report for the period from June 6 through July 5, 2006. CI-98 began the reporting period with a cash balance of \$9,028.12.

Contributions/Receipts	Expenditures	Cash Balance
\$128,655.00	\$140,996.34	\$27.03

Analysis

- CI-98 received \$128,600 from MIA during the reporting period.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – June.”
- No loans were incurred or petty cash expenditures reported during the reporting period.
- CI-98 reported a \$4,159.75 unpaid debt or loan payable to ALG.
- Reported expenditures included:
 - A payment to Chris Gallus for legal services (\$6,832.50);
 - “Purchase of Signatures” and “Petition Processing” payments totaling \$119,299.99 to 17 non-resident individuals and entities, including Eric Rittberg (\$2,277.91), Lorianne Horner (\$9,100.42), Ron Cook (\$20,000.28), NVO (\$23,000), Grace Meyer (\$6,749.12), Larry Schumacher (\$27,047.91), Jacob Witmer (\$1,856.50), Ricca

Petition Service (\$14,702.98), Dale Munk (\$3,349), Sara Key (\$1,283.34), Jose Pena Reynosa (\$1,304), and Theresa Moore (\$1,813.86); and

- Payments to 22 Montana individuals and entities totaling \$12,499.98 for signatures gathered, including payments to Dan Balyeat (\$2,294.98), Bob Balyeat (\$1,308), Butcher’s Rolling Hills Band, which used the same address as MIA (\$2,700), Citizens for Honest Ballots (\$1,199), and Suzanne Page (\$1,210).

I-154 CPP filing

Don Crabbe filed the I-154 report for the period from June 6 through July 5, 2006. I-154 began the reporting period with a cash balance of \$3,671.05.

Contributions/Receipts	Expenditures	Cash Balance
\$75,030.00	\$78,064.22	\$9,102.09

Analysis

- I-154 received \$75,000 from MIA during the reporting period.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – June.”
- No loans were incurred or petty cash expenditures reported during the reporting period.
- I-154 reported “No Debts or Loans Outstanding.”
- Reported expenditures included:
 - Payment to Chris Gallus for legal services (\$531.25);
 - Payment to MIA for “Support” (\$6,000);
 - “Purchase of Signatures” and “Petition Processing” payments totaling \$52,547.59 to 14 non-resident individuals and entities, including Eric Rittberg (\$2,453.27), Lorianne Horner (\$9,172.40), Ron Cook (\$16,831.97), Grace Meyer (\$3,261.44), Larry Schumacher (\$7,887.29), Jacob Witmer (\$1,081.59), Ricca Petition Service (\$6,860.05), Sara Key (\$2,693.34), Jose Pena Reynosa (\$671.62), and Theresa Moore (\$1,048.46); and
 - Payments to 26 Montana individuals and entities totaling \$16,610.34 for signatures gathered, including payments to Dan Balyeat (\$1,422.66), Bob Balyeat (\$732), Butcher’s Rolling Hills Band, which used the same address as MIA (\$1,700), Citizens for Honest Ballots (\$358), and Joanne Estell (\$986.10).

7/10/2006

CI-98 District Court ruling

Judge Thomas Honzel ruled that the Attorney General’s CI-98 ballot issue statements satisfied applicable statutory requirements. The CI-98 ballot issue committee, Trevis Butcher, and Representative Ed Butcher subsequently appealed the decision to the Montana Supreme Court.

Amended CPP filings for ballot issue committees

Don Crabbe advised CPP that he was filing an amended “Schedule C” (debts and loans not yet paid) for all three ballot issue committees. The amended filing was

necessary because checks dated May 2, 2006 paying ALG for campaign services had been lost and loan repayments to ALG reported in the May 2006 CPP reports by all three committees had not actually been made. The amended Schedule C for CI-97 reported an unpaid debt or loan to ALG of \$8,465.25. The CI-98 amended Schedule C reported an unpaid loan from ALG of \$7,500 rather than the loan of \$4,159.75 reported on July 7, 2006. The amended I-154 report indicated the amount owed to ALG was \$8,465.26.

CI-98 wire transfer

Don Crabbe asked Trevis Butcher who the July 7, 2006 wire transfer of \$26,000 was to. The August 7, 2006 CI-98 filing with CPP reported a \$26,000 payment to NVO on July 7, 2006.

7/11/2006

One of the paid non-resident signature gatherers, Caroline T'Star, sent Trevis Butcher and his father, Senator Ed Butcher, a fax bill for signatures gathered and reimbursement for notary expenses. The fax is sent from the First Christian Church in Lewistown and contains instructions on where to mail the payments to T'Star.

7/12/2006

CPP letter to ALG

CPP mailed ALG a "second notice" letter stating that ALG must register as an incidental political committee because the CI-97, CI-98, and I-154 ballot issue committees reported receiving in-kind loans from ALG. ALG did not respond to the "second notice" letter.

Kaserman bill

Lorianne and David Kaserman, of "OK BALLOT ACCESS," sent "MONTANANS in Action, Trevis Butcher, Executive Director," a bill for \$2,294.48 for "Hotel Rooms for Circulators/Petitioners" and "Gasoline and Rent Car." The bill specifically noted that motel rooms for certain paid non-resident signature gatherers were not billed because of "non-production, per Susan Johnson." A copy of the bill was sent to Paul Jacob.

7/14/2006

Sara Key e-mailed Trevis Butcher "the last of my expenses on the MIA campaign." Key's bill to MIA for \$998.55 included a \$500 "Work Extension bonus per Paul Jacob."

7/15/2006

Payments to Meyer/AVD

Don Crabbe advised Trevis Butcher that Grace Meyer and her associated signature gathering business, AVD, had been paid the following amounts for the purchase of ballot issue signatures: CI-97 had paid Meyer \$34,562.21 and AVD \$2,702 between May 23 through June 29, 2006; CI-98 had paid Meyer \$11,120.16 and AVD \$2,693.25 between May 30 through June 13, 2006; and I-154 had paid Meyer \$11,966.24 and AVD \$3,305.75 between May 30 through June 13, 2006. The total payments made to Meyer and ADV from May 23 through June 29, 2006 were \$66,349.61.

CI-97 wire transfer

Don Crabbe confirmed receipt of Trevis Butcher's e-mail "with the SOS [CI-97] Wire Transfer for \$26,133.18."

- 7/16/2006** MIA hand-delivered its C-4 report to CPP for the period from June 4, 2006 through July 3, 2006. MIA's report was signed by Crabbe and reported MIA received zero contributions/receipts but made expenditures of \$436,931 to the CI-97, CI-98, and I-154 ballot issue committees. MIA's report did not include any in-kind contributions or expenditures. MIA's total reported expenditures to support CI-97, CI-98, and I-154 through July 3, 2006 were \$611,081.
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- 7/17/2006** Jon Motl filed the CPP complaints described in Parts I-III of this decision.
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- 7/18/2006** **Payment of Key invoice**
Trevis Butcher directed Katie Butcher, to pay Sara Key's July 14, 2006 bill out of the I-154 account.
- Payment of Gallus invoice**
Trevis Butcher directed Katie Butcher, to write a check from the CI-97 account to pay Chris Gallus' July 14, 2006 "SOS Invoice." The e-mail was sent from Butcher's Rolling Hills Ranch e-mail address.
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- 7/19/2006 through 7/22/2006** **Estell payments**
Trevis Butcher and Don Crabbe exchange a series of e-mails concerning signature gathering payments made to Jonie Estell of Moccasin, Montana. Estell billed for "2000 names and 1,631 names times \$.15."
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- 7/20/2006** **CPP notice of Motl complaints**
Commissioner Gordon Higgins notified Trevis Butcher via letter that CPP would investigate the Motl complaints. Commissioner Higgins instructed Butcher to submit a written response to the Motl complaints on or before August 11, 2006 and to collect documents concerning the Plaintiffs' initiative campaigns for inspection by the Commissioner's office by August 26, 2006.
- MIA shipping account**
Trevis Butcher sent a package via his MIA account at the Shipping Center in Lewistown to Gallatin County Fairgrounds.
- Estell e-mail**
Jonie Estell e-mailed Trevis Butcher asking if he had forwarded "copies of the checks you've paid me so far." Estell stated her "totals jived with the secretary at the church – 2,000 for SOS and 1,631 for CRTR."
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- 7/21/2006** Trevis Butcher used a credit card to make multiple purchases of "distribution service" from Bacon Media Source Direct Broadcast for MIA, CI-97, CI-98, and I-154. The e-mails indicated that Butcher's credit card would be "charged for the total number of emails/faxes successfully sent" approximately "48 hours" after the processing of each email/fax.

7/24/2006

Mainwaring signature gathering bonus

Richard (Keith) Mainwaring advised Trevis Butcher that he worked four days at the fair and had \$32 of expenses. Mainwaring proposed a “40 to 60 percent split on the [signature gathering] bonus” in favor of “Dan” and indicated that he thought “we did pretty well.”

News article featuring Rittberg and Howard Rich

The *High Country News*, published in Paonia, Colorado, ran an in-depth cover story titled “Taking Liberties.” The article described the libertarian initiative efforts of ALG and affiliated organizations in six western states, the impacts of a successful libertarian initiative similar to I-154 in Oregon, and the individual signature gathering efforts of Eric Rittberg in Montana and other states. Rittberg admitted that he came to Montana at the suggestion of Paul Jacob and that he (Rittberg) “hates liberals.”

The *High Country News* article also featured a rare telephone interview with Howard Rich, who acknowledged that he had funneled nearly \$200,000 through MIA in support of CI-97, CI-98, and I-154. CPP later confirmed the accuracy of Rich’s acknowledgment in a conversation with the author of the news article. The author advised CPP that he had recorded the Rich interview, a portion of which was posted for several months on the *High Country News* Web site.

The article also noted that Trevis Butcher said he didn’t know Rich. Butcher declined to say whether MIA was receiving any of its money from the Rich-backed Fund for Democracy.

In the same *High Country News* interview, Rich said the Fund for Democracy is his “personal fund” and is not a non-profit corporation. Rich said he was open to using the Fund for Democracy to provide funding for general election campaigns. (Rich made substantial monetary contributions from the Fund to support an initiative similar to I-154 in California (\$1.5 million) and an initiative similar to CI-97 in Michigan (\$623,000) in 2006.)

7/25/2006

Montana Fair booth

MIA rented a booth at the Montana Fair in Billings. Trevis Butcher signed the agreement on behalf of MIA and indicated that “information handouts” would be distributed.

Katie Butcher bill

Katie Butcher sent Trevis Butcher a bill for expense reimbursement and wages (\$10 per hour) totaling \$2,748.76 for “fairs and left-over office work.” The third page of the billing statement contained the notation “MIA.”

7/31/2006

MIA rented booths at the Eastern Montana Fair in Miles City and the Broadwater County Fair in Townsend. Trevis Butcher either signed the applications or was listed as the contact person. The Eastern Montana Fair application indicated MIA would have “political information literature” in its booth, and would be handing out brochures.

8/4/2006

MIA hand-delivered its C-4 report to CPP for the period from July 4, 2006 through August 3, 2006. MIA’s report was signed by Crabbe and reported MIA received zero contributions/receipts but made expenditures of \$111,250 to the

CI-97, CI-98, and I-154 ballot issue committees. MIA's total reported expenditures to support CI-97, CI-98, and I-154 through August 3, 2006 were \$722,331.

8/5/2006

ALG fax

ALG sent Butcher the same fax and billing statements sent on May 2, 2006 seeking reimbursement for ballot issue campaign expenditures and services. John Tillman wrote the following on the fax cover sheet: "Second request! Trevis, Please pay ASAP – we need the money! JT." Krissy Thom included a cover sheet on ALG letterhead telling Butcher "this is important" and admonished him to "follow up as JT [John Tillman] instructed."

Butcher's response to ALG's fax bill

Trevis Butcher responded to the ALG's August 5, 2006 fax. Butcher apologized to John Tillman for "our tardiness [in paying the May 2, 2006 ALG billing] and understand that we most likely face finance charges." Butcher promised to do better in the future and expressed appreciation for ALG's "help and patience in these matters."

8/6/2006

Don Crabbe e-mailed Trevis Butcher "Expenditure Reports" for the three ballot issue committees "as of August 5, 2006."

8/7/2006

Expenditure reports for ALG

Trevis Butcher e-mailed John Tillman, Paul Jacob, Bill Wilson, and dtripp@getliberty.org a copy of the "Expenditure Reports" received from Don Crabbe the previous day. Butcher's e-mail indicated "you are receiving ... [the Expenditure Reports] for the financial consulting that I requested from ALG." Butcher told the e-mail recipients that he was "expecting an invoice for the services and counsel that I expect to receive from your campaign financial consultation." Butcher thanked the recipients "for helping with the Montana Campaigns" and requested separate invoices from ALG.

CI-97 CPP filing

Don Crabbe filed the CI-97 report for the period from July 7 through August 5, 2006. CI-97 began the reporting period with a cash balance of \$48.95.

Contributions/Receipts	Expenditures	Cash Balance
\$41,700.00	\$38,033.96	\$3,714.96

Analysis

- CI-97 received 100 percent of its contributions for the period from MIA.
- Trevis Butcher reported an in-kind contribution of \$1,000 for "Office & Travel – July."
- No loans were incurred or petty cash expenditures reported during the reporting period.
- CI-97 reported unpaid debts and loans of \$8,465.25 to ALG.
- Reported expenditures included:
 - A payment to Chris Gallus for legal services (\$1,743.94);

- “Purchase of Signatures” and “Signature Validation Services” payments totaling \$30,891.38 to eight non-resident individuals and entities, including Eric Rittberg (\$315), NVO (\$26,133.18), Grace Meyer (\$1,271.25), Larry Schumacher (\$115.50), Caroline T’Star (\$2,237), Dale Munk (\$519), Data Jogger, Inc. (\$60.70), and Felicia Rogers (\$240); and
- Payments to two Montana entities totaling \$1,225 for signatures gathered, including a payment to Montanans for Multiple Use (\$1,060).

CI-98 CPP filing

Don Crabbe filed the CI-98 report for the period from July 7 through August 5, 2006. CI-98 began the reporting period with a cash balance of \$27.03.

Contributions/Receipts	Expenditures	Cash Balance
\$54,550.00	\$54,538.65	\$38.38

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – July.”
- No loans were incurred or petty cash expenditures reported during the reporting period.
- CI-98 reported unpaid debts and loans of \$7,500 to ALG.
- Reported expenditures included:
 - A payment to Chris Gallus for legal services (\$4,600);
 - “Purchase of Signatures” and “Signature Validation Services” payments totaling \$30,891.38 to nine non-resident individuals and entities, including Eric Rittberg (\$27), NVO (\$26,000), Grace Meyer (\$11,251.02), Larry Schumacher (\$75), Caroline T’Star (\$1,850.82), Dale Munk (\$170), Data Jogger, Inc. (\$1,075.30), Ricca Petition Service (\$3,481.74), and Felicia Rogers (\$300); and
 - Payments to five Montana entities totaling \$2,309 for signatures gathered, including a payment to Montanans for Multiple Use (\$1,155).

I-154 CPP filing

Don Crabbe filed the I-154 report for the period from July 7 through August 5, 2006. I-154 began the reporting period with a cash balance of \$9,102.09.

Contributions/Receipts	Expenditures	Cash Balance
\$5,900.00	\$14,989.84	\$12.25

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – July.”
- No loans were incurred or petty cash expenditures reported during the

reporting period.

- CI-97 reported unpaid debts and loans of \$8,465.26 to ALG.
- Reported expenditures included:
 - “Purchase of Signatures” and “Petition Processing” payments totaling \$8,517.10 to six non-resident individuals and entities, including Eric Rittberg (\$2.97), Ron Cook (\$836.07), Sara Key (\$998.55), Larry Schumacher (\$6,632.50), Caroline T’Star (\$10.61), and Data Jogger, Inc. (\$36.40); and
 - Payments to three Montana entities totaling \$693.25 for signatures gathered, including a payment to Montanans for Multiple Use (\$451).

Supreme Court reverses CI-97 ruling

The Montana Supreme Court, by a vote of 5-2, reversed Judge Dorothy McCarter’s determination that all three of the Attorney General’s statements for CI-97 were untrue or inaccurate and did not satisfy applicable statutory requirements. (*Stop Over Spending Montana v. State of Montana*, 2006 MT 178, 333 Mont. 42, 139 P.3d 788.) The Supreme Court majority directed that the Attorney General’s statements for CI-97 be placed on the general election ballot. *Id.*, 333 Mont., p. 52.

Mainwaring bill

Richard Mainwaring sent Trevis Butcher a bill for signature gathering services. Mainwaring asked Butcher if he was bringing the Pig to the Manhattan Potato Festival and promised to enter the Pig in the parade.

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- 8/9/2006** Jodi Bridges of ALGF faxed Trevis Butcher, MIA, with “pay instructions” indicating Montanans in Action was to pay Anthony Quattrone of Lexington, South Carolina “\$1,875 per pay period on the 15th and last day of each month” with a July 15, 2006 “start date” for payment. The instructions indicated Quattrone was owed \$3,750 by MIA for the pay periods ending 7/15/2006 and 8/01/2006. Bridges instructed Butcher to call her at 312-920-0080, ext. 310, if he had any questions. The instructions do not describe the services being provided by Quattrone to MIA.
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- 8/10/2006** Trevis Butcher paid Anthony Quattrone via wire transfer \$3,750 from the MIA account.
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- 8/13/2006** Trevis Butcher e-mailed Dan Balyeat regarding an “excel file” that contained an attachment titled “06-08-12 Dan Balyeat.xls.” The attachment listed check numbers and dates from the MIA, CI-98, and I-154 accounts for flyer drops, the Bozeman and Livingston fairs, and signature gathering activities.
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- 8/14/2006** Jonie Estell sent Trevis Butcher four e-mails documenting the signatures she gathered in Helena, Saco/Malta, Glasgow, and Great Falls.

8/15/2006

Gallus phones CPP's attorney/investigator re Motl complaints

Chris Gallus telephoned Steve Brown, the CPP attorney assigned to investigate the Motl complaints (CPP's attorney/investigator), on August 15, 2006. Gallus advised that he would obviously not be sending a written response to the Motl complaints by August 11, 2006. Gallus asserted that Commissioner Higgins' July 20, 2006 letter was "confusing" and that he wouldn't be able to provide a response "for a while." When pressed to define "for a while," Gallus said he would call CPP's attorney/investigator on August 28, 2006 to advise when he would respond on behalf of MIA, CI-97, CI-98, and I-154.

E-mails

A flurry of e-mails regarding payments for MIA, CI-97, CI-98, and I-154 activities were exchanged.

- At 1:55 pm, Trevis Butcher sent the "Winifred Rural VFD" an e-mail containing attachments regarding payments due and owing to five Montanans who provided services and gathered signatures for the three ballot issues.
- At 3:02 pm, an unidentified individual at the Winifred Rural Volunteer Fire Department sent an e-mail to Trevis Butcher regarding "totals for ALGF." The email stated that the "totals for checks written to ALGF are as follows: I wrote 4 checks out of CRTR [CI-98] totaling \$3340.26. I wrote 2 checks out of SOS [CI-97] totaling \$6850.00. I wrote 4 checks out of POH [I-154] totaling \$8465.28. Grand total: \$18,655.54."
- At 3:04 pm, an unidentified individual at the Winifred Rural Volunteer Fire Department sent an e-mail to Trevis Butcher indicating that the June 28, 2006 bill for Web site services from "Page16.com" had been paid.
- At 3:19 pm, Trevis Butcher forwarded the e-mail from the Winifred Rural VFD to ALG's Dan Tripp. Butcher told Tripp that these "are the checks we wrote to ALGF for contracted services and loans" and that the checks would be mailed "today [August 15, 2006]." Butcher added that "we currently have an additional 18k outstanding" and that he had "received 10K today from a major donor." Butcher said the total "we need immediately is 26,655.54." Butcher also indicated he would contact ALGF because he believed "they need to invoice me for another 8 to 10K."
- At 11:30 pm, Trevis Butcher sent Dan Balyeat an e-mail regarding "Current out standing" that included an attachment titled "Overview of Payments made on 06-08-15 1685.xis." Butcher's e-mail advised that the attachment "does not include the estimated 7K that I expect our current print bill to come to." The attachment listed check numbers and the amounts of money paid to the following on August 15, 2006:
 - \$1,628.32 paid to Katie Butcher from the MIA, CI-97, CI-98, and I-154 accounts;
 - \$3,713.04 paid to Chrissy McConkey from the MIA, CI-97, CI-98, and I-154 accounts;
 - \$188.72 paid to Joni Estell from the MIA, CI-97, CI-98, and I-154 accounts;
 - \$13,087.44 paid to Chris Gallus from the MIA, CI-97, CI-98, and I-154 accounts;

- \$1,066.35 paid to Tori Thompson, Andy Thompson, Marissa Stockton, Becky Stockton, and Tom Stockton from the MIA, CI-97, CI-98, and I-154 accounts; and
- \$18,655.52 paid to ALGF from the CI-97, CI-98, and I-154 accounts.
- The attachment listed amounts totaling \$3,050.96 that appear to be payments due and owing to Jessica Pattison, Karly Brooks, Boyce Lacock, Dan Balyeat, Linda Balyeat, Jamie Balyeat, and Keith Mainwaring.
- The “Total” column at the bottom of the attachment states: “\$39,762.03 Due Immediately, \$17,000.00 Current Bank Balance, \$22,762.03 Wire transfer or Check needed immediately.” The attachment did not identify which account was referenced in “Current Bank Balance” figure.

8/16/2006

District Court signature gathering lawsuit filed

Opponents of the CI-97, CI-98, and I-154 ballot issues filed the District Court lawsuit discussed in Part IV of this decision.

MIA receives deposit

MIA received a deposit of \$7,245.42 via wire transfer from Robert S. Snyder.

8/17/2006

Supreme Court affirms CI-98 ruling

The Montana Supreme Court, by a vote of 5-2, upheld Judge Thomas Honzel’s determination that the Attorney General’s statements for CI-98 satisfied applicable statutory requirements. (*Citizens Right to Recall v. State of Montana*, 2006 MT 192, 333 Mont. 153, 142 P.3d 764.)

Butcher/Tripp e-mail

Trevis Butcher sent Dan Tripp an e-mail identifying payments made on August 15, 2006. The e-mail attachment contained the same information e-mailed to Dan Balyeat late in the evening on August 15, 2006. Butcher’s e-mail stated “Hopefully only once. . .”

8/18/2006

Anthony Quattrone sent Trevis Butcher an e-mail from Quattrone’s “getliberty.org” Web site. Quattrone advised Butcher that he had “spent \$110 on Katie’s Crew For Dropping lit on Cars” and “That is 2 nights, 3 initiatives.”

8/21/2006

Don Crabbe and Trevis Butcher exchanged e-mails regarding the reimbursement of Senator Joe Balyeat for “Phone call expenses.”

8/24/2006

Balyeat e-mail

Trevis Butcher instructed Dan Balyeat to “fill this out and shoot it back to me so I can get you paid.” Butcher also indicated he would “make the adjustments for Linda.” Linda Balyeat is the wife of Senator Joe Balyeat and Senator Balyeat was sent a copy of the e-mail. The attachment to the e-mail contains columns showing amounts and check numbers for payments from the MIA, CI-97, CI-98,

and I-154 accounts for flyer drops, signatures, and Livingston and Bozeman fair expenses.

Legal expenses e-mails

Trevis Butcher, Bill Wilson, and Dan Tripp exchanged the following e-mails:

- At 9:39 am, Butcher sent Wilson and Tripp an e-mail regarding “Legal Expenses.” Butcher advised that he had “these three outstanding Checks that I am hold (sic) for Callus’s legal council (sic)” and that “they are getting pretty dated.” Butcher said he deposited Gallus’ check “last week so he had enough to cover his bills and go to Chicago.” Butcher then said “the other checks I am currently holding are SOS [CI-97] for \$1743.94, SOS [CI-97] for \$4187.50 & MIA for \$1230.50.” Butcher advised that he “told Chris [Gallus] that I would get these to him Monday or Tuesday this week” but that Dan [Tripp] told him “that we where (sic) [were] going to start funding these from a different source.” Butcher asked Tripp and Wilson to “let me know what your intentions are.”
- At 2:54 pm, Bill Wilson answered Butcher’s “Legal Expenses” e-mail. Wilson advised Butcher that he “should have more than enough money to pay these, pay all the old bills, pay Anthony and any other staff, pay the animation project, order and pay for the signs and still have money left over.” Wilson instructed Butcher to “send Dan [Tripp] a list of what you are paying and what is left and we can go from there.” Wilson acknowledged that he knew that Butcher needed “funds for the posts, plywood and costs to put the signs up.”

8/25/2006

Trevis Butcher responded to Bill Wilson’s “Legal Expenses” e-mail of the previous day. Butcher said he thought he “was not suppose[d] to pay legals any longer out of these funds” but assured Wilson that “I will get that done in the morning.” A copy of Butcher’s e-mail was sent to Dan Tripp.

8/26/2006

Bill Wilson and Trevis Butcher exchanged the following e-mails re “Legal Expenses:”

- At 9:48 am, Bill Wilson answered Trevis Butcher’s August 25, 2006 e-mail. Wilson told Butcher that he uses a “big printer in Kansas” identified as “Southweat (sic) Publishing” and that Wilson’s “guy is Randy Spradlin.” Wilson advised Butcher that the “funds we sent for signs -- \$36,000 – I thought they were for the plastic sheeting to go over the 4 by 8s.” Wilson suggested that he and Butcher “go over this so I know we have enough money to do what we need on the signs” next week.
- At 11:29 am, Trevis Butcher responded to Wilson and indicated that he “got Chris [Gallus] paid yesterday.” Butcher asked Wilson to “get back to me on the printer you use that can get fast turn a rounds (sic)” because Butcher was out of paper for the next weekend. A copy of Butcher’s e-mail was sent to Dan Tripp.

8/29/2006

ALG e-mails

ALG staff members sent Trevis Butcher e-mails regarding invoices for ALGF services:

- At 11:06 am, someone known as mrcopy@getliberty.org e-mailed Trevis Butcher three invoices seeking payment of legal, conference calling, and political/financial services provided by ALGF to the CI-97, CI-98, and I-154 ballot issue committees in August of 2006. The invoices were dated “08/31/06” and sought payment of \$2,550 from I-154, \$1,550 from CI-97, and another \$2,550 from I-154. The invoices instructed that payments be made to ALGF.
- At 4:11 pm, ALG’s Executive Assistant, Krissy Thom, e-mailed Trevis Butcher to confirm that she had mailed three invoices in total and that Butcher should let her know if he had not received them. A copy of Thom’s e-mail was sent to John Tillman.

CPP’s attorney/investigator contacts Gallus

CPP’s attorney/investigator called Chris Gallus on or about August 29, 2006 because Gallus had not responded by August 28, 2006 as he had promised during the August 15, 2006 phone conversation. Gallus returned the CPP attorney/investigator’s call on August 30, 2006. Gallus said that he did not have any documents for CPP other than the documents provided to Motl (those documents had already been provided as part of the Motl complaints). CPP’s attorney/investigator stated that CPP was not interested in documents already made available to the Commissioner’s office in the Motl complaints. Gallus then said he needed to get additional documents from State Senator Joe Balyeat and that he wanted to meet with the new Commissioner. Gallus was urged to either file a written response to the Motl complaints or send CPP new information not included in the Motl complaints. CPP’s attorney/investigator stressed that it was important to assure the new Commissioner, Dennis Unsworth, that MIA, CI-97, CI-98, and I-154 were willing to cooperate in the investigation of the Motl complaints (Commissioner Unsworth’s first day in office was September 5, 2006).

8/30/2006

Butcher answers Thom’s e-mail

Trevis Butcher answered Krissy Thom’s August 29, 2006 e-mail. Butcher requested that the billing to CI-97 for legal services provided by Chris Gallus be changed to reflect that the legal services were provided by ALGF’s attorneys. Thom then sent Butcher an e-mail response confirming that the invoice to the CI-97 ballot issue committee would include the requested change in the legal services billing.

Balyeat balance sheet

Trevis Butcher e-mailed Dan Balyeat a balance sheet showing payments already made and unpaid balances due for services provided by Dan Balyeat and Linda Balyeat.

9/2/2006

Don Crabbe sent Trevis Butcher a “quick report” on payments made to Keith Mainwaring for signature gathering services (Mainwaring resides in Belgrade, Montana).

9/3/2006

Don Crabbe sent Trevis Butcher a detailed 49 page expenditure report for the three ballot issue committees, “with date and check number.”

9/5/2006

MIA delivers C-4 report

MIA hand-delivered its C-4 report to CPP for the period from August 4, 2006 through September 3, 2006. MIA’s report was signed by Crabbe. MIA reported that it received zero contributions/receipts but made expenditures of \$61,500 to the CI-97, CI-98, and I-154 ballot issue committees. MIA’s report did not include any in-kind contributions or expenditures. MIA’s total reported expenditures to support CI-97, CI-98, and I-154 through September 3, 2006 were \$783,831.

Quattrone e-mail

Anthony Quattrone sent Trevis Butcher “next day” payment instructions for services provided to the Montana ballot issue campaigns.

9/6/2006

District Court hearing

The District Court hearing was held in *MFJ vs. MIA I*.

CI-97 CPP filing

Don Crabbe filed the CI-97 report for the period from August 6 through September 5, 2006. CI-97 began the reporting period with a cash balance of \$3,714.99.

Contributions/Receipts	Expenditures	Cash Balance
\$36,200.00	\$39,887.04	\$27.95

Analysis

- CI-97 received \$36,100 from MIA during the reporting period.
- The committee received \$100 of cash contributions of less than \$35 each and an in-kind contribution from Trevis Butcher of \$1,000 for “Office & Travel – August.”
- No petty cash expenditures were reported.
- Although CI-97 reported “no loans this period” under Schedule A, a new unpaid ALG loan for “contracted services” in the amount of \$1,550 was reported in Schedule C.
- CI-97 reported two loan payments to ALG totaling \$6,850 via checks dated May 2, 2006. The reported balance owed to ALG on the previously reported loans was \$1,615.25 (the May 2, 2006 checks written to ALG had previously been reported “lost” by Crabbe in July of 2006).
 - Additional reported expenditures included:
 - Payments to Chris Gallus for legal services (\$5,931.44);
 - Payment to a Washington, D.C. media consultant for a “Media Presentation”(\$21,632.67); and
 - Payments to four Montanans totaling \$738.93 for signatures gathered.

CI-98 CPP filing

Don Crabbe filed the CI-98 report for the period from August 6 through September 5, 2006. CI-98 began the reporting period with a cash balance of \$38.38.

Contributions/Receipts	Expenditures	Cash Balance
\$12,450.00	\$12,441.29	\$47.09

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – August.”
- No petty cash expenditures were reported.
- Although CI-98 reported “no loans this period” under Schedule A, a new unpaid ALG loan for “contracted services” in the amount of \$2,550 was reported in Schedule C.
- CI-98 reported making four loan payments to ALG totaling \$3,340 for “Loan repay – polling, legal services, conf call” dated May 2, 2006.
- The ALG loan payments were made via checks dated August 15, 2006.
- The checks were written to ALGF and cashed by ALGF on September 1, 2006. Additional reported expenditures included:
 - Payments to Chris Gallus for legal services (\$5,925.50); and
 - Payments to three Montanans totaling \$361.55 for signatures gathered.

I-154 CPP filing

Don Crabbe filed the I-154 report for the period from August 6 through September 5, 2006. I-154 began the reporting period with a cash balance of \$12.25.

Contributions/Receipts	Expenditures	Cash Balance
\$12,150.00	\$12,153.51	\$8.74

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- Trevis Butcher reported an in-kind contribution of \$1,000 for “Office & Travel – August.”
- No petty cash expenditures were reported.
- Although I-154 reported “no loans this period” under Schedule A, a new unpaid ALG loan for “contracted services” in the amount of \$2,550 was reported in Schedule C.
- I-154 reported four loan payments to ALG totaling \$8,465.28 via checks dated May 2, 2006. These payments constituted payment in full of the previously reported ALG loans (the May 2, 2006 checks written to ALG had previously been reported “lost” by Crabbe in July of 2006). The ALG loan payments were made via checks dated August 15, 2006. The checks were written to ALGF and cashed by ALGF on September 1, 2006.
- Additional reported expenditures included:

- A payment of \$19.88 to one Montanan for signatures gathered; and
 - A payment of \$300 to Senator Joe Balyeat for reimbursement of phone expenses.
-

9/7/2006

In a Yellowstone Public Radio debate on CI-97, Trevis Butcher said he had no knowledge of Howard Rich financing the CI-97 campaign and he had “never seen Howard Rich donate a penny to this [CI-97].”

9/8/2006

Butcher’s District Court testimony

Trevis Butcher testified in the District Court proceedings discussed in Part III of this decision that “the vast majority” of the money used to finance the CI-97, CI-98, and I-154 ballot issue campaigns came from “out-of-state national organizations.” (District Court Transcript, pp. 230-231.) The money from these national organizations was, according to Butcher, donated to “the group [MIA]” and not to the ballot issue campaigns and were therefore not reportable as campaign contributions because they were not “earmarked.” (District Court Transcript, pp. 231-232.) Judge Sandefur refused to require Butcher to identify “specific out-of-state donors.” (District Court Transcript, p. 230.)

Butcher acknowledged that MIA had contributed \$600,000 to the California “protect our homes” initiative but denied that money was being “funneled through” MIA for ballot issue campaigns. District Court Transcript, p. 233. Butcher testified that “money was given to Montanans In Action to do whatever it pleased with it.” *Id.* The money from out-of-state national organizations was, according to Butcher, being provided by “foundations, organizations, national” and not “necessarily corporations.” (District Court Transcript., pp. 233-234.) The national foundations, corporations, and organizations donating money to MIA have members in Montana and that, according to Butcher, is why they were interested in the 2006 Montana ballot issues.

CPP letter to Gallus

CPP’s attorney/investigator sent Chris Gallus an e-mail and letter confirming that Commissioner Unsworth had decided to expedite the investigation of the Motl complaints. The letter also requested that Gallus provide a written response to the Motl complaints and make documents available for inspection on or before September 19, 2006.

9/9/2006

CPP’s attorney/investigator telephoned Chris Gallus and asked whether he intended to provide information and documents concerning the Motl complaints. Gallus apologized for not calling CPP’s attorney/investigator on September 27, 2006 and said he had a meeting scheduled with Trevis Butcher that afternoon to discuss “everything.” Gallus also indicated that it was his understanding that documents had been collected and copied.

CPP’s attorney/investigator asked if the documents would be provided on Friday, September 29, 2006. Gallus said “no,” because of the expedited briefing schedule in the pending Supreme Court appeal of Judge Sandefur’s District Court decision in *MFJ vs. MIA I*. Gallus was then asked if the documents would be submitted to CPP by October 5 or 6, 2006. CPP’s attorney/investigator advised Gallus that the Commissioner was prepared to issue an administrative subpoena for documents but that CPP’s attorney/investigator would recommend that the subpoenas not be

issued if Gallus agreed to provide documents on or before noon on October 6, 2006. Gallus said he would call back after his meeting with Trevis Butcher later that afternoon.

9/11/2006 Trevis Butcher instructed Ballyhoo Printing to send “500 sets of the flyers” to the Southwest Montana Building Industry Association in Bozeman, Montana.

9/12/2006 Eric Rittberg characterized the District Court testimony that he or other out-of-state paid signature gatherers tricked Montanans into signing CI-97, CI-98, and I-154 petitions as a “complete and utter lie.” (*See, e.g.*, the news article titled “Gatherer disputes allegations of ‘mercenary’ effort in the Helena *Independent Record*.”). Rittberg denied that he and the other paid signature gatherers were “some sort of mercenaries” and that they “didn’t care about the issues.” He acknowledged that he was in Montana putting up signs and making literature drops in a “low budget effort” to support of CI-97, CI-98, and I-154 and oppose the unions and bureaucrats opposing CI-97, CI-98, and I-154.

9/13/2006 The District Court decision in *MFJ vs. MIA I* was issued. The decision recognized, in pertinent part, that the proponents of the three Montana ballot issues “were unwilling or themselves unable to locate” the migrant, non-resident signature gatherers and “failed to present any direct evidence from the best and most knowledgeable source to rebut” the evidence of fraud and procedural non-compliance. (*MFJ vs. MIA I, supra*, p. 42.)

9/17/2006 A *Lewistown News Argus* story titled “Supporters and opponents of initiatives argue over funding, petitions,” quoted Trevis Butcher regarding the involvement of MIA and non-residents in the CI-97, CI-98, and I-154 campaigns. Butcher said he brought in out-of-state petition coordinators because they “knew how to run petition drives” and Montana’s Attorney General “dragged his feet so long in approving the language of the initiatives” that it became necessary to rely on non-resident signature gatherers. Butcher insisted that he “never had any out-of-state people involved in . . . [CI-98]” and that even “our lawyer is from Helena.” However, Butcher acknowledged that MIA is funding CI-97, CI-98, and I-154. He added that “a majority” of MIA’s funds “are from out-of-state” but “much” of MIA’s funding “comes from organizations and corporations which have affiliations in Montana.” Butcher stated that some of MIA’s donors are from in-state and all of MIA’s members are Montanans. According to Butcher, MIA has fewer than 100 members but aims to have 500.

Butcher confirmed statements he made in the July 24, 2006 *High Country News* article that he was not aware of any financial contributions Howard Rich has made to the Montana initiative efforts. Butcher said that opponents of CI-97, CI-98, and I-154 are relying on funding “mostly from out-of-state” and will likely spend \$1.5 million in Montana.

9/18/2006 Chris Gallus called CPP’s attorney/investigator to request more time to file a written response and provide documents as requested in the September 8, 2006 letter. It was agreed the response deadline would be extended to September 27, 2006 based on Gallus’ District Court litigation schedule. (*See Part III of this*

decision.)

9/21/2006

NPR debate

During a September 21, 2006 National Public Radio debate on I-154, State Senator Joe Balyeat appeared as a proponent and supporter of the MIA financed initiatives (Senator Balyeat also served on the committee that wrote the proponents' arguments in support of I-154 and CI-97 for the Montana Secretary of State's 2006 Voter Information Pamphlet). Senator Balyeat indicated during the NPR program that Howard Rich was the "main one" funding the CI-97, CI-98, and I-154 campaigns.

Representative Butcher's guest opinion

The *Lewistown News Argus* printed guest opinions written by Representative Ed Butcher and his legislative opponent. Representative Butcher wrote that CI-97, CI-98, and I-154 "have been developed and promoted entirely by current members of the Montana legislature (35 to 40) who met in Helena at a press conference following the special session last December [of 2005]." According to Representative Butcher, "about twenty of us" from the original group "have spent the past year working on the issues which resulted in the . . . three initiatives." Representative Butcher acknowledged that a "non-profit Montana group (Montanans In Action)" provided financial support but stated that the financial support has been "reported as required by law."

Press release

Senator Joe Balyeat and Trevis Butcher issued a joint press release in which Senator Balyeat offered to debate CI-97, the pending signature gathering court case, and CI-98, and I-154 with Governor Brian Schweitzer.

9/24/2006

A Billings *Gazette* news article titled "Initiatives take on national flavor" discussed the national affiliations of both proponents and opponents of CI-97, CI-98, and I-154. John Tillman, ALG's president, said the "real nationwide push [for the initiatives] is coming from local folks all over the country" and he scoffed at the notion that the Montana initiatives were being orchestrated at the national level. Senator Joe Balyeat stated that CI-97 and I-154 "started out as Montana grass-roots efforts." Balyeat said the "fact that national organizations now have come in on both sides of the issue is a natural consequence of the way politics works in Montana" because these national organizations "can influence elections for a very low cost." In response to charges from Montana's MEA-MFT president that the proponents of CI-97, CI-98, and I-154 simply want to "crash government," John Tillman said that "no one supporting . . . [the Montana initiatives] has a personal, vested interest" unlike the opponents of the Montana initiatives. In response to the assertion that ALG and affiliated groups had spent \$11 million to qualify initiatives like CI-97, CI-98, and I-154 in a dozen states, Tillman declined to give a number regarding ALG's financial support, saying such information was available in public filings around the country.

9/26/2006

The Yellowstone County Election Judge Coordinator sent a letter to MIA, Lorianne (Horner) Kaserman, P.O. Box 7, Winifred, Montana. The letter indicated that petitions "were over the counter for the public" and that the Election Judge Coordinator had been "advised to use the address at the courthouse on the affidavit."

9/27/2006 Chris Gallus did not provide a written response to the Motl complaints or any documents on or before the September 27, 2006 deadline agreed to by Gallus and CPP's attorney/investigator on September 18, 2006.

9/28/2006 Chris Gallus wrote Montana's radio stations objecting to advertisements opposing CI-97 that say a "front group" is refusing to disclose "campaign contributors." Gallus stated that the reference to a "front group" is "an obvious reference to . . . MIA." Gallus acknowledged MIA contributed to the CI-97 effort, but that MIA "has not received campaign contributions to be used in the CI-97 campaign." Gallus' letter stated "no such contributions" as defined in Montana law have been received and that is why "none have been reported."

9/29/2006 CPP's attorney/investigator telephoned Chris Gallus and asked whether he intended to provide information and documents concerning the Motl complaints. Gallus apologized for not calling CPP's attorney/investigator on September 27, 2006 and said he had a meeting scheduled with Trevis Butcher that afternoon to discuss "everything." Gallus also indicated that it was his understanding that documents had been collected and copied.

CPP's attorney/investigator asked if the documents would be provided on Friday, September 29, 2006. Gallus said "no," because of the expedited briefing schedule in the pending Supreme Court appeal of Judge Sandefur's District Court decision in *MFJ vs. MIA I*. Gallus was then asked if the documents would be submitted to CPP by October 5 or 6, 2006. CPP's attorney/investigator advised Gallus that the Commissioner was prepared to issue an administrative subpoena for documents but that CPP's attorney/investigator would recommend that the subpoenas not be issued if Gallus agreed to provide documents on or before noon on October 6, 2006. Gallus said he would call back after his meeting with Trevis Butcher later that afternoon.

10/2/2006 **Gallus says his clients agree to provide documents**
Gallus called CPP's attorney/investigator and stated that his clients had agreed to provide the documents requested in the September 8 and September 19, 2006 letters. CPP's attorney/investigator sent Gallus an e-mail and a letter confirming the CPP attorney/investigator's understanding that the requested documents would be delivered to CPP no later than noon on October 6, 2006.

Balyeat press release

Senator Joe Balyeat issued a press release alleging that liberal opponents of CI-97, CI-98, and I-154 were guilty of the same charges being levied against MIA, Trevis Butcher, and the three ballot issue committees. The last paragraph of Senator Balyeat's press release stated that he had ascertained by "verbal questioning that MIA has over 100 individual contributors (Montanans), and over 500 Montanans who are active members of the organization."

10/3/2006 **CI-98 and I-154 wire transfers**
Trevis Butcher paid Patrick Media for television and radio advertising services via wire transfers of \$25,388.05 from both the CI-98 and I-154 accounts.

10/5/2006

MFJ vs. MIA I decision appealed

The CI-97, CI-98, and I-154 proponents' appeal of the *MFJ vs. MIA I* decision to the Montana Supreme Court was deemed submitted on briefs.

Butcher's public records request

The Great Falls *Tribune* reported that Trevis Butcher had made a "massive statewide request" for public records pertaining to documents and information pertaining to CI-97, CI-98, and I-154 beginning February 23, 2006. The requests were signed by Trevis Butcher and were sent to the Governor, Attorney General, the Office of Public Instruction, numerous other state agencies, and school districts. The requests were part of a national open records project being conducted by Citizens in Charge and its president, Paul Jacob. Butcher did not know how many requests for public documents were made in Montana and he referred all questions to Jacob. Butcher indicated that all agencies receiving the requests were suspected of using public resources for political purposes involving the CI-97, CI-98, and I-154 ballot issues. The article reported that Jacob could not be reached for comment.

10/6/2006

Chris Gallus did not deliver any documents to CPP's attorney/investigator as agreed to by Gallus on October 2, 2006.

10/10/2006

Chris Gallus came to the CPP attorney/investigator's office at 3:15 pm on October 10, 2006. Gallus told CPP's attorney/investigator that he still did not have the documents because Gallus' clients had been tied up with the Supreme Court briefing schedule. CPP's attorney/investigator advised Gallus that the Commissioner was prepared to issue administrative subpoenas directing Butcher to appear for an investigative interview and bring with him campaign-related documents on October 19, 2006. Gallus stated that October 19, 2006 was a problem because he was flying to San Francisco on that date. CPP's attorney/investigator asked if October 18, 2006 would be an acceptable date and he said "yes." CPP's attorney/investigator then urged Gallus' clients to cooperate with the investigation and asked if Gallus could accept service of the administrative subpoenas on behalf of his clients. Gallus said he would check with Trevis Butcher and call CPP's attorney/investigator in the morning.

10/11/2006

CPP's attorney/investigator called Gallus at 11 am on October 11, 2006 and left a message asking whether Gallus would accept service of the CPP administrative subpoenas. Gallus called CPP's attorney/investigator back at 2:15 pm on October 11, 2006 and stated that he had not been able to reach Trevis Butcher because Butcher was on the campaign trail. Gallus said he hoped to talk to Butcher later that day but CPP's attorney/investigator did not receive a phone call from Gallus on October 11.

10/12/2006

Gallus administrative subpoenas acceptance update

Gallus advised CPP's attorney/investigator that his clients would not let him accept service of CPP's administrative subpoenas. Gallus apologized and CPP's attorney/investigator told Gallus that CPP would try to serve Butcher via a process server.

Web site posting

An October 12, 2006 CI-98 Web site posting stated that “Montanans In Action will lead a coalition of local groups to gather signatures” for CI-98 and attributes quotes on the Web site to “Trevis Butcher, spokesman for Montanans in Action.”

Ron Cook expenditure

Ron Cook purchased sign-making materials for CI-98 from the Home Depot in Great Falls.

10/13/2006

The Missoula *Independent*, in an article titled “Fishing expedition,” reported that Trevis Butcher and Citizens in Charge (Paul Jacob) had sent public records requests to all Montana school districts, all Montana counties, Montana’s major cities, and various state agencies, including the Office of Public Instruction. Butcher indicated he was only the “state contact” for Citizens in Charge and that the requests were designed to determine if and how public employees used public resources to oppose CI-97, CI-98, and I-154. According to Butcher, such use of public resources would be illegal under Montana law, an interpretation confirmed by Commissioner Unsworth in the article. Paul Jacob confirmed that the requests are part of a national research project and are unrelated to the CI-97, CI-98, and I-154 ballot issue campaigns. The article noted that Jacob is the president of Citizens in Charge and a “senior fellow” for ALG. Another Citizen in Charge board member, Eric O’Keefe, was also an ALG board member in 2006. Jacob stressed that Citizens in Charge would pay the costs incurred to respond to the public records requests and that he expects the reimbursement requests to be “well over \$1 million.” The request results will, according to Jacob, take years to evaluate and be disclosed on the Citizens in Charge Web site.

10/15/2006 and 10/16/2006

Ron Cook paid two individuals in Great Falls to keep CI-98 pick-up truck signs in place through November 7, 2006.

10/16/2006

CPP began the attempt to serve Trevis Butcher with administrative subpoenas via the use of a process server during the remainder of October 2006.

10/18/2006

Stateline.org, which identifies itself as a nonprofit, nonpartisan news site, reported that spending cap initiatives like CI-97 had been knocked off the ballot in Michigan, Montana, Nevada, and Oklahoma. Grover Norquist, whose Americans for Tax Reform group is a lead organizer of state ballot measures like CI-97, stated that “[w]e’ll be back in all those states.” Norquist stated that the judicial orders knocking spending cap initiatives off the ballot were based on “annoying technicalities.”

10/23/2006

MIA CPP filing

Don Crabbe filed MIA’s report for the period from September 4, 2006 through October 16, 2006.

Contributions/Receipts	Expenditures
\$0.00	\$316,005.35

Analysis

- MIA's report did not include any in-kind contributions or expenditures.
- MIA's total reported expenditures to support CI-97, CI-98, and I-154 through October 16, 2006 were \$1,019,836.35.

CI-97 CPP filing

Don Crabbe filed CI-97's report for the period from September 6 through October 18, 2006. CI-97 began the reporting period with a cash balance of \$27.95.

Contributions/Receipts	Expenditures	Cash Balance
\$100,406.00	\$100,392.45	\$41.50

Analysis

- CI-97 received 100 percent of its contributions for the period from MIA.
- The committee reported receiving in-kind contributions totaling \$4,264.45 from MIA for July-September fair booths, fair consultants, and September/October "Membership Consultants."
- Trevis Butcher also reported a \$1,000 in-kind contribution for "Office & Travel – September."
- No petty cash expenditures were reported.
- Although CI-97 reported "no loans this period" under Schedule A, the following new unpaid debts and loans were reported in Schedule C:
 - \$1,500 owed to ALG for "services;"
 - \$9,425 owed to Advanced Litho of Great Falls for "printing;"
 - \$6,407.43 owed to America Direct, Inc. of Forest, Virginia for "Poly Bag Signs;"
 - \$500 owed to the Montana GOP for its "mailing list;"
 - \$177.55 owed to Don Crabbe for "Database Management."
- CI-97 reported a payment to ALG of \$1,550 for "contracted services" on September 5, 2006.
- The total amount of unpaid loans owed to ALG was \$3,115.25.
- Additional reported expenditures included:
 - Printing payments to Advanced Litho of Great Falls and Ballyhoo Printing of Lewistown totaling \$20,440.28;
 - Payments of \$1,961.81 to Ron Cook for "Sign Location Consulting" and "Sign/Literature Consultant;"
 - A payment of \$5,175 to Inovar Packaging Group of Arlington, Texas for "Signs;"
 - Payments of \$2,806.46 to Terry Packard of Missoula for sign, literature, and general consulting;
 - A payment of \$50,187 to Patrick Media of Marshfield, Ohio for a media purchase;
 - A payment of \$3,510 to Central Montana Cooperative of Winifred, Montana for "posts;"

- A payment of \$685.02 to Hoffmann Services, Inc. of Winifred for “Office Management;”
- Payments of \$7,750.55 to Warfield and Company of Delaplane, Virginia for radio and TV ads; and
- A payment of \$255 to Eric Rittberg for “consulting.”

CI-98 CPP filing

Don Crabbe filed CI-98’s report for the period from September 6 through October 18, 2006. CI-98 began the reporting period with a cash balance of \$47.09.

Contributions/Receipts	Expenditures	Cash Balance
\$106,800.00	\$106,818.71	\$28.38

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- The committee reported receiving in-kind contributions totaling \$4,264.45 from MIA for July-September fair booths, fair consultants, and September/October “Membership Consultants.”
- Trevis Butcher also reported in-kind contributions of \$1,000 for “Office & Travel – September” and \$250 for “50 Sign Boards @ \$5.”
- No petty cash expenditures were reported.
- Although CI-98 reported “no loans this period” under Schedule A, the following new unpaid debts and loans were reported in Schedule C:
 - \$1,500 owed to ALG for “services;”
 - \$6,407.43 owed to America Direct, Inc. of Forest, Virginia for “Poly Bag Signs;” \$500 owed to the Montana GOP for its “mailing list;”
 - \$171.68 owed to Don Crabbe for “Database Management.”
- CI-98 reported a payment to ALG of \$2,550 for “contracted services” on September 5, 2006.
- The total amount of unpaid loans owed to ALG was \$5,659.75.
- Additional reported expenditures included:
 - Printing payments to Advanced Litho of Great Falls and Ballyhoo Printing of Lewistown totaling \$29,588.83;
 - Payments of \$1,961.81 to Ron Cook for “Sign Location Consulting” and “Sign & Literature Consultant;”
 - A payment of \$5,175 to Inovar Packaging Group of Arlington, Texas for “Signs;”
 - Payments of \$2,874.71 to Terry Packard of Missoula for sign, literature, and general consulting;
 - Payments of \$50,776.10 to Patrick Media of Marshfield, Ohio for a media purchase;
 - A payment of \$3,510 to Central Montana Cooperative of Winifred, Montana for “posts;”

- A payment of \$685.02 to Hoffmann Services, Inc. of Winifred for “Office Management;”
- Payments of \$2,194.50 to Warfield and Company of Delaplane, Virginia for radio ads;
- A payment of \$255 to Eric Rittberg for “consulting.”

I-154 CPP filing

Don Crabbe filed I-154’s report for the period from September 6 through October 18, 2006. I-154 began the reporting period with a cash balance of \$8.74.

Contributions/Receipts	Expenditures	Cash Balance
\$107,856.00	\$107,818.50	\$46.24

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- The committee reported receiving in-kind contributions totaling \$4,264.45 from MIA for July-September fair booths, fair consultants, and September/October “Membership Consultants.”
- Trevis Butcher also reported in-kind contributions of \$1,000 for “Office & Travel – September” and \$245 for “49 Sign Boards @ \$5.”
- No petty cash expenditures were reported.
- Although I-154 reported “no loans this period” under Schedule A, the following new unpaid debts and loans were reported in Schedule C:
 - \$1,500 owed to ALG for “services;”
 - \$6,407.43 owed to America Direct, Inc. of Forest, Virginia for “Poly Bag Signs;”
 - \$500 owed to the Montana GOP for its “mailing list;”
 - \$177.53 owed to Don Crabbe for “Database Management.”
- I-154 reported a payment to ALG of \$2,550 for “contracting services” on September 5, 2006.
- The total amount of unpaid loans owed to ALG was \$1,500.
- Additional reported expenditures included:
 - Printing payments to Advanced Litho of Great Falls and Ballyhoo Printing of Lewistown totaling \$29,615.83;
 - Payments of \$1,961.81 to Ron Cook for “Sign Location Consulting” and “Sign & Literature Consultant;”
 - A payment of \$5,175 to Inovar Packaging Group of Arlington, Texas for “Signs;”
 - Payments of \$2,874.70 to Terry Packard of Missoula for sign, literature, and general consulting;
 - Payments of \$50,776.10 to Patrick Media of Marshfield, Ohio for a media purchase;
 - A payment of \$3,510 to Central Montana Cooperative of Winifred, Montana for “posts;”

- A payment of \$685.02 to Hoffmann Services, Inc. of Winifred for “Office Management;”
- Payments of \$2,510.87 to Warfield and Company of Delaplane, Virginia for radio ads; and
- A payment of \$255 to Eric Rittberg for “consulting.”

10/26/2006 The Montana Supreme Court affirmed the District Court’s decision in *MFJ vs. MIA II*. (See Part IV of this decision.)

10/27/2006 Don Crabbe filed MIA’s report for the period from October 17, 2006 through October 26, 2006. MIA reported receiving zero contributions/receipts but made expenditures of \$14,156 to the CI-97, CI-98, and I-154 ballot issue committees. MIA’s report did not include any in-kind contributions or expenditures. MIA’s total reported expenditures to support CI-97, CI-98, and I-154 through October 16, 2006 were \$1,113,992.35.

10/30/2006 **CI-97 CPP filing**
Don Crabbe filed CI-97’s report for the period from October 19 through October 28, 2006. CI-97 began the reporting period with a cash balance of \$41.50.

Contributions/Receipts	Expenditures	Cash Balance
\$770.00	\$794.72	\$16.78

Analysis

- CI-97 received \$700 from MIA during the reporting period.
- The committee reported that it did not incur any loans, make any petty cash expenditures, or receive any in-kind contributions.
- CI-97 reported the same unpaid debts and loans (\$18,009.98 total) included in its October 23, 2006 report.
- Expenditures were for literature drop services, gas, and bank fees.

CI-98 CPP filing
Don Crabbe filed CI-98’s report for the period from October 19 through October 28, 2006. CI-98 began the reporting period with a cash balance of \$28.38.

Contributions/Receipts	Expenditures	Cash Balance
\$650.00	\$640.35	\$38.03

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- The committee reported that it did not incur any loans, make any petty cash expenditures, or receive any in-kind contributions.
- CI-98 reported the same unpaid debts and loans (\$12,738.86 total) included in its October 23, 2006 report.
- Expenditures were for literature drop services, flyer distribution, and

bank fees.

I-154 CPP filing

Don Crabbe filed I-154's report for the period from October 19 through October 28, 2006. I-154 began the reporting period with a cash balance of \$46.24.

Contributions/Receipts	Expenditures	Cash Balance
\$856.00	\$883.85	\$18.39

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- The committee reported that it did not incur any loans, make any petty cash expenditures, or receive any in-kind contributions.
- I-154 reported the same unpaid debts and loans (\$8,584.96 total) included in its October 23, 2006 report.
- Expenditures were for literature drop services, gas, and bank fees.

**10/30/2006
through
11/1/2006**

CI-97 CPP filings

Don Crabbe filed three Notices of Pre-Election Contributions from MIA totaling \$11,853.

**10/31/2006
through
11/2/2006**

I-154 CPP filings

Don Crabbe filed three Notices of Pre-Election Contributions from MIA totaling \$2,250.

10/31/2006

Chris Gallus called CPP's attorney/investigator to advise that Trevis Butcher would be accompanying his sister to an interview in the Attorney General's office on November 1, 2006. Gallus advised CPP's attorney/investigator to go ahead and serve Butcher when he attended his sister's interview at the Attorney General's office.

11/1/2006

CI-98 CPP filing

Don Crabbe filed a Notice of Pre-Election Contributions from MIA of \$850.

Service of subpoenas

Trevis Butcher was served with CPP subpoenas on November 1, 2006. The subpoenas required Butcher to appear for an investigative interview in Lewistown, Montana on November 3, 2006 and produce documents related to the financing of the CI-97, CI-98, and I-154 ballot issues.

11/2/2006

Chris Gallus requested a postponement of Butcher's appearance for an investigative interview and production of documents scheduled for November 3, 2006 in Lewistown, Montana.

Gallus and CPP's attorney/investigator negotiated mutually acceptable alternative dates for Butcher's investigative interview and production of documents. They agreed Butcher would produce documents in response to the

subpoenas on or before 5 pm on Friday, November 10, 2006 and that Butcher would be available for an investigative interview at 9 am on Friday, November 24, 2006. The agreement required Gallus to agree to the terms and conditions in the November 2, 2006 letter as a condition for postponing Butcher's November 3, 2006 investigative interview.

Gallus' written response set off a flurry of e-mails between Gallus and CPP's attorney/investigator. It was unclear from Gallus' response whether he would honor his oral agreement to sign the acceptance provision on page two of the November 2, 2006 letter. Gallus ultimately agreed in a subsequent telephone conversation on November 2 to sign the acceptance line and thereby eliminate the need to proceed to Lewistown for the investigative interview scheduled for the next day.

11/3/2006

Gallus e-mail

Chris Gallus confirmed in a Friday, November 3, 2006 e-mail that he would come to the CPP attorney/investigator's office and sign the acceptance provision in the November 2, 2006 letter. However, subsequent e-mails from Gallus that day appeared to indicate that he was not going to sign the acceptance provision after all. Instead, Gallus sent separate letters concerning the oral agreements for the production of documents and Butcher's investigative interview.

Representative Butcher news story

The Lewistown *News Argus* featured an in-depth interview of Representative Ed Butcher titled "Supreme Court throws out three initiatives." Representative Butcher blamed the adverse Supreme Court decision on a "kangaroo court," the District Court's refusal to give proponents any "chance for discovery," a "railroad job" by the District Court, and the participation of a Supreme Court justice who told unnamed "people" he was opposed to CI-97, CI-98, and I-154 and that the proponents would have "to deal with a Court that was opposed to them."

Butcher insisted several state legislators drafted the initiatives after polling the public to find out what their concerns were. He said the polling showed the top concerns were the issues addressed in CI-97, CI-98, and I-154 – government spending, condemnation of private property, and the recall of judges.

11/8/2006

On Wednesday, at 4:45 pm, David Dennis, a Great Falls attorney who had not previously contacted CPP about Motl complaint matters, had his secretary e-mail the CPP's attorney/investigator a letter containing objections to the Trevis Butcher subpoenas. CPP's attorney/investigator did not open the e-mail until 5:30 pm that day. Dennis' letter advised CPP's attorney/investigator that he was representing MIA and Trevis Butcher. The letter contained a dissertation on why the Butcher subpoenas were unconstitutional.

Dennis suggested the CPP subpoenas be limited to two categories of documents: financial records "of the committees' campaign-related expenses" and "communications between MIA and the outside committee, . . . [ALG] that allegedly sent earmarked contributions to MIA (or any officer, manager, employee, principal, or agent thereof) containing instructions or directions regarding which ballot measure committees should receive specific ALG contributions. . ."

Dennis' letter stated that "we earnestly desire to avoid a protracted dispute with the Commissioner" and asked that the Commissioner "tailor his investigation" to "accommodate both the investigation of Motl's Complaints and our client's First Amendment rights." The concluding paragraph then requested that CPP's attorney/investigator respond "promptly" and that Dennis hoped "this matter can be quickly resolved between counsel."

11/9/2006

CPP attorney/investigator contacts Dennis' office

CPP's attorney/investigator telephoned Dennis' office on Thursday at approximately 1:45 pm. He spoke with Dennis' secretary and advised her that he was calling to discuss Dennis' November 8, 2006 letter. Dennis' secretary told CPP's attorney/investigator that Dennis was in Billings for the day. CPP's attorney/investigator asked her to try and reach him by phone and have him call to discuss Dennis' letter. Dennis' secretary advised that she would call Dennis and that either Dennis or she would call CPP's attorney/investigator back later on November 9, 2006. Neither Dennis nor his secretary called CPP's attorney/investigator back on November 9, 2006.

E-mail

CPP's attorney/investigator e-mailed David Dennis at 4:15 pm to confirm receipt of his letter and indicated that CPP's attorney/investigator was "ready to discuss and, hopefully, resolve the concerns and issues raised" in Dennis' November 8, 2006 letter. Dennis did not respond to the CPP attorney/investigator's e-mail on November 9, 2006.

11/10/2006

Gallus conversation

On Friday at 2:30 pm, Chris Gallus came to the CPP attorney/investigator's office and handed CPP's attorney/investigator a copy of the Plaintiffs' United States District Court Verified Complaint in *Montanans In Action, et al. vs. Dennis Unsworth*, Cause No. 1:06-CV-155-BLG-RFC (hereinafter *MIA vs. CPP*).

Gallus advised that CPP's attorney/investigator had to be in Billings at 1:30 pm the following Monday, November 13, for a hearing on Plaintiffs' request for temporary and preliminary injunctive relief.

The copy of the Verified Complaint provided by Gallus did not have a docket number or a copy of an order scheduling a hearing. CPP's attorney/investigator expressed displeasure with the lack of notice, and the failure to allow an opportunity to resolve the Butcher subpoena issues via discussion and negotiation.

Dennis conversation

On Friday at approximately 4:24 pm, David Dennis called to confirm that CPP's attorney/investigator must be in Billings at 1:30 pm the following Monday, November 13.

CPP's attorney/investigator protested the lack of notice and asked why Dennis had not responded to the CPP attorney/investigator's November 9 phone call and e-mail before filing the Complaint. (Dennis confirmed that he had waited at the Billings courthouse on Thursday, November 9, 2006 and that the Verified Complaint had been filed on that day.)

CPP's attorney/investigator reaffirmed the Commissioner's readiness to discuss a possible resolution of Dennis' concerns about the Butcher subpoenas. He stressed to Dennis that issuance of administrative subpoenas by CPP was unusual, and that they had only been issued in the Motl complaint matter because repeated promises to provide documents by Gallus had not been honored. Dennis and CPP's attorney/investigator agreed to talk early in the morning on Monday, November 13, 2006.

11/12/2006 On Sunday evening at 9:43, David Dennis and CPP's attorney/investigator discussed possible resolution of CPP's request for documents, a CPP interview of Trevis Butcher, and the mutual desire to avoid traveling to Billings the next morning for a U.S. District Court hearing.

11/13/2006 **Discussions continue**
David Dennis and CPP's attorney/investigator continued their discussions from the previous evening.

At 2:58 pm, CPP's attorney/investigator e-mailed Dennis a draft letter containing the tentative agreements between the two. At 4:23 pm, Dennis e-mailed CPP's attorney/investigator and advised that the "letter looks fine" but that Dennis "would probably want" to clarify that "any interview of Trevis would be limited to the same scope as we agreed with the documents." Dennis' e-mail said he would provide a date by which the two categories of documents described in his November 8, 2006 letter would be produced, and that he was "sure we can provide the documents by Thursday or Friday [November 16 or 17, 2006]."

Conversation with U.S. District Court staff
Judge Cebull's clerk and other U.S. District Court staff confirmed to CPP's attorney/investigator that no hearing on the plaintiffs' request for injunctive relief had been scheduled for November 13, 2006 (contrary to statements made by Chris Gallus and David Dennis).

11/15/2006 David Dennis and CPP's attorney/investigator continued discussion of CPP's draft November 13, 2006 letter addressing CPP's request for documents, a CPP interview of Trevis Butcher, and a process for resolving future disputes involving CPP's Motl complaint investigation. CPP's attorney/investigator asked Dennis if he intended to formally serve CPP with the Verified Complaint or "sit on it for a while?" Dennis indicated that he "would probably sit on it for a while." At 3:31 pm, Dennis e-mailed CPP's attorney/investigator three proposed changes in CPP's November 13, 2006 draft letter.

11/16/2006 CPP's attorney/investigator and David Dennis continued to negotiate mutually acceptable revisions to CPP's draft November 13, 2006 letter.

11/21/2006 **Dennis and CPP reach final agreement**
David Dennis and CPP's attorney/investigator reached final agreement on the terms and conditions of CPP's November 13, 2006 letter addressing CPP's request for documents, a CPP interview of Trevis Butcher, and a process for

resolving future disputes related to CPP's investigation of the Motl complaints.

MIA CPP filing

Don Crabbe filed MIA's report for the period from October 27, 2006 through November 20, 2006. Crabbe signed the report.

Contributions/Receipts	Expenditures
\$0.00	\$44,559.00

Analysis

- MIA's report did not include any in-kind contributions or expenditures.
- MIA's total reported expenditures to support CI-97, CI-98, and I-154 through October 16, 2006 were \$1,158,551.35.

11/22/2006

As agreed to in the final version of CPP's November 13, 2006 letter, Chris Gallus' son hand-delivered paper documents and a CD containing copies of additional documents to CPP's attorney/investigator.

The hard copy documents delivered included 1304 Bates-stamped (auto-numbered) pages. Many of the pages were copies of extraneous documents -- political committee letterhead from a previous term-limit campaign run by Trevis Butcher and Duncan Scott, sermon notes for a "Purpose Driven Life," blank affidavits and "bundle sheets" for signature gatherers, the text of the Bill of Rights, U.S. Supreme Court decisions and California statutes from "Find Law, Legal News," and the complete text of a proposed constitutional amendment to Article VIII, Section 9 of the Montana Constitution.

The documents on the CD delivered to the CPP attorney/investigator's office consisted primarily of e-mails, financial statements, and financial summaries related to the 2006 Montana ballot issue campaigns. The CD documents were not Bates stamped or organized like the hard copy documents. Many of the documents described in this *Summary of Facts* were found on the CD.

11/24/2006

CI-97 CPP filing

Don Crabbe filed CI-97's report for the period from October 29 through November 22, 2006. CI-97 began the reporting period with a cash balance of \$16.78.

Contributions/Receipts	Expenditures	Cash Balance
\$22,303.00	\$22,318.68	\$1.10

Analysis

- CI-97 received 100 percent of its contributions for the period from MIA.
- The committee reported in-kind contributions of \$1,000 from Trevis Butcher for "Office & Travel – October" and \$500 from Clayton Fiscus of Billings for "Monthly rental of Suburban – October."
- No petty cash expenditures were reported.
- Although CI-97 reported "no loans this period" under Schedule A, two new unpaid debts and loans were reported in Schedule C: \$1,500 owed to ALG for "services" incurred on 10/1/06 and \$500 owed to the Montana

GOP for “Mailing List” incurred on 9/20/06.

- The reported balance owed to ALG for all unpaid loans was \$3,115.25.
- Reported expenditures included:
 - Printing payments to Advanced Litho of Great Falls and Ballyhoo Printing of Lewistown totaling \$9,784.28;
 - A payment of \$6,407.43 to America Direct, Inc. of Forest, Virginia for “Poly Bag Signs;”
 - Payments of \$674.73 to Terry Packard of Missoula for sign collection and campaign consulting;
 - Payments of \$1,624 to Warfield and Company of Delaplane, Virginia for radio and TV ads;
 - Payments of \$3,362.77 to 22 Montanans for campaign and literature distribution consulting.

CI-98 CPP filing

Don Crabbe filed CI-98’s report for the period from October 29 through November 22, 2006. CI-98 began the reporting period with a cash balance of \$38.03.

Contributions/Receipts	Expenditures	Cash Balance
\$11,053.00	\$11,086.89	\$4.14

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- The committee reported in-kind contribution of \$1,000 from Trevis Butcher for “Office & Travel – October.”
- No petty cash expenditures were reported.
- Although CI-98 reported “no loans this period” under Schedule A, two new unpaid debts and loans were reported in Schedule C: \$1,500 owed to ALG for “services” incurred on 10/1/06 and \$500 owed to the Montana GOP for “Mailing List” incurred on 9/20/06.
- The reported balance owed to ALG for all unpaid loans was \$5,659.75.
- Reported expenditures included:
 - A printing payment of \$359.28 to Ballyhoo Printing of Lewistown;
 - A payment of \$6,407.43 to America Direct, Inc. of Forest, Virginia for “Poly Bag Signs;”
 - Payments of \$674.73 to Terry Packard of Missoula for sign collection and campaign consulting;
 - Payments of \$3,194.09 to 18 Montanans for campaign and literature distribution consulting.

I-154 CPP filing

Don Crabbe filed I-154’s report for the period from October 29 through November 22, 2006. I-154 began the reporting period with a cash balance of \$18.39.

Contributions/Receipts	Expenditures	Cash Balance
\$11,103.00	\$11,092.74	\$28.65

Analysis

- I-154 received 100 percent of its contributions for the period from MIA.
- The committee reported in-kind contributions of \$1,000 from Trevis Butcher for “Office & Travel – October.”
- No petty cash expenditures were reported.
- Although I-154 reported “no loans this period” under Schedule A, two new unpaid debts and loans were reported in Schedule C: \$1,500 owed to ALG for “services” incurred on 10/1/06 and \$500 owed to the Montana GOP for “Mailing List” incurred on 9/20/06.
- Reported expenditures included:
 - A printing payment to Ballyhoo Printing of Lewistown totaling \$359.28;
 - A payment of \$6,407.43 to America Direct, Inc. of Forest, Virginia for “Poly Bag Signs;”
 - Payments of \$674.73 to Terry Packard of Missoula for sign collection and campaign consulting;
 - Payments of \$3,362.77 to 22 Montanans for campaign and literature distribution consulting.

12/11/2006

CPP withdrew the administrative subpoenas issued to Trevis Butcher, based on the agreement reached with attorney David Dennis on November 21, 2006.

1/8/2007

Edward D. Greim of the Kansas City, Missouri law firm of Graves, Bartle & Marcus, LLC, assumed the role of lead counsel for MIA and Trevis Butcher in the U.S. District Court litigation. Ed Greim and David Dennis signed the plaintiffs’ brief in opposition to CPP’s motion to dismiss MIA’s U.S. District Court complaint as counsel for MIA and Butcher. Chris Gallus appeared as counsel for the three ballot issue committees in *MIA vs. CPP*. However, in communications between Ed Greim and CPP’s attorney/investigator through November 14, 2007, Greim represented all of the committees “within the jurisdiction of the Commissioner of Political Practices and that have sued the Commissioner in the ongoing federal action...[*MIA vs. CPP*].”

1/24/2007

MIA Closing Report

Don Crabbe filed MIA’s closing report for the period from November 21, 2006 through January 24, 2007.

Contributions/Receipts	Expenditures
\$0.00	\$19,435.00

Analysis

- MIA’s report did not include any in-kind contributions or expenditures.

- MIA’s total reported expenditures to support CI-97, CI-98, and I-154 were \$1,177,986.35.

CI-97 Closing Report

Don Crabbe filed CI-97’s closing report for the period from November 23, 2006 through January 24, 2007 and an amended closing report for the same period on January 29, 2007. CI-97’s amended closing report indicated the committee began the reporting period with a cash balance of \$1.10.

Contributions/Receipts	Expenditures	Cash Balance
\$7,076.76	\$7,077.86	\$0.00

Analysis

- CI-97 received \$7,044 from MIA and a \$32.76 refund from the U.S. Postal Service.
- The committee received and spent \$487,900 on the 2006 campaign.
- MIA contributed \$463,403 cash to support CI-97 (94.9 percent of the total).
- Other individuals, all Montanans, contributed \$3,390 cash and the bulk of these contributions were forwarded to the committee by ALG/ALGF.
- The committee donated \$3,272.28 back to MIA.
- Trevis Butcher reported in-kind contributions totaling \$15,000 and Clayton Fiscus of Billings made an in-kind contribution of \$4,500 for the “monthly rental” of a suburban used in the ballot issue campaigns.

CI-98 Closing Report

Don Crabbe filed CI-98’s closing report for the period from November 23, 2006 through January 24, 2007. CI-98 began the reporting period with a cash balance of \$4.14.

Contributions/Receipts	Expenditures	Cash Balance
\$6,997.00	\$7,001.14	\$0.00

Analysis

- CI-98 received 100 percent of its contributions for the period from MIA.
- The committee received and spent \$429,205 cash on the 2006 campaign.
- MIA contributed \$409,200 of the cash used to finance CI-98.
- The committee donated \$3,201.06 back to MIA.
- Trevis Butcher reported an in-kind contribution of \$2,000 for “Office and Travel – Nov/Dec” and \$15,000 total in-kind contributions for the 2006 campaign. Other individuals contributed \$5 cash.

I-154 Closing Report

Contributions/Receipts	Expenditures	Cash Balance
\$5,394.00	\$5,422.65	\$16.78

Analysis

- The I-154 closing report indicated that the committee received and spent

\$324,339 on the 2006 campaign.

- MIA contributed \$304,309 cash to support I-154 (93.8 percent of the total).
- Trevis Butcher reported in-kind contributions totaling \$15,000.
- The committee donated \$3,229.32 back to MIA.
- The I-154 committee reported receiving a total of \$30 in cash contributions from individuals.

2/14/2007

Trevis Butcher submitted written testimony to the Montana Senate Committee considering Commissioner Dennis Unsworth's confirmation.

Butcher criticized the State's federal court filing in *MIA vs. CPP*. He described Montana's campaign finance compliance system as "shaky and easily manipulated. A parenthetical note in the written testimony says: *[Does this look like we know it is easily manipulated because we did manipulate it]. . .*" (Emphasis in the original.)

6/7/2007

Ed Greim and CPP's attorney/investigator discussed the pending investigation, a request for additional documents from CPP, a proposed interview of Trevis Butcher, and possible settlement options. The telephone discussion generated a series of letters between CPP's attorney/investigator and Ed Greim.

6/13/2007

ALG filed its 2006 Form 990 Return of Organization Exempt From Income Tax. ALG reported total revenue of \$12,061,525 and total expenses of \$18,122,971. ALG spent \$17,881,358 on program services and \$184,701 on "management and general" in 2006. Reported expenses included \$16,534,578 of contributions, \$381,938 for consultants, \$172,517 for direct mailings, \$110,651 for research, and \$56,912 for fundraising. ALG reported a \$6,061,446 deficit for the year. No employee or independent contractor was paid \$50,000 or more.

ALG listed its primary exempt purpose as "to inform, educate, and rally Americans to restore a smaller government by promoting limited government ideas that reduce the size and scope of our government." ALG's Board of Directors were reported to have served without compensation in 2006 and included Howard Rich and William Wilson. Wilson signed the form as the corporation's President. ALGF was listed as the only organization affiliated with ALG "through common membership, governing bodies, trustees, officers. . ."

7/2/2007

Greim letter

In response to a June 13, 2007 letter from CPP's attorney/investigator requesting additional documents and information, Ed Greim made the following representations and statements:

- "MIA did not receive any direction from any person or individual, other than Trevis Butcher, to make any expenditure or contribution of funds to a specified issue."
- "MIA denies that any person or entity directed it to make any

expenditure on a particular political campaign.”

- “MIA has (and can have) no knowledge of the ‘understanding’ of any individual or entity that contributed money to MIA.”
- “No documents have been or will be produced documenting such a direction [to make contributions or expenditures to a specified Montana ballot issue] because none ever occurred.”
- “Trevis Butcher was the individual responsible for making decisions on spending and contributions made by each Plaintiff [in the U.S. District Court lawsuit], and was also the individual responsible for receiving funds on behalf of each Plaintiff [in the U.S. District Court lawsuit].” The Plaintiffs in the U.S. District Court lawsuit were MIA, Trevis Butcher, and the CI-97, CI-98, and I-154 ballot issue committees.
- The information in and attached to Greim’s July 2, 2007 letter, and information Greim promised to provide after a search of his clients’ records, should “be sufficient for the Commissioner to make a final decision on the Motl complaints” and eliminate any need to interview Trevis Butcher about his duties as treasurer for the CI-97, CI-98, and I-154 ballot issue committees and MIA.
- There is no provision in CPP’s rules “for a commissioner’s *sua sponte* reclassification proceeding or a wholesale investigation into the staff, budget, and organization of a Montana corporation based upon a third party’s claim that it should be ‘reclassified.’”
- The CI-97, CI-98, and I-154 ballot issue committees “each kept committee accounts at Western Security Bank, 401 West Main St., Lewistown, MT, but none had a secondary or depository (sic) account.”
- May and June 2006 bank statements for the CI-97, CI-98, and I-154 ballot issue committees were attached to Ed Greim’s July 2, 2007 letter in response to a request from CPP’s attorney/investigator. Greim also promised to search the documents in his clients’ possession and provide copies of the special report prepared for Grace Meyers and documents related to the Republican Party’s mailing list obtained for use in the CI-97, CI-98, and I-154 campaigns.

8/7/2007

MIA filed its 2006 Form 990 Return of Organization Exempt From Income Tax. MIA reported total revenue of \$1,862,813. MIA spent \$1,783,721 on program services and \$75,759 on “management and general,” a total of \$1,859,480 of expenses in 2006. MIA reported no fundraising expenses and had \$3,332 of excess revenue in 2006. MIA did not indicate that any employee or independent contractor was paid \$50,000 or more. MIA listed its primary exempt purpose as “Provided Information to the public.” Russell Bradley of Garneill, Montana, Roald Torgerson of Lewistown, Montana, and Scott Hill of Mosby, Montana were listed as MIA’s current officers or directors. Hill signed MIA’s 990 Form as the corporation’s treasurer.

MIA’s contributions of \$1,177,986.35 to the 2006 CI-97, CI-98, and I-154 ballot issue committees and its May 2006 contribution of \$600,000 to the California POH initiative equals a total of \$1,777,986.35 of contributions to ballot issues sponsored by ALG and ALGF in 2006. The \$1,777,986.35 of ballot issue contributions constitutes 99.7 percent of MIA’s total “program services”

expenditures in 2006; 95.6 percent of MIA's total 2006 expenses; and 95.4 percent of MIA's total 2006 revenue.

9/14/2007

Greim letter

In response to an August 15, 2007 letter from CPP's attorney/investigator requesting information about the allocation of MIA's budget and staff to CI-97, CI-98, and I-154 ballot issue activities under the criteria listed in 44.10.327(2) and (3), ARM, Ed Greim made the following representations and statements:

- CPP has "all the documents needed to check the Committees' actual cash outlays against the Committees' reporting."
- There are no "grounds under Montana law as applied to the facts for believing that any of the so-called 'laundering' or 'earmarking' violations occurred."
- "With respect to the earmarking allegations, the Committees have always agreed that they would provide communications reflecting 'earmarking,' actually did undertake this review in their production to. . . [CPP on November 22, 2006], and produced no documents reflecting the earmarking of funds. What was produced to. . . [CPP] was a set of documents showing that out-of-state vendors provided services to the Committees and were duly paid. This does not and cannot constitute 'earmarking.' A person's contribution of funds to MIA is not 'earmarking' unless it is accompanied by a 'direction' that the contribution be forwarded on as a contribution to a 'specified' candidate or ballot measure campaign (44.10.519, ARM). In short, we do not believe the investigation of these matters can in good faith be prolonged."
- "Trevis Butcher should not be subject to an involuntary 'interview' by a state official who holds himself out as having prosecutorial authority" and CPP's threat of an interview "chills the First Amendment rights of political association and speech. . ."
- If the Commissioner intends to continue "the investigation as before and is not seeking a global resolution, the Committees' response to the ongoing investigation will be handled by Montana campaign finance counsel, Chris Gallus."
- "Mr. Gallus is evaluating. . . [CPP's] four remaining requests and will separately respond to them."

11/14/2007

Greim letter

In response to an October 24, 2007 letter from CPP's attorney/investigator asking who CPP should deal in future communications and whether Ed Greim's law firm represented ALG or ALGF, Greim responded as follows:

- CPP's contacts "with all of the targets of the investigation should be, as before, Chris Gallus, Esq., who remains counsel for all of them with respect to. . . [CPP's] investigation."
- ". . . Mr. Gallus will be in contact with you soon regarding additional information you requested as part of the investigation."

- If the “Commissioner ever becomes interested in a global resolution of the issues, including the lawsuit, you may inform Mr. Gallus and the Office of the Attorney General” and then counsel for both the investigation and lawsuit “can be brought back into the loop.”
- Ed Greim’s law firm does not represent “ALG or ALGF with respect to . . . [CPP’s] investigation and are not now and have not been communicating with you on behalf of these entities.”

2/6/2008

U.S. District Judge Richard Cebull issued an order in *MIA vs. CPP* dismissing the plaintiffs’ claim for temporary and preliminary injunctive relief. The order stayed the remaining federal claims for damages based on alleged violations of plaintiffs’ constitutional rights pending completion of CPP’s investigation of the Motl complaints and resolution of the plaintiffs’ constitutional claims in state court.

3/31/2008

Chris Gallus telephoned CPP’s attorney/investigator to inquire whether Ed Greim had provided all of the documents he had agreed to provide now that matters had been “dropped back in his lap.”

6/19/2008

Chris Gallus hand-delivered the following documents concerning MIA’s tax exempt status under federal tax laws and incorporation under Montana law to CPP’s attorney/investigator :

- MIA’s January 5, 2006 cover letter for IRS Form 1024. Amber Wong Hsu of the New York law firm of Powell, Goldstein, LLP, wrote the letter and represented that MIA would be “operated exclusively for educational purposes.” MIA did not seek 501(c)(3) status “because a portion of its activities may include attempts to influence legislation” and “[e]ducational organizations that engage in legislative activities may qualify for exemption under IRC 501(c)(4).” Hsu told the IRS that MIA is a “social welfare organization described in section 501(c)(4) and that its “principal activity will be to educate the public on issues of concern to residents in Montana, including limited government, property rights and taxes.” MIA would, according to Hsu, “encourage greater citizen participation in local government issues and seek to educate the public through meetings, conferences, and mailings.”
- MIA’s December 16, 2005 IRS Form 1024 Application was signed by Russell Bradley of Garneil, Montana, MIA’s president. The application stated that MIA would promote “public awareness on local government issues and encourage broader civic participation among the residents of Montana” by sponsoring “meetings for local residents to discuss social and political issues of significance;” distributing “newsletters or mailings to educate the public on social and political issues of concern;” and engaging “in any other educational activities locally that would further its purpose.”

MIA indicated it would begin its activities “at the beginning of 2006” and that its activities would be conducted by its “voluntary board of directors and any other volunteers. . .” All of MIA’s activities would, according to the application, “be carried out in the state of Montana. . .”

MIA said it had “no sources of financial support” but that MIA’s directors believed “future sources of financial support will come from local residents and businesses that wish to support. . .[MIA’s] educational program.”

MIA’s “Statement of Revenue and Expenses” for its first three years of operation projected gross contributions and gifts of \$15,000 in 2006, \$25,000 in 2007, and \$50,000 in 2008. MIA projected that it would have \$8,000 of excess revenue at the end of the three year period.

- MIA’s IRS Form 2848 Power of Attorney named Hsu and two other attorneys with the firm of Powell, Goldstein, LLP.
- MIA’s IRS Form 8718 confirming payment of the \$500 fee.
- The February 21, 2006 IRS Determination Letter granting MIA tax exempt status effective December 20, 2005, the date of MIA’s incorporation. Information attached to IRS Determination Letter advised MIA that it is required to make its Form 990 filings available for public inspection for three years after the date of filing. In addition, MIA was advised that its exemption application, any related documents, and the IRS Determination Letter must be made available to any person upon request and that the IRS may impose penalties for not honoring such requests. CPP’s attorney/investigator requested these IRS documents from Ed Greim in the June 13, 2007 letter to Greim but Gallus did not deliver the documents until more than one year later.
- MIA’s articles of incorporation and bylaws.
- MIA’s August 7, 2007 Form 990 Return of Organization Exempt From Income Tax.

9/18/2008

Letters to Gallus and ALG

CPP’s attorney/investigator mailed letters to Chris Gallus and ALG.

- The letter to Gallus asked him to provide additional documents and information related to the documents and information already provided by MIA and the three ballot issue committees on November 22, 2006, July 2, 2007, and June 19, 2008. The request for additional information included a request for copies of bank statements, cancelled checks, and other information related to contributions and expenditures reported by the ballot issue committees and MIA. The letter requested that the additional information be provided on or before October 20, 2008.
- The certified letter to ALG asked ALG to respond to the May 9 and July 12, 2006 letters from CPP regarding campaign reports indicating ALG had become an incidental political committee by virtue of making contributions and expenditures to support CI-97, CI-98, and I-154. The letter also asked ALG to answer inquiries about the participation of Bill Wilson, the president of ALG and ALGF in 2006, in the financing of CI-97, CI-98, and I-154 campaign activities in 2006. As of the date of this decision, ALG has not responded to the May 9, 2006, July 12, 2006, or September 18, 2008 letters from CPP.

- 10/7/2008** Chris Gallus asked CPP's attorney/investigator for a copy of the documents he provided on November 22, 2006 and June 19, 2008 because Gallus had not kept a copy of the documents before turning them over to CPP's attorney/investigator. Gallus said he needed to review the documents before he could respond to the requests for additional information in the September 18, 2008 letter. CPP's attorney/investigator suggested that Gallus obtain copies of the documents from his co-counsel or whoever compiled the documents but ultimately agreed to ask the Commissioner whether he was willing to make a copy of the documents for Gallus at Gallus' expense.
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- 11/14/2008** Chris Gallus and CPP's attorney/investigator discussed a prepayment procedure by which copies of the November 22, 2006 and June 19, 2008 documents provided by Gallus would be copied and made available to him at Gallus' expense.
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- 12/17/2008** CPP's attorney/investigator received a letter from Trevis Butcher and check written on MIA's account as prepayment for making copies of the documents provided by Chris Gallus on November 22, 2006 and June 19, 2008.
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- 12/30/2008** Chris Gallus was advised by CPP's attorney/investigator that copies of documents provided by Chris Gallus as part of the investigation of the Motl complaints were available for Gallus to pick up.
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- 1/6/2009** Chris Gallus sent an emissary to pick up copies of the documents he had provided to CPP's attorney/investigator.
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- 3/17/2009** CPP's attorney/investigator sent Chris Gallus a letter with five pages of attachments inadvertently omitted from the copies of documents delivered to Gallus on January 6, 2009. The letter reminded Gallus that it had been almost six months since he had received the September 18, 2008 letter requesting additional documents and information. CPP's attorney/investigator asked if he could expect a response to the September 18, 2008 letter on or before April 3, 2009.
-
- 4/3/2009** Chris Gallus called CPP's attorney/investigator at 4:45 pm. Gallus said he had hoped to provide a response to the September 18, 2008 letter from CPP's attorney/investigator today but his legislative lobbying obligations had prevented him from providing the requested information. Gallus stated that he hoped to meet with Trevis Butcher on the weekend and provide the requested information "next week."
-
- 5/14/2009** Chris Gallus left a telephone message for CPP's attorney/investigator indicating that he was still working on "our response" to the September 18, 2008 letter. Gallus said he had reviewed some of the bank statements referenced in the first request for additional information and that he would get any necessary additional statements from Trevis Butcher. Gallus stated he had made two telephone calls to Trevis Butcher about the requested information but Butcher had not returned his

calls. Gallus indicated he would call Butcher again “now” and get back to CPP’s attorney/investigator as soon as he heard back from Trevis Butcher.

5/30/2009

Chris Gallus responded via letter to the September 18, 2008 requests for additional information from CPP’s attorney/investigator as follows:

- Gallus denied that the reason he requested copies of the documents he had previously submitted was because he had not kept a copy of the documents. Instead, Gallus said he made the request because “numerous information requests and responses had been made by different attorneys over an extended period.”
- Gallus said Trevis Butcher did have communications and seek advice from others in 2006 via “contracted services without written agreement” but Butcher did not request or receive “direction from an individual or person. . .” Gallus stated that in seeking “this advice it was typical and necessary to indicate past and future needs and strategy.”
- Given the intense scrutiny being given to the 2006 ballot issue campaigns, Trevis Butcher provided voluntary “unpaid personal time. . . to the campaigns” and reported his volunteer time as in-kind contributions. Butcher also “used and paid for expenses such as long-distance phone calling, cell phone usage, fax machines, copies, and postage, space [sic] as well as gas and travel” and “did not seek reimbursement for these expenses from any of the committees.” Gallus advised Butcher “that reporting of personal time and expense relating to his political activity was not a contribution within the context of reporting” and that he should “over report such activity as an in-kind contribution to the campaign.” Butcher attempted to place a value on his personal time devoted to the campaign but that it would be “poor public policy” to require Butcher to “document” or make “notations in detail as a basis for deriving calculations to determine the value of over reported in-kind contributions. . .”

Gallus’ response letter did not:

- Provide copies of campaign account statements and checks not previously provided;
- Answer questions about the Trevis Butcher/Bill Wilson e-mails dated August 24-26, 2006 concerning the payment of campaign-related expenses;
- Acknowledge that documents appended to the September 18, 2008 letter as Exhibit 1 were copies of MIA account statements from January 11 through May 4, 2006;
- Provide copies of the “Urgent Reply” letters and CI-97 campaign contributions referenced in the May 8, 2006 e-mail from Don Crabbe to Trevis Butcher;
- Identify the employer of the “Nicole” of “Americans for Limited Terms” referenced in the May 8, 2006 e-mail;
- Identify the employer of Craig Regens, the second individual authorized to access MIA’s account beginning in April of 2006;
- Provide a copy of the signed authorization for John Tillman, ALG’s

president, and Craig Regens to access MIA's account beginning in April of 2006; or

- Describe Paul Jacob's, Bill Wilson's, and Dan Tripp's roles in the 2006 campaigns.

6/23/2009

Chris Gallus supplemented his May 30, 2009 letter by providing bank account statements for the CI-97, CI-98, and I-154 committees that had been previously requested by CPP but not provided. Gallus' supplemental information did not include copies of the cancelled checks for the campaign bank account statements or any other information not previously provided in response to CPP's September 18, 2008 letter. The supplemental bank account statements established that:

- The CI-98 committee failed to report a contribution of \$3,244.00 in its January 24, 2007 closing report.
- The CI-97 committee failed to report a contribution of \$3,100.00 in its January 24, 2007 closing report.

VI. Statement of Findings

A. Introduction

I am obligated to investigate the allegations in the Motl complaints and publicly report my findings.

The most serious allegation is money laundering – that MIA unlawfully failed to report the true source of more than \$1.17 million spent to support the CI-97, CI-98, and I-154 ballot issue campaigns.

It appears Trevis Butcher and the deputy treasurer for MIA, CI-97, CI-98, and I-154 made a good faith effort to timely and accurately report monetary contributions from MIA to the ballot issue committees. But this effort was, based on evidence available on the date of this decision, a ruse, designed to hide the true source of the money funneled through MIA and Trevis Butcher to finance the ballot campaigns.

Trevis Butcher has refused to be interviewed during this investigation. Requests for additional information and documents related to key documents already provided by MIA and Butcher have been ignored, after assurances that responses would be forthcoming. ALG and ALGF refused to even *acknowledge* CPP's letters regarding their 2006 Montana ballot issue activities.

Butcher and MIA assert CPP cannot investigate and force the public disclosure of the true source of the MIA funds used to finance the CI-97, CI-98, and I-154 campaigns because:

- CPP accepted MIA's initial incidental political committee filing and CPP cannot "*sua sponte*" investigate MIA's political committee status or reclassify MIA unless MIA files an amended statement of organization, or MIA requests reclassification.
- MIA's and Butcher's First Amendment rights and CPP's earmark rule prohibit CPP from requiring MIA to publicly report the true source of donations to MIA. Absent evidence that "actual direction" was given by

the donor to spend the money donated to MIA on one specific ballot issue, they claim CPP cannot make investigative inquiries based on circumstantial evidence, intent, belief, or understanding. CPP is also precluded, according to MIA and Butcher, from questioning Trevis Butcher about his attorney's assurances that Trevis Butcher was solely responsible for deciding how to spend MIA's money to finance the ballot issue campaigns.

MIA's and Butcher's legal arguments and constitutional claims hinge on the truthfulness of their representations that:

- MIA was only "incidentally" involved in the 2006 ballot issue campaigns
- MIA and Butcher received no "actual direction" from MIA's donors to spend the funds received by MIA on one specific 2006 ballot issue
- MIA was primarily an education and issue advocacy organization in 2006

Determinations about MIA's and Butcher's legal and constitutional arguments also hinge on the truthfulness of their public campaign statements during the 2006 ballot issue campaigns.

- Were CI-97, CI-98, and I-154 the product of Montana legislators based on polling done by the legislators? Or, were the three initiatives part of ALG's national effort to enact similar initiatives in numerous other states?
- Did national organizations, such as ALG and other Howard Rich funded affiliates, only provide services and loans to the 2006 Montana ballot issue campaigns? Or, did these national organizations orchestrate, coordinate, and finance the Montana effort?

I have no authority to decide the constitutional issues raised by MIA, Butcher, and the other plaintiffs in *MIA v. CPP*. My application and interpretation of Montana's campaign finance reporting laws and rules must be "narrowly tailored" if independent expenditures and issue advocacy (not express campaign speech) are involved.¹

However, I believe the available evidence and facts recited in this decision contradict MIA's and Butcher's key factual representations upon which their claims to constitutional protections are based. MIA's and Butcher's legal arguments urge an absurd interpretation of Montana's campaign finance laws and rules and the Commissioner's authority to investigate valid complaints and apparent violations of those laws and rules.

U.S. District Court Judge Richard Cebull ruled that MIA's federal claims for damages based on alleged constitutional violations are stayed pending completion of CPP's investigation and resolution of the plaintiffs' constitutional claims in state court. (*See MIA v. CPP, supra*, February 6, 2008 Order, p. 7.)

State courts will, if necessary, determine the validity of MIA's and Butcher's constitutional claims, or whether the application of Montana's campaign finance

¹ See, e.g., *California Pro-Life Council v. Randolph*, 507 F.3d 1172 (9th Cir., 2007); *Federal Elections Commission v. Wisconsin Right to Life, Inc (WRTL)*, 551 U.S. 449, 127 S. Ct. 2652, 2671, 168 L. Ed. 2d 329 (2007); and *Federal Elections Commission v. Massachusetts Citizens for Life, Inc. (MCFL)*, 479 U.S. 238, 241, 252, and 262 (1986).

laws and rules in this decision is correct.

Rather than engage in costly piecemeal litigation requiring the enforcement of subpoenas in multiple state district courts, this decision is being issued with the intent that a civil penalty action will likely be necessary to finally determine the financiers of CI-97, CI-98, and I-154 and resolve MIA's and Butcher's constitutional claims.

I remain confident Montana's state courts will uphold Montana's commitment to full public disclosure of contributions and expenditures made to finance campaign speech.

B. Authority to Investigate MIA's Claimed Incidental Political Committee Classification

MIA and Trevis Butcher assert that CPP has no authority to "*sua sponte*" investigate and reclassify MIA's incidental political committee status.

CPP classifies a political committee based on its initial statement of organization (C-2) filing. (44.10.329(1), ARM.) After the initial C-2 filing and classification by CPP, MIA and Butcher assert that a political committee can only be reclassified under one of two procedures:

- The committee may seek reclassification under 44.10.329(5), ARM, by filing a request to be reclassified.
- The committee may seek reclassification because of changed circumstances by filing an amended C-2 under 44.10.403(2), ARM.

These rule provisions, according to MIA and Butcher, prevent CPP from investigating MIA's incidental political committee status based on the Motl complaint allegations.

MIA's and Butcher's arguments ignore the broad investigative powers conferred on CPP under Section 13-37-111, MCA. Worse yet, the arguments urge an interpretation of CPP's rules that would negate the controlling statute and reward false and misleading filings.

- CPP has express statutory authority to investigate written complaints, any campaign finance report or statement filed under Title 13, Chapters 35 and 37, MCA, the failure to file a statement or report, or the filing of a false report or statement. (Section 13-37-111(2)(a), MCA, and 44.10.307, ARM.)
- If a person intentionally or negligently violates applicable reporting requirements in Title 13, Chapter 37, MCA, or makes or receives a contribution or expenditure in violation of specified sections in Title 13, Chapter 35 or any provision of Title 13, Chapter 37, the Commissioner or the appropriate county attorney may seek a civil penalty equal to three times the amount of the unlawful contribution or expenditure. (Section 13-37-128, MCA.)

Montana's campaign finance and reporting laws were enacted "to establish clear and consistent requirements for the full disclosure and reporting of funds used in Montana to support or oppose candidates, political committees, or issues. . ." (Section 1, Chapter 480, Laws of 1975.)

Montana's Supreme Court has recognized CPP's broad discretionary power to conduct investigations.²

Montana's rules of statutory construction specify that where "several provisions or particulars" of a statute apply, a construction that will, "if possible,... give effect to all" must be adopted.³

Montana's statutory construction rules are applicable to administrative rules adopted under the Montana Administrative Procedure Act (MAPA).⁴

A narrow interpretation of 44.10.329 (5), ARM and 44.10.403 (2), ARM, that invalidates CPP's broad investigatory powers under Section 13-37-111(2), MCA, including the authority to investigate apparent false or misleading filings by a political committee, must be rejected.⁵

² In *Doty v. Montana Commissioner of Political Practices*, 2007 MT, 341, 340 Mont. 276, 173 P. 3d 700, a unanimous Supreme Court cited Section 13-37-111, MCA, in determining the "Commissioner is primarily responsible for investigating alleged violations of Montana's election laws and, in conjunction with the county attorneys, is also responsible for enforcing those laws." *Id.*, 340 Mont., at p.279. The Court also recognized CPP's authority to prosecute violations of Montana's campaign finance laws is discretionary, permissive, and not controlled by mandamus. *Id.*, at pp.279-282. *Doty* confirmed that Montana's campaign finance and practices laws are for "the benefit of the public at large." *Id.*, at p.280.

³ Section 1-2-101, MCA; *George v. Montana Board of Pardons*, 306 Mont. 115, 117-118, 30 P.2d 1065 (2001) (rejected "at first blush" plain meaning of statute and held a board member or auxiliary member with knowledge of Native American affairs hear a parole request involving a Native American); *State ex rel. Nelson v. Ninth District Court*, 262 Mont. 70, 81, 863 P.2d 1027 (1993) (right to waive criminal trial by jury criminal applies only to the defendant, not the state, and such an interpretation harmonizes potential conflict between constitutional and statutory provisions); and *Schuman v. Bestrom*, 214 Mont. 410, 415, 693 P.2d 536 (1985) (the court reconciled conflicting statutes governing custody determinations).

⁴ *State v. Incashola*, 289 Mont. 399, 403, 961 P.2d 745 (1998); and *Bean v. Board of Labor Appeals*, 270 Mont. 253, 257, 891 P.2d 516 (1995).

⁵ See, e.g., *Montco v. Simonich*, 285 Mont. 280, 288-289, 947 P.2d 1047 (1997) (an administrative rule adopted in derogation of a controlling statute and that "eviscerates" a statutory deadline for commencing mining cannot be the basis for granting summary judgment to extend a mining permit).

C. MIA and Trevis Butcher were Coordinating and Financing Campaign Speech, Not Independent Issue Advocacy

MIA's and Trevis Butcher's constitutional claims are rooted in the assertion that MIA is an independent issue advocacy organization whose 2006 activities are protected by the U.S. Supreme Court decisions in *WRTL* and *MCFL*, *supra*.

WRTL and *MCFL* both involved federal statutes regulating independent expenditures by nonprofit issue advocacy corporations opposed to abortions. *WRTL* paid for issue ads immediately before federal primary and general elections. The Federal Elections Commission (FEC) deemed *WRTL*'s ads to be the "functional equivalent" of express campaign speech.

A five member majority of the U.S. Supreme Court concluded that the *WRTL* financed advertisements did not constitute the "functional equivalent" of campaign speech because the ads "may reasonably be interpreted as something other than as an appeal to vote for or against a specific candidate. . ." *Id.*, 127 S. Ct., at p. 2670. The *WRTL* ads, according to the Court, focused on legislative issues and did not mention elections, candidacies, or political parties. *Id.*, 127 S. Ct., at p. 2667. *WRTL* clearly distinguished between restrictions and outright bans on campaign speech vs. issue ads. *Id.*, 127 S. Ct., at pp. 2672-2673.

MCFL involved independent expenditures of \$9,812.76 to finance the printing of 100,000 copies of a "special edition" newsletter documenting abortion votes by 400 state and federal candidates in the 1978 Massachusetts primary election. Only thirteen candidates were given special recognition because they had voted 100 percent of the time to support *MCFL*'s position on abortions. The "special edition" featured pictures of the thirteen candidates who had 100 percent ratings and urged its readers to vote for "pro-life" candidates. The "special edition" was deemed express advocacy by a 6-3 plurality of the U.S. Supreme Court.

However, the Court's majority invalidated the federal law, as applied to *MCFL*, because it prohibited the use of corporate treasury funds to finance such independent expenditures and imposed a corresponding requirement that such ads be financed via a "separate segregated fund." (*MCFL*, pp. 252-255 and 261-265.) Because *MCFL* was deemed to be an issue advocacy organization that only occasionally engaged in political endorsements of candidates, the direct ban on corporate independent expenditures was deemed unconstitutional as applied to *MCFL*. *Id.*

MCFL expressly noted that if a non-profit corporation's campaign spending became "so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee" and would be subject to the same obligations and restrictions "applicable to those groups whose primary objective is to influence political campaigns." *Id.*, at p. 262.

Unlike the corporation in *WRTL*, however, MIA did not directly finance and publish "independent" issue ads supporting CI-97, CI-98, and I-154. Unlike the corporation in *MCFL*, MIA did not directly finance and publish a newsletter documenting votes by elected officials or issues related to CI-97, CI-98, and I-154. MIA's 2006 fund-raising and expenditures were coordinated with the national organizations and individuals sponsoring initiatives like CI-97, CI-98, and I-154 in at least a dozen other states. MIA and its treasurer, Trevis Butcher,

were also coordinating MIA's contributions to the CI-97, CI-98, and I-154 ballot issue committees. At the same time Butcher was also the treasurer and campaign coordinator for the three Montana ballot issue committees.

MIA's 2006 expenditures were coordinated campaign contributions used to directly finance express campaign speech, not issue ads or independent publications stopping short of express advocacy.

MIA's brief history as an organization and MIA's 2006 fundraising and expenditure activities substantiate that MIA was using its resources almost exclusively, if not exclusively, to finance and coordinate express campaign speech supporting CI-97, CI-98, and I-154.

D. Close Coordination

MIA, through its treasurer, Trevis Butcher, coordinated MIA's solicitation and expenditure of funds used to finance campaign speech expressly advocating the passage of CI-97, CI-98, and I-154. Trevis Butcher simultaneously coordinated and managed the campaigns. Each of the ballot issue committees used the same deputy treasurer (Don Crabbe) and legal counsel (Chris Gallus).

Before MIA was incorporated on December 21, 2006, ALG and ALGF, the national sponsors of initiatives virtually identical to CI-97, CI-98, and I-154, were conducting polls in Montana (late August and September of 2005). ALG and ALGF were paying Chris Gallus and a Missoula attorney for legal services related to the three initiatives before MIA's incorporation.

In MIA's initial April 2006 CPP filing, MIA reported that 100 percent of the money contributed to the CI-97, CI-98, and I-154 campaigns came from ALG/ALGF. Six days later, Butcher crossed out the ALG/ALGF contribution on that initial report and wrote that the contribution was not reportable, because it was "not earmarked."

Howard Rich publicly admitted in a July 24, 2006 *High Country News* article that he had funneled nearly \$200,000 through MIA to support CI-97, CI-98, and I-154. Rich, who provides substantial funding for ALG, ALGF, and several affiliated organizations, understood that his MIA donations were being used by MIA to fund CI-97, CI-98, and I-154.

ALG's 2006 Web site included a picture and biographical information about Howard Rich. Rich, according to ALG, "serves as Chairman of Americans for Limited Government" and Rich is touted as being a "leading force in the limited government movement since 1992." Tax and spending reform, property rights, and judicial reform were listed under the "Our Campaigns" portion of the ALG Web site. ALG listed "Montana" as a state partner and indicated that it was "working with state groups in Arizona, California, Idaho, Michigan, Montana, Nevada, North Dakota, and Washington to protect property rights." Initiatives similar in effect and purpose to CI-97, CI-98, and I-154 were financed and backed by ALG, Howard Rich, and other groups affiliated with Rich in at least a dozen other states in 2006.

Other 2006 ALG Web site postings indicated ALG was "leading the way" to pass initiatives like CI-97, CI-98, and I-54. ALG touted its willingness to provide financial support, assistance in networking and linkage with like-minded groups, training for campaign logistics, and temporary logistical support. ALG also

boasted that MIA, “with the support of Americans for Limited Government, filed the Stop OverSpending Initiative. . .[CI-97] to prevent future spending binges in Helena.”

MIA made a \$600,000 contribution to the California “Protect Our Homes Coalition, Major Funding Provided by The Democracy Fund,” a group sponsoring a takings initiative similar to Montana’s I-154. (District Court Transcript, p. 233.) California POH Coalition campaign finance reports indicate that the Coalition also received contributions from three other entities affiliated with Howard Rich:

- \$1,500,000 from the Fund for Democracy, which shared Rich’s New York address in 2006.
- \$1,000,000 from ALG.
- \$220,000 from the Club for Growth State Action (Rich served as this group’s president in 2006).

ALGF sent Trevis Butcher “pay instructions” for signature gathering services provided by Anthony Quattrone on August 9, 2006 and Trevis Butcher paid Quattrone from MIA’s account the next day.

Invoices for expenses incurred by key workers in the CI-97, CI-98, and I-154 signature gathering process indicate these workers may have been working directly for ALG.

Supplies were being sent to “Trevis Butcher, Americans for Limited Government,” at Butcher’s Winifred address.

A CI-98 Web site posting indicated that MIA would “lead a coalition of local groups to gather signatures” for CI-98. Quotes from “Trevis Butcher, spokesman for Montanans in Action” appeared in the posting. Inquiries about CI-98 or MIA were directed to Butcher and his phone number was listed in the posting.

Invoices for key participants in the CI-97, CI-98, and I-154 signature gathering effort were either mailed to MIA or reference “the MIA campaign.”

Receipts for CI-97, CI-98, and I-154 signatures were received and acknowledged by MIA, not representatives or employees of the three ballot issue committees.

Trevis Butcher registered MIA as the entity making appearances at county fairs to distribute CI-97, CI-98, and I-154 campaign literature.

These facts undermine MIA’s and Butcher’s assertion that ALG was just providing services to the Montana ballot issue committees, and that Butcher controlled how contributions and donations would be spent.

The “actual direction” evidence is equally damning in light of MIA’s and Butcher’s representations that they received no oral or written “actual direction” from MIA’s donor(s) regarding the contributions made to the initiative campaigns. MIA/Butcher’s attorney unequivocally stated that “[n]o documents have been or will be produced documenting such... [actual] direction because none ever occurred.” (July 2, 2007 Ed Greim letter, p. 6.)

This “no actual direction” claim is not credible.

Ten days *before* MIA filed its initial April 2006 campaign finance report indicating that ALG had provided 100 percent (\$22,500) of the money it contributed to the CI-97, CI-98, and I-154 campaigns, Butcher sought to authorize ALG’s President, John Tillman, and an employee of another Howard

Rich affiliate, to electronically access MIA's account.

The authorization permitted ALG to see account transactions, determine account balances, and make inquiries about MIA's transactions, giving ALG and ALGF substantial power to control MIA's expenditures. As the national sponsors and architects of ballot issues similar to CI-97, CI-98, and I-154 in numerous other states, ALG and ALGF did not have to wait for campaign reports to be filed to see how MIA and Butcher were spending the money being funneled through MIA.

CPP obtained the authorization form from Chris Gallus. It was not signed, but a cover fax to Butcher from MIA's bank indicated that Butcher had requested the authorization.

Butcher and ALG were later asked to provide an executed copy of the ALG authorization, but the request has been ignored and Gallus did not deny the authorization was executed by Butcher in any of his responses to CPP's September 18, 2008 letter.

As any parent who funds his or her child's college education knows, obtaining authorization to access and monitor the child's bank accounts 24/7 provides the opportunity to control how the parent's money is being spent by the child. MIA's and Butcher's decision to grant ALG authority to electronically access MIA's account contradicts MIA's assertion that ALG was only being paid to provide services to the campaigns.

On April 5, 2006, Trevis Butcher sent John Tillman a fax listing MIA's transactions from January 11 through March 30, 2006. If ALG was only providing campaign services and not involved in MIA's fund-raising and expenditure decisions, why would MIA and Trevis Butcher provide ALG with copies of its bank account transactions going back to the creation of the MIA account?

On May 4, 2005, MIA received a wire transfer deposit to its account in the amount of \$650,000. *The next day*, MIA made a wire transfer contribution of \$600,000 to the California ballot issue similar to I-154. The California POH initiative was also sponsored by ALG and financed by at least three Howard Rich financed affiliates.

In May and June of 2006, Trevis Butcher and John Tillman, ALG's President at the time, exchanged numerous e-mails and faxes about the status of signature gathering efforts and campaign expenditures. (*See, e.g.*, the John Tillman/Trevis Butcher e-mails dated May 2, May 3, May 30, and June 5, 2006.) These communications involving financial and progress reports on Montana signature gathering efforts were in addition to Tillman's apparent authorization to electronically access MIA's bank account to review account balances and transactions.

Paul Jacob, who was coordinating ALG's national signature gathering efforts for similar initiatives, coordinated the Montana signature gathering efforts with Trevis Butcher. Jacob appears to have negotiated and controlled the terms, method, and timing of payment for the non-resident signature gatherers by Butcher, MIA, and the three Montana ballot issue committees. (*See, e.g.*, the Paul Jacob/Trevis Butcher e-mails dated May 18, May 19, May 24, May 31, June 4, June 15, June 16, June 22, June 27, and June 28, 2006.)

Jacob's June 16, 2006 e-mail discussed the need for Butcher to make a \$45,000 payment to one of the Jacob's out-of-state signature gathering entities, NVO.

Jacob asked Butcher: “*Do you need more money?*” (Emphasis added).

MIA, Butcher, and ALG ignored requests to explain Jacob’s role, and Butcher refused to be interviewed during this investigation.

On August 24-26, 2006, Trevis Butcher exchanged a series of e-mails with Bill Wilson, who succeeded John Tillman as ALG’s president sometime in 2006. (Wilson also served as an ALG Board member in 2006 and signed ALG’s 2006 tax return.) Dan Tripp, another ALG official, also received the Butcher/Wilson e-mails. Wilson and Butcher discussed *in detail* the funds provided by Wilson and unnamed others (the collective “we”) to finance the Montana ballot issue campaigns, how the funds were to be spent, and the “funding sources” for the payment of Chris Gallus’ legal fees.

Wilson’s August 24, 2006 e-mail advised Butcher that he “should have more than enough money to pay” the campaign bills and projected campaign activities enumerated in the e-mail and “still have money left over.” Wilson instructed Butcher to send Tripp “a list of what you are paying and what is left” and acknowledged that Butcher needed “*funds for the posts, plywood and costs to put up the signs.*”

- Butcher responded the next day that he thought he “*was not supposed to pay legal any longer out of these funds*” but assured Wilson that he would get the payments made in the morning. (Emphasis added.)
- On August 26, 2006, Wilson advised Trevis Butcher what he (Wilson) thought the “*funds we sent for signs -- \$36,000*” should be used for. (Emphasis added.) Wilson also suggested that he and Trevis “go over this so *I know we have enough money to do what we need on the signs*” next week. (Emphasis added.)
- Butcher responded by telling Bill Wilson that he had paid Chris Gallus’ bill for legal services and that Wilson should get back to me [Butcher] on the printer Wilson used in other states because Butcher “was out of paper.”

It is clear Butcher was not unilaterally making the decisions about how to spend the funds provided by Wilson’s group (the unidentified “we” in his August 26, 2006 e-mail). It is also clear Butcher had received specific instructions about which funding sources were to be used to pay such campaign-related expenses as Chris Gallus’ legal fees.

MIA, Butcher, and ALG were asked to explain and provide information about the Wilson e-mails, but no response has been received as of the date of this decision.

Twelve days after this exchange of e-mails with ALG’s Bill Wilson, Trevis Butcher testified under oath in District Court that “the vast majority” of the money used to finance the CI-97, CI-98, and I-154 ballot issue campaigns came from “out of state national organizations.” Ten days later, Senator Joe Balyeat confirmed in an NPR debate on I-154 that Howard Rich was the “main one” funding the CI-97, CI-98, and I-154 campaigns. Earlier in the summer of 2006 (July 24, 2006), Rich acknowledged that he had already funneled nearly \$200,000 through MIA for the CI-97, CI-98, and I-154 campaigns.

Yet Butcher and his attorneys claim “no actual direction” in order to assert “incidental committee” status, and thus avoid disclosure of who really financed “Montanans in Action” and the ballot issue campaigns.

Trevis Butcher submitted written testimony to the Montana Senate Committee

considering Commissioner Unsworth's confirmation on February 14, 2007. Butcher criticized the State's federal court response to his lawsuit seeking to stop this investigation. He described Montana's campaign finance compliance system as "shaky and easily manipulated [Does this look like we know it is easily manipulated *because we did manipulate it*]. . ." (Emphasis in the original.)

Trevis Butcher's coordination of MIA's fundraising, campaign, and expenditure activities with Bill Wilson, ALG/ALGF, and other Howard Rich affiliated organizations and individuals in 2006 is consistent with Butcher's method of operation in previous Montana ballot issues campaigns and carries on a family tradition. For example, Butcher's 2004 ballot issue committee received more than \$64,000 in contributions from Bill Wilson and his U.S. Term Limits organization. Duncan Scott, the Kalispell attorney who is the contact person for AAIB, was the treasurer for Butcher's 2004 ballot issue committee. Trevis Butcher's father, Representative Ed Butcher, first coordinated the enactment of term limits with Howard Rich affiliated organizations in 1992. (*See* Parts III and V of this decision.)

Trevis Butcher and MIA were directly and actively coordinating CI-97, CI-98, and I-154 ballot issue campaign activities with Bill Wilson, Paul Jacob, John Tillman, and ALG/ALGF, all of whom were affiliated with Howard Rich in 2006. Butcher and MIA were not acting independently, or directly financing and broadcasting independent issue advocacy ads devoid of express campaign speech. They were financing express advocacy – campaign speech – by the CI-97, CI-98, and I-154 ballot issue committees based on actual direction and coordination with Bill Wilson, Paul Jacob, John Tillman, and ALG/ALGF. Butcher's simultaneous service as the treasurer for MIA and the treasurer and campaign coordinator for the three ballot issue committees deprives MIA of any legitimate claim to the protections afforded independent issue advocacy organizations under *WRTL* and *MCFL*.

My staff and I believe MIA and Butcher have not produced all of the documents and information related to the coordination and actual directives received by MIA and Butcher regarding MIA's financing of the CI-97, CI-98, and I-154 campaigns. It will be necessary as part of a civil penalty enforcement action to pursue discovery of those documents, and interview Butcher and others under oath before a State District Judge who can simultaneously consider and rule on MIA's and Butcher's constitutional claims.

E. MIA Was Not an Incidental Political Committee

An "incidental committee" is a "political committee that is not specifically organized or maintained for the primary purpose of influencing elections but ... may incidentally become a political committee by making a contribution or expenditure to support or oppose a candidate and/or issue." (44.10.327(2)(b)(c), ARM.) The "primary purpose" of a political committee "shall be determined upon such criteria as the allocation of budget, staff or members' activity, and the statement of purpose or goals of the individuals or person." (44.10.327(3), ARM.)

Relying on *WRTL*, MIA and Butcher:

- Challenge CPP's authority to investigate MIA's incidental political

committee filing; (See Part VI(B) of this decision.)

- Categorically deny that there was any “actual direction” to MIA on how and when to spend the money received from MIA’s donor(s); (See Part VI(C) of this decision.)
- Assert that CPP’s earmark rule protects MIA from having to disclose more \$1.17 million funneled through MIA to finance the CI-97, CI-98, and I-154 campaigns. (See Part VI(F) of this decision.)

MIA and Butcher repeatedly refused to answer inquiries about MIA’s use of its resources and staff time to fund campaign speech.

MIA and Butcher have essentially declared that MIA’s C-2 incidental committee filing cannot be investigated by CPP, even if a valid complaint and a mountain of evidence indicate the filing was false, misleading, or designed to manipulate the reporting of the true source of about \$1.2 million of campaign contributions.

Webster’s College Dictionary, © 1991, published by Random House, indicates the preferred definition of the term “incidental” means “happening or likely to happen in an unplanned or subordinate conjunction with something else.” The 1995 Webster’s II New College Dictionary, published by Houghton Mifflin Company, defines the term “incidental” to mean “occurring or apt to occur as an unpredictable or minor concomitant” or a “minor concomitant circumstance, event, item, or expense.” The term “incidentally” is defined to mean “by chance, casually, apart from the main subject, parenthetically.” *Id.*

Parts V and VI(C) establish that MIA and its treasurer, Trevis Butcher, were not just “incidentally” involved in the 2006 ballot issue campaigns.

Based on available evidence, MIA and Butcher had as their primary and almost exclusive mission in 2006 the coordination and financing of the CI-97, CI-98, and I-154 campaigns with the national sponsors of similar initiatives. MIA contributed \$1,777,986.35 in 2006 to CI-97, CI-98, and I-154 and an initiative similar to I-154 in California. These contributions constituted:

- 99.7 percent of MIA’s total “program services” expenditures in 2006
- 95.6 percent of MIA’s total 2006 expenses
- 95.4 percent of MIA’s total 2006 revenue

Such a coordinated and almost exclusive dedication of MIA’s resources to the financing of express advocacy – campaign speech – was not incidental, unplanned, minor, occasional (*MCFL*, at p. 262), or by chance. As the United States Supreme Court recognized in *MCFL*, when an alleged non-profit issue advocacy corporation’s spending on express campaign speech becomes “so extensive” that its “major purpose may be regarded as campaign activity,” the corporation becomes subject to the same obligations and restrictions “applicable to those groups whose primary objective is to influence political campaigns.” (*MCFL*, at p. 262.)

The speech funded by MIA in 2006 was not independent issue ads. MIA’s and Butcher’s predominant and primary activities in 2006 involved the coordination and financing of express campaign speech and the protections of *WRTL* and *MCFL* do not apply.

It must also be noted that MIA and Butcher rely on *WRTL* to assert that CPP cannot investigate MIA’s incidental political status based on circumstantial evidence, subjective tests such as the donor’s intent or motives, or the effect of

the issue advocacy speech on listeners. (July 2, 2007 Ed Greim letter, pp. 5-6.)

MIA's and Butcher's reliance on *WRTL* is again misplaced. MIA's 2006 ballot issue activities did not involve independent issue advocacy advertisements produced and funded directly by MIA. MIA's 2006 activities related to the initiative campaigns involved the coordinated expenditure of almost \$1.8 million to fund express advocacy – campaign speech – by the CI-97, CI-98, and I-154 ballot issue committees and a California initiative campaign similar to I-154.

MIA's 2006 campaign speech funding was coordinated by Trevis Butcher with the national sponsors of initiatives similar to CI-97, CI-98, and I-154. *WRTL* expressly left undisturbed the decision in *McConnell v. Federal Elections Commission*, 540 U.S. 93 (2003) and the ruling that corporate funding of express advocacy or its functional equivalent can be regulated, even prohibited, and survive constitutional strict scrutiny. *Id.*, 127 S. Ct., at p. 2664.

By any objective test, *WRTL* does not prohibit a thorough inquiry into and public disclosure of the true source of the significant MIA resources used to fund 2006 express advocacy – campaign speech.

F. The Earmark Rule and Other Applicable Laws and Rules

MIA and Trevis Butcher rely on one subpart of CPP's earmark rule to buttress their *WRTL* arguments and justify their decision not to disclose the true source of the funds funneled through MIA to fund the initiative campaigns.

44.10.519(1)(a)(iv), ARM, states:

A “contribution is not earmarked when the initial recipient is: ... (iv) a political committee which supports or opposes more than one candidate and/or issue or petition for nomination and there is no direction, express or implied, that all or part of the contribution will be expended for the benefit of a specified candidate and/or issue or petition for nomination.”

MIA and Butcher contend earmarking only occurs when a directive is given to spend funds on a specified (one) candidate or ballot issue. Because MIA supported three ballot issues in 2006, earmarking did not occur under the CPP rule, even if a donor directs that a donation be spent on some combination of the three ballot issues, unless the directive specified that “MIA contribute a specific amount for a ‘specified. . .issue.’”

However, because MIA and Butcher assert that there was no direction from any person or individual other than Trevis Butcher to make any expenditure or contribution of MIA's funds to a specified ballot issue, then earmarking did not occur under 44.10.519(1)(a)(iv), ARM. (July 2, 2007 Ed Greim letter, pp. 4 and 6.)

These earmark rule arguments appear to be a case of first impression in the 33 year history of the CPP office. The current version of 44.10.519, ARM, was initially adopted by Montana's first Commissioner of Political Practices, John Hanson, on January 1, 1976. Two subsequent amendments were adopted by Commissioner Hanson on May 7, 1976 and December 25, 1977. The earmark rule has remained unchanged for the past 31 years.

- As originally adopted on January 1, 1976, subsection (1) of the earmark rule contained language similar to subsection (1) of the current rule. (*See*

44-3.10(10)-S10300, ARM (hereinafter “S 10300”) of the 11/25/75 “Montana Administrative Code.”) Subsection (2) of S10300 contained language specifying how an earmarked contribution was to be reported by the “intermediary” political committee and the ultimate recipient candidate or political committee. The subsection (2) language of the 1976 rule was similar to the reporting language contained in subsection (2) of the current rule.

- Commissioner Hanson published public notice of a public hearing on proposed amendments to rule S10300 on March 16, 1976. (*See* MAC Notice No. 44-3-10-5, dated February 26, 1976.) Paragraph (2) of the MAC Notice described amendments to several rules in general terms and indicated that one of the purposes for the amendments was to “require that a contribution received for the purpose of being expended on behalf of a candidate, issue, or petition be reported as an earmarked contribution.” The proposed amendments did not include the language found in subsection (1)(a) of the current rule. (*See* MAC Notice 44-3-10-5.)

CPP and the Secretary of State’s office have been unable to locate a required MAPA notice of adoption for the May 7, 1976 amendments. The amendments include the language currently embodied in subsection (1)(a) to 44.10.519, ARM. The May 7, 1976 subsection (1)(a) amendments were, presumably, based on testimony received at the March 16, 1976 rule hearing. However, CPP and the Secretary of State’s staff can find no record of the March 16, 1976 hearing or other documents explaining the reasons why the subsection (1)(a) language was added to rule S 10300. The new language in 44.10.519(1)(a) did appear in the notices for the subsequent 1977 rule proceedings, and the earmark rule has not been amended since 1977.

The history of 44.10.519(1)(a)(iv), ARM, is relevant because of its potential conflict with other provisions of Montana’s campaign finance laws and rules.

A “contribution” is defined in Section 13-1-101(7)(a), MCA, to include “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;” a “transfer of funds between political committees;” and “the payment by a person other than a candidate or political committee of compensation for personal services of another person that are rendered to a candidate or political committee.” The term “expenditure” is defined to include the “purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.” (Section 13-1-101(11)(a), MCA.)

Montana law expressly prohibits the “contribution” of a “person’s money to any other person in connection with any election in any other name than that of the person who in truth supplies the money” and a person may not “knowingly receive such a contribution” in the name of another or record such a fraudulent contribution in “his accounts and records.” (Section 13-37-217, MCA.)

Based on past abuses of Montana’s electoral process, Montana has made a firm and long-standing commitment to “the full disclosure and reporting of funds used in Montana to support or oppose candidates, political committees, or issues. . .” (Section 1, Chapter 480, Laws of 1975.)

CPP’s rules reaffirm Montana’s statutory commitment to the full disclosure of campaign contributions and expenditures:

- Expenditures made “in cooperation with, consultation with, at the request

or suggestion of, or the prior consent of a candidate or political committee or an agent of a candidate or political committee,” must be reported to CPP under the coordinated expenditure rule. (44.10.323(4), ARM.)

- It is unlawful for a candidate, political committee, or a member of a political committee to advise, counsel, or knowingly encourage any person “to make an expenditure for the purpose of avoiding direct contributions” and such expenditures must be reported as “in-kind” contributions. (44.10.517(1), ARM.)
- A “contribution to an incidental committee is earmarked if it meets the criteria in 44.10.519(1), ARM, and the exemptions described in 44.10.519(1)(a), ARM, do not apply. . .” (44.10.411(5), ARM.)
- Subsection (7) of 44.10.411 reaffirms that “nothing in... [44.10.411] or in the statutes governing reporting of contributions and expenditures relieves any candidate or political committee (including an incidental committee) of the responsibility to timely, accurately, and fully report contributions and/or expenditures.”

Adopting MIA’s and Butcher’s interpretation of CPP’s earmark rule would be inconsistent with controlling Montana statutes and effectively eviscerate Montana’s commitment to the full disclosure and reporting of campaign contributions and expenditures.

Montana’s prohibition against reporting contributions in the name of a person other than the person “who in truth supplies the money” would be meaningless. (Section 13-37-217, MCA.)

MIA’s and Butcher’s interpretation of 44.10.519(1)(a)(iv) must be rejected under the facts of this matter, Montana’s rules of statutory construction, and *WRTL*.

Further, MIA and Butcher rely on the phrase “a specified candidate or issue” to assert that an express or implied directive to spend a donation on more than one specific candidate or ballot issue without specifying how or whether the donation is to be allocated among the three ballot issues is not earmarking.

Montana’s rules of statutory construction declare that the “singular includes the plural and the plural the singular.” (Section 1-2-105(3), MCA.) As previously noted in this decision, Montana’s statutory construction rules must be applied when interpreting administrative rules.

The singular phrase “a specified candidate or issue” includes the plural. An express or implied directive from the donor to spend the donor’s money on two or more specified ballot issues without specifying the allocation among the multiple ballot issues is earmarking. It is “undisputed that MIA was a political committee that supported three distinct ballot issues.” (July 2, 2007 Ed Greim letter, p. 4; *see also* MIA’s C-2 filing.)

MIA cannot escape reporting the name of a donor as a contributor to CI-97, CI-98, and I-154 under the “actual direction” evidence discussed in Parts V, VI(C), and VI(E) of this decision. Statutes and rules must be interpreted to avoid absurd results. *Marriage of Syverson*, 281 Mont. 1, 19, 931 P.2d 691 (1996) (court refused to make an unjust and absurd interpretation of a custody modification statute); *Montana Dept. of Revenue v. Kaiser Cement Corp.*, 245 Mont. 502, 506, 803 P. 2d 947, 951 (1994) (literal interpretation of a tax statute rejected because it would lead to absurd results); and *Stroop v. Day*, 271 Mont. 314, 318-319, 896 P. 2d 439, 441-441 (1995) (literal interpretation of the word “provocation” in a

dog bite statute would lead to absurd results).

Nothing in 44.10.519(a)(iv), ARM, or *WRTL* and *MCFL*, suggests that MIA's coordinated contributions and expenditures involving "actual direction" and the funding of express advocacy – campaign speech – allows MIA, as an intermediary recipient, to hide the true source of the contributions. Such an interpretation would open the floodgates for large corporations and wealthy individuals to secretly finance candidate and ballot issue campaigns and circumvent lawful prohibitions imposed to prevent corruption of the political process.

This case from a Washington Appellate Court provides context and highlights the important public interests involved in campaign disclosure:

[The] State has a substantial interest in providing the electorate with valuable information about who is promoting ballot measures and why they are doing so. In short, the voters need to know "who is doing the talking" about ballot measures. Moreover, it is particularly important in these situations that voters know whether other influences – particularly money – are affecting those who are otherwise known as grassroots organizers. Finally, the State has a substantial interest in promoting integrity and preventing concealment that could harm the public and mislead voters.⁶

MIA and Butcher cannot expect to be rewarded for blatantly seeking the public's approval of CI-97, CI-98, and I-154 using manipulation and deceit rather than publicly disclosing the true source of MIA's financing.

G. Unanswered Questions

The evidence available to date establishes that the factual basis for MIA's and Butcher's *WRTL* claims do not exist, and that the national sponsors of initiatives virtually identical to CI-97, CI-98, and I-154 were the true source of the substantial campaign funding provided for the Montana initiatives.

Parts V and VI(C) through VI(F) establish that MIA, Trevis Butcher, and others unlawfully refused to publicly report the true source of more than \$1.17 million dollars to finance the 2006 CI-97, CI-98, and I-154 ballot issue campaigns. MIA, Butcher, and others denied Montanans their lawful right to know who bankrolled three of the most controversial ballot issues ever presented to this state's voters.

Based on Judge Cebull's February 6, 2008 Order in the federal lawsuit filed by MIA, CPP had two possible courses of action to force MIA and Butcher to publicly disclose the true source of the money funneled through MIA to finance the ballot issue campaigns:

- CPP could issue new administrative subpoenas to Trevis Butcher and others and seek enforcement of those subpoenas in State District Court. Under this alternative, the issuance of CPP's decision would have been postponed and actions to enforce the subpoenas would have involved

⁶ *State ex rel. Wash. State Pub. Disclosure Comm'n v. Permanent Offense*, 2006 Wash. App. LEXIS 2411, 8-9 (Wash. Ct. App. Nov. 6, 2006); see also, *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773, 793-794 (9th Cir. 2006) (upholding state campaign finance disclosure requirements).

MIA's and Butcher's constitutional claims.

- CPP could issue a decision based on the evidence available to date and let a State District Court decide the constitutional issues raised by MIA and Butcher as part of a civil penalty enforcement action under Section 13-37-128, MCA.

The latter option has been chosen because of Butcher's continuing refusal to be interviewed and answer the most basic questions about his 2006 efforts to fund express advocacy – campaign speech. This option is the most expeditious way to resolve MIA's and Trevis Butcher's constitutional claims, determine whether MIA must disclose the true source of the funds used to finance the 2006 ballot issue campaigns, and determine the amount of a civil penalty, if any, that should be levied. In choosing this option, I emphasize the following:

- CPP has never been interested in documents or information about MIA's issue advocacy and educational projects. That will continue to be our position. We are interested in presenting to an impartial State District Court Judge the evidence discussed in this decision and any additional evidence that will facilitate a judicial ruling on MIA's and Butcher's constitutional claims and the campaign reporting violations related to MIA's financing of express advocacy – campaign speech – in 2006.
- Only Trevis Butcher, Don Crabbe, Paul Jacob, Bill Wilson, John Tillman, other ALG/ALGF officials and employees, and possibly other unknown individuals can provide the missing information about the coordinated financing of express advocacy – campaign speech – discussed in Parts V and VI of this decision. The time has come for these individuals to fully disclose their 2006 Montana campaign financing activities, as required by law.

H. ALG/ALGF Participation Issues

Substantial questions remain about ALG's and ALGF's participation in the 2006 Montana ballot issue campaigns. ALG/ALGF did not respond to three CPP letters, including a specific request for ALG to explain Paul Jacob's and Bill Wilson's involvement in the 2006 Montana ballot issue campaigns. Trevis Butcher refused to be interviewed about his loans, service agreements, or other campaign-related transactions with ALG or any of his reported campaign finance activities.

The ballot issue committees reported a series of loans from ALG, and reported the loans were repaid. In response to CPP's request for copies of ALG/Montana ballot issue loan documents, CPP was told that there were "no responsive documents." (July 2, 2007 Ed Greim letter, p. 7.)

Other investigative documents indicate that the ALG loans reported by the CI-97, CI-98, and I-154 committees are based on a set of ALG invoices demanding payment for campaign services provided by ALG. MIA's and Butcher's attorney described the ALG invoices as "a set of invoices showing that out-of-state vendors provided services to the Committees and were duly paid." (September 14, 2007 Ed Greim letter, p. 3.) The ALG invoices do not describe in any detail the campaign services provided or identify the individuals whose campaign-related services were being billed consistent with Trevis Butcher's May 30, 2009

assertion that all campaign service agreements were “without written agreement.” For example, was Paul Jacob’s time spent coordinating the movement of signature gatherers to Montana included in the ALG billing statements, or was Jacob making an in-kind contribution to the CI-97, CI-98, and I-154 campaigns? The Montana ballot issue committees did not report any in-kind contributions from ALG, ALGF, Paul Jacob, Bill Wilson, John Tillman, or any other ALG/ALGF official.

44.10.515(1)(b), ARM, specifies that a “loan made to a candidate or political committee by a person, other than in the regular course of a person’s business, shall be deemed a contribution by that person.” The alleged ALG loans to the CI-97, CI-98, and I-154 ballot issue committees were reported as being repaid and duly reported as contributions. However, the documentary evidence available indicates ALG provided campaign services to the Montana ballot issue committees beginning in August of 2005 but did not seek reimbursement for those services until May 2, 2006.

The timing of the alleged loan transactions, the lack of written documentation concerning the terms and conditions of the alleged loans, and ALG’s involvement in funneling money through MIA to finance campaign activities suggests that ALG was not making loans or only providing contracted campaign services based on the following:

- Why did ALG and ALGF wait almost seven months to seek payment for the Montana polling it did in August of 2005? It appears that ALG’s belated May 2, 2006 decision to seek reimbursement for campaign services it paid for and provided in 2005 coincided with the implementation of MIA’s ‘no earmark’ strategy as reflected in Trevis Butcher’s April 19, 2006 handwritten alteration of MIA’s April 13, 2006 CPP report.
- ALG had funneled \$22,000 through MIA to be contributed to the CI-97, CI-98, and I-154 ballot issues as of April 13, 2006. Why was ALG seeking repayment of alleged loans if it was bankrolling the 2006 Montana ballot issue campaigns?
- Howard Rich’s public acknowledgment that he had funneled nearly \$200,000 through MIA to support CI-97, CI-98, and I-154 as of July 24, 2006 raises significant questions about the ALG/ALGF loan issue. The Montana ballot issue committees reported repaying ALG/ALGF loans in an amount substantially less than \$200,000 (ALG loans reported by the ballot issue committees totaled less than \$30,000.)
- ALG’s 2006 website postings indicate that ALG was ‘leading the way’ to enact initiatives virtually identical to Montana’s CI-97, CI-98, and I-154.

MIA was not incorporated until December 21, 2005 and MIA and the three Montana ballot issue committees did not file statements of organization until March 10, 2006. ALG, consistent with its national efforts to enact similar initiatives in other states, was spending significant sums on polling and legal services related to the Montana ballot issues before MIA was incorporated. Butcher was providing significant in-kind contributions to the initiative efforts in October, November, and December of 2005.

If Butcher and ALG were coordinating their activities in 2005 before MIA was incorporated or any of the ballot issue committees were organized, then such coordination suggests that a principal campaign committee had already been

created.

Regardless of whether ALG and ALGF were incidental political committees or part of a principal campaign committee, both entities violated numerous reporting and filing requirements. It is equally clear that regardless of their political committee status, officers and employees of ALG and ALGF were providing but not reporting significant in-kind contributions to the CI-97, CI-98, and I-154 ballot issue campaigns.

Only Trevis Butcher, John Tillman, Bill Wilson, Paul Jacob, Howard Rich, and other ALG/ALGF officials and employees can provide the necessary information to finally determine the full extent of ALG's and ALGF's involvement in coordinated campaign activities related to the financing and production of express advocacy – campaign speech. That is especially true in light of Trevis Butcher's recent assertion that the campaign contracted services agreements were oral agreements.

I. The Committees Did Not File Timely Initial Reports

The CI-97, CI-98, and I-154 ballot issue committees were subject to the following initial reporting requirements in 2006:

- Section 13-37-226(2)(a), MCA, was amended in 2001 to require that statewide ballot issue committees file initial reports with CPP on the fifth day following the calendar quarter in which “the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot.”
 - If a Section 13-27-202 submittal is not made until the year that a ballot issue will appear on the ballot, the initial report must be filed by March 10th or on the 10th day of any succeeding month after a 13-27-202 submittal is made.

Trevis Butcher submitted proposed CI-97 ballot issue language pursuant to Section 13-27-202, MCA, on December 20, 2005. Butcher's 13-27-202 submittal for I-154 was made on December 30, 2005. Proposed language for CI-98 was not submitted until January 4, 2006.

Based on the 13-27-202 submittal dates in the preceding paragraph, the CI-97 and I-154 ballot issue committees should have filed initial CPP reports on January 5, 2006. (Section 13-37-226(2)(a), MCA.) The CI-97 and I-154 committees did not file their initial CPP reports until April 13, 2006 and May 9, 2006, respectively.

CI-98's initial CPP report was due March 10, 2006, but was filed on April 13, 2006.

J. Initial Reports Were Inaccurate

Section 13-37-228(1), MCA, dictates that the initial report by a statewide ballot issue committee must include “all contributions received or expenditures made prior to the time an issue becomes a ballot issue. . . , even if the issue subsequently fails to garner sufficient signatures to qualify for the ballot.”

- The CI-97 committee’s initial April 13, 2006 report and May 3, 2006 amended report did not include \$8,465.25 of loans allegedly made by ALG, but which were included in the May 9, 2006 report (The May 9 report also indicated there were no debts or loans outstanding.) (See Part VI(H) for a discussion of the ALG loan issue.) It also appears CI-97 falsely reported the dates on which the alleged ALG loans were made. The May 9, 2006 report indicates the ALG loans were made on April 6, 2006 even though ALG/ALGF invoices indicate the “loans” were for polling, Web site, conference calling, and legal services provided beginning August 29, 2005 and continuing through March 31, 2006.
- CI-98’s initial April 13, 2006 report and May 3, 2006 amended report did not include \$8,465.25 of loans allegedly made by ALG but which were included in CI-98’s May 9, 2006 report (The May 9 report also indicated there were zero debts or loans outstanding.) (See Part VI(G) for a discussion of the ALG loan issue.) It also appears CI-98 falsely reported the dates on which the alleged ALG loans were made. The May 9, 2006 report indicates the ALG loans were made on May 2, 2006 even though invoices indicate the “loans” were for polling, Web site, conference calling, and legal services provided by ALG/ALGF beginning on August 29, 2005 and continuing through March 31, 2006. CI-98 April 13, 2006 report also did not report \$6,000 of in-kind services provided by Butcher from October of 2005 through March 2006, although Butcher now says his in-kind contributions were an “over reporting” of personal volunteer services.
- The I-154 committee’s initial May 9, 2006 report included \$7,500 of loans allegedly made by ALG on April 6, 2006 but indicated that only \$4,159.75 of the loan amount remained unpaid. The report, however, showed that loan payments of \$5,165.26 had been made to ALG. I-154’s amended May 17, 2006 report stated that the total amount of the ALG loans was \$8,465.26. (See Part VI(G) for a discussion of the ALG loan issue.) It appears I-154 falsely reported the dates on which the alleged ALG loans were made. Invoices indicate the “loans” were for polling, Web site, conference calling, and legal services provided by ALG/ALGF beginning August 29, 2005 and continuing through March 31, 2006.

K. MIA Did Not Timely File

Section 13-37-226(6), MCA, authorizes CPP to adopt rules defining the “extent to which” incidental political committees must file campaign finance reports under Title 13, Chapter 37, MCA. 44.10.411(2), ARM, requires incidental committees to file “periodic reports two days before the deadlines specified in 13-37-226(2)(a), (b), (c), (e) and (f), MCA, when applicable.”

This advance filing requirement for incidental committees usually only arises in ballot issue campaigns because there are few, if any, incidental committees in candidate campaigns.

The advance filing requirement in 44.10.411(2), ARM, was adopted based on a suggestion during the controversial I-122 ballot issue campaign. Treasurers for I-122 ballot issue committees suggested that corporations and businesses that become incidental committees could assist principal campaign committees in reporting contributions by filing CPP reports in advance of the ballot issue committee reporting deadlines.

MIA filed its initial incidental committee report on April 13, 2006, the same day that the CI-97 and CI-98 committees filed their initial reports. MIA should have filed its initial C-4 report two days before the CI-97 and CI-98 C-6 reports were due.⁷

L. Statements of Organization Were Filed Late

A political committee, including an incidental committee, must file a certification that includes a statement of organization (Form C-2) “within five (5) days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first.”

MIA and the CI-97, CI-98, and I-154 ballot issue committees all filed late C-2 statements of organization.

- The CI-97 committee’s initial April 13, 2006 report and May 3, 2006 amended report indicated expenditures were made to Western Savings Bank for checks on February 22, 2006 and Chris Gallus for legal fees on February 28, 2006. CI-97 late filed its statement of organization on March 10, 2006.
- The CI-98 committee initial April 13, 2006 report and May 3, 2006 amended report indicated an expenditure was made to Western Savings Bank for checks on February 22, 2006. CI-98 late filed its statement of organization on March 10, 2006.
- The I-154 committee’s initial May 9, 2006 report indicated expenditures were made to Western Savings Bank for checks on February 22, 2006. I-154 late filed its statement of organization on April 19, 2006.
- MIA’s initial April 13, 2006 report indicated expenditures were made in the form of contributions to the CI-97, CI-98, and I-154 ballot issue committees on February 14, 2006. MIA late filed its statement of organization on March 10, 2006.

It is likely MIA and the ballot issue committees should have filed statements of organization in 2005. ALG and ALGF billed the committees for polling and legal services provided in August, September, and December of 2005. If Trevis Butcher, Chris Gallus, or some other person was authorizing or coordinating

⁷ Court determinations about MIA’s incidental committee status and whether Trevis Butcher or some other person was coordinating the polling and legal services provided by ALG and ALGF in August, September, and December of 2005 will likely affect the final decision about MIA’s initial reporting obligations.

these campaign expenditures by ALG/ALGF in 2005, then a C-2 statement of organization should have been filed within five days after the authorization was given.

The severity of the tardy C-2 filings by MIA and the CI-97, CI-98, and I-154 ballot issue committees cannot be finally determined until Trevis Butcher and ALG/ALGF officials can be interviewed about their 2005 and early 2006 campaign expenditures.

M. Alleged Violation of “Expenditure by Check” Rule

44.10.503(3). ARM, requires that all expenditures by a political committee, except expenditures from a petty cash fund, “shall be made by check” drawn on the campaign committee’s depository. However, the controlling statutes governing deposits and expenditures by candidates and political committees do not require that expenditures be made only by check. (*See, e.g.*, Sections 13-37-205, 207, 208, and 209, MCA.)

In this era of electronic transfers of data and money, imposition of an “expenditure only by check” rule is not warranted and I will initiate proceedings to amend 44.10.503(3), ARM, accordingly. The use of wire transfers in lieu of checks to make expenditures from the MIA and CI-97, CI-98, and I-154 accounts was a technical violation that does not warrant an enforcement action.

Motl’s concern in filing the “expenditure by check” allegation appears to be that MIA and the CI-97, CI-98, and I-154 ballot issue committees did not provide proper documentation of expenditures when Motl inspected the committees’ records. The wire transfers provided to CPP during this investigation contain the essential information necessary to satisfy the reporting and recordkeeping requirements of Title 13, Chapter 37, MCA.

The dispute in this investigation has been whether all of the necessary wire transfer documents have been provided. Resolution of this dispute will involve access issues related to checks as well as wire transfers.

While the alleged violation is deemed “technical,” it is a violation none-the-less. Any proposed rule amendments to 44.10.503(3), ARM, will reaffirm the right of an opposing campaign treasurer to inspect campaign finance records involving expenditures by a political committee, whether made by check or electronically.

N. Credibility

The course of conduct chosen by Trevis Butcher, MIA, ALG, and others who coordinated the CI-97, CI-98, and I-154 ballot issue efforts in 2006 deviated substantially from their conduct in previous Montana initiative campaigns.

Trevis Butcher and his father, Representative Ed Butcher, had been victorious in 1992 and 2004 term limit campaigns in which the vast majority of contributions were received from ALG and an affiliated group, but publicly disclosed in reports to CPP.

In 2006, the Butchers, MIA, the three ballot issue committees, and their out-of-

state financiers resorted to hide-the-ball tactics that resulted in court decisions knocking CI-97, CI-98, and I-154 off the 2006 ballot, and generated the Motl complaints.

Independent polling late in the 2006 general election indicated there was a substantial likelihood that CI-98 and I-154 would have passed, despite all of the public controversy about MIA's funding and signature gathering. CI-97 was trailing, but with a large undecided vote. The 2006 tactics suggest that the proponents of CI-97, CI-98, and I-154 may be more interested in seeking to invalidate campaign reporting laws that require public disclosure of the true source of money used to finance express campaign speech.

The 2006 Public Campaign

Regardless of motives, the proponents of CI-97, CI-98, and I-154 did not take obvious and timely actions to address their public complaints about unfair court proceedings or the opponents' 2006 tactics. In addition, MIA made representations to the IRS to obtain tax exempt status that are contrary to MIA's actual conduct in 2006. The proponents' inaction on several crucial 2006 events illustrate why a "trust but verify" attitude is warranted in assessing the evidence and arguments made by MIA, Trevis Butcher, and the proponents of CI-97, CI-98, and I-154.

Representative Ed Butcher's post mortem on the Montana court decisions invalidating CI-97, CI-98, and I-154 was that the proponents were not allowed to conduct discovery and treated unfairly in the District Court proceeding. The Supreme Court expressly found that the initiative proponents:

- Did not answer the District Court complaint.
- Did not request any discovery, move for a continuance, take any depositions, or file a pre-trial brief.
- Acquiesced "without objection" in the District Court's prehearing schedule.
- Failed to attend the three depositions taken by the initiative opponents (and conducted to accommodate Gallus' schedule).
- Did not file proposed findings of fact or conclusions of law despite the District Court's request for all parties to file such pleadings.
- Declined to make an opening statement or a closing argument.
- Opted not to cross-examine Opponents' main witness.
- Did not object to multiple hearsay statements that damaged the proponents' case. (*See* Part IV(B) of this decision.)

Representative Butcher has not, to my knowledge, ever produced court orders, pleadings, or transcripts of court proceedings contradicting these damning Supreme Court findings. It appears the proponents of the initiatives were more interested in belatedly complaining about an unfair judicial proceeding, rather than insisting on and filing the necessary motions and objections to ensure fairness during the judicial proceeding.

One day after the District Court decision was issued, Trevis Butcher accused Judge Sandefur of having a conflict of interest because he invalidated CI-98, which would have made it easier to recall judges. (*See, e.g.*, the September 14, 2006 Billings *Gazette* article titled "Citing invalid signatures, Judge tosses

initiatives.”)

Nothing in the District Court or Supreme Court decisions suggest that Butcher and the proponents of CI-98 moved to disqualify Judge Sandefur, or the members of the Montana Supreme Court, because of an alleged conflict. Trevis Butcher also left unanswered the question of whether any duly-elected Montana judge could have decided the 2006 judicial recall initiative lawsuit under his blanket conflict of interest accusation. (Butcher did disqualify Judge Kenneth Neill the day before the Great Falls District Court hearing.)

The District Court decision criticized the proponents’ failure to call any of their paid out-of-state signature gatherers as witnesses to rebut the fraud and deceit testimony given by the opponents’ witnesses. These paid signature gatherers were, according to Judge Sandefur, the best and most knowledgeable source to rebut the opponents’ evidence.

Just four days after the September 8, 2006 District Court hearing and one day before the District Court decision was issued, one of the proponents’ prominent out-of-state signature gatherers, Eric Rittberg, gave an interview to the Montana Lee newspapers. Rittberg disputed the opponents’ District Court testimony and acknowledged that he was in Montana putting up signs and making literature drops for CI-97, CI-98, and I-154. CPP reports filed by the initiative committees confirm that at least two out-of-state signature gatherers, Ron Cook and Eric Rittberg, were paid at least \$6,500 for campaign-related services from September 6 through October 18, 2006.

Representative Butcher’s unfairness claim lacks credibility in light of the proponents’ failure to call even one paid signature gatherer to rebut the opponents’ deceit and fraud testimony.

Representative Butcher asserted after the Supreme Court decision was issued that a Supreme Court Justice stated in the spring of 2006 that he opposed CI-97, CI-98, and I-154, and the proponents of the initiatives would have to deal with a Supreme Court that was opposed to the initiatives. Representative Butcher has not, to my knowledge, produced any documents indicating the initiative proponents moved to disqualify the Justice who allegedly stated his personal opposition to the initiatives or took any other formal action to determine whether other Supreme Court Justices had prejudged the legal issues decided by the Court.

Trevis Butcher, Senator Joe Balyeat, and Representative Ed Butcher alleged in several newspaper articles and press releases that the Montana opponents of CI-97, CI-98, and I-154 were committing the same violations alleged in the Motl complaints – coordination of ballot issue activities with out-of-state national organizations and failing to report expenditures or in-kind contributions by these national organizations in their CPP reports. But they did not file a complaint against the opponents.

In late 2006, Trevis Butcher coordinated a public records request to all of Montana’s school districts and numerous cities, counties, and state government agencies with Paul Jacob and Citizens in Charge. The public records request sought to uncover documents and e-mails confirming that publicly funded state and local government agencies had illegally used public funds and resources to oppose CI-97. I was quoted in news articles about the Butcher/Jacob public records request, stating the use of public funds and resources to oppose CI-97 would be a violation of Montana law.

The CI-97 proponents never filed a complaint against the opponents of CI-97

based on alleged improper use of public funds and public resources for political purposes.

Trevis Butcher's concerns about the opposition's alleged use of publicly funded resources (e.g., equipment, office space, and supplies) and public employees to oppose CI-97, CI-98, and I-154 apparently did not apply to his use of taxpayer funded resources at the Winifred Volunteer Fire Department for 2006 campaign activities. Documents produced by Butcher and Gallus clearly indicate that equipment, supplies, and space at the Winifred Fire Department were being used by Butcher for campaign activities related to CI-97, CI-98, and I-154.

The failure of Trevis Butcher, MIA, and Chris Gallus to respond to most of the substantive requests for additional information and documents in CPP's September 18, 2008 letter raises more credibility issues. Gallus first resorted to familiar tactics, requesting copies of the documents he had previously submitted, apologizing for missing deadlines to submit the additional documents and information, and promising to promptly provide the documents and information after consulting with Trevis Butcher. Then, when he did finally respond *more than eight months later*, he ignored the primary substantive requests for information.

The September 18, 2008 requests included documents that Trevis Butcher is *required to maintain* and make available in his role as treasurer for the ballot issue committees (campaign account checks).

Other requests that would shed light on the independent issue advocacy and coordination issues discussed in this decision were ignored. For example, explain the roles of Bill Wilson, Paul Jacob, and Dan Tripp in the CI-97, CI-98, and I-154 campaigns; identify the employer of Craig Regens; and provide copies of the correspondence, cancelled checks, and other bank documents relating to the 39 CI-97 contributions forwarded by "Nicole" at "Americans for Limited Terms").

It appears the proponents of CI-97, CI-98, and I-154 prefer to accuse CPP of unfair and unconstitutional treatment, instead of answering the thorny, but obvious questions that go to the facts upon which MIA's and Trevis Butcher's constitutional claims are based.

Based on the available facts, representations made by Trevis Butcher and Representative Ed Butcher about the grassroots nature of the 2006 initiative campaigns lack credibility.

The Butchers told Montana voters in a news conference in December of 2005 that the initiatives were drafted and coordinated by Republican state legislators. Representative Butcher publicly stated in a September 21, 2006 op-ed piece that 35-40 Republican legislators launched the 2006 initiative effort based on polling conducted by the legislators. He went on to claim that about 20 of the original members of the legislative group worked for the next year on issues that resulted in the three initiatives.

A February 26, 2006 Billings *Gazette* article quoting Trevis Butcher indicated that a "handful" of Republican legislators would undertake the massive signature gathering effort to qualify CI-97, CI-98, and I-154 for the ballot.

But records show ALG was paying for polling in Montana in late August and September of 2005, several months before any public announcement by legislators of their initiative plans and before Trevis Butcher reported providing in-kind services (October of 2005). ALG represented in its 2006 website postings that it was "leading the way" to place initiatives like CI-97, CI-98, and I-154 on

the ballots in at least a dozen states.

Further, Chris Gallus and John Balyeat were paid by ALG to provide legal services beginning in 2005 and continuing through March of 2006. ALG was providing in-house legal services, website, and conference calling services during the same period. (ALG's involvement in the Montana initiative effort was publicly acknowledged by Trevis Butcher in the February 26, 2006 Billings *Gazette* story.)

ALG had provided 100 percent of MIA's funding in its initial report to CPP. ALG's website boasted that ALG and MIA had filed CI-97. (There was no mention of the CI-97 ballot issue committee.) Howard Rich publicly acknowledged to the *High Country News* on July 24, 2006 that he had already funneled nearly \$200,000 through MIA to finance CI-97, CI-98, and I-154.

Senator Joe Balyeat later acknowledged that Rich was the "main one" funding the Montana ballot issues. Balyeat conceded in a September 21, 2006 Billings *Gazette* article that while CI-97 and I-154 started out as grassroots efforts, the ability of national organizations to influence Montana elections "for a very low cost" had altered both sides' campaign strategies.

The bulk of the signatures gathered for CI-97, CI-98, and I-154 were collected by paid out-of-state workers who also collected signatures for ALG affiliates in other states. (See Part IV of this decision.) The District Court determined that 94 percent of roughly \$674,000 paid to signature gatherers was paid to "professional, out of state, migrant signature gatherers." Only about \$40,600 was paid to resident Montana signature gatherers. (*Id.*, p. 8.) Clearly, Montana legislators and Montana residents did not provide the grassroots effort necessary to qualify the 2006 initiatives for the Montana general election ballot.

Trevis Butcher was the only witness called to testify in the District Court proceeding. Not one of the 20 or more Republican legislators who allegedly originated and coordinated the 2006 ballot issue campaigns was called as a witness to defend against the signature gathering fraud and deceit charges made by opponents.

Trevis Butcher testified in the District Court hearing that the "vast majority" of the money used by MIA to fund the CI-97, CI-98, and I-154 campaigns came from "out-of-state national organizations," not Montanans.

Senator Joe Balyeat, Representative Mendenhall, and Representative Butcher were the legislators most visibly involved in the initiative campaigns. But Trevis Butcher was the public face, public voice, treasurer, and campaign coordinator for MIA and the ballot issue committees throughout 2006. At the same time, Butcher was coordinating the 2006 campaign financing and tactical decisions with ALG and other Howard Rich financed affiliates.

The ballot issue committees reported receiving *less than \$3,500 of cash contributions from Montanans*. Most of those contributions appear to have been collected and forwarded to the ballot issue committees by ALG. Grassroots financial support from Montanans was clearly lacking.

There is substantial evidence that Trevis Butcher was coordinating fundraising and the laundering of substantial sums of money from national organizations through MIA to finance expenditures by the 2006 Montana ballot issue committees. Front and center in that coordination was the national sponsor of the initiatives like Montana's CI-97, CI-98, and I-154 – Americans for Limited Government and other affiliated groups and individuals financed by New York

real estate developer Howard Rich.

Contrary Representations to the IRS

MIA did not exist and was not created as a Montana non-profit corporation until December 21, 2005. MIA told the IRS that it would be operated “exclusively for educational purposes.” However, MIA sought a “501(c)(4)” tax exemption because “a portion” of MIA’s activities “may include attempts to influence legislation.”

MIA said its “principal activity” would be to “educate the public on issues of concern to residents of Montana, including limited government, property rights and taxes.” It would do so via “meetings, conferences, and mailings.” MIA said its educational activities would “be initiated at the beginning of 2006” and be carried out by “volunteers.” MIA assured the IRS that all of its activities would be “carried out in the State of Montana.” MIA also told the IRS that in late December of 2005 it had “no sources of financial support, being newly created” and that future financial support would “come from local residents and businesses that wish to support ... [MIA’s] educational programs.”

MIA’s IRS submittal projected revenue of \$15,000 in 2006, \$25,000 in 2007, and \$50,000 in 2008. When MIA filed its initial CCP report just three months later, it had already received at least \$22,500 of contributions from ALG. By May 4, 2006, just four months after MIA sought its non-profit tax status from the IRS, MIA had already received \$712,800 of income/donations.

Contrary to the representations made to the IRS, MIA did not operate “exclusively for educational purposes” or restrict its “principal activity” to educating the public via meetings, conferences, and mailings.

MIA spent more than “a portion” of its 2006 revenue to influence legislation, directly financing and coordinating express campaign speech supporting CI-97, CI-98, and I-154.

- MIA and Trevis Butcher were the conduits through which almost \$1.8 million was funneled to finance the initiative campaigns in Montana and a \$600,000 contribution to an initiative similar to I-154 in California.
- More than 99.5 percent of MIA’s total “program services” expenditures in 2006 were contributed to CI-97, CI-98, and I-154 and the California initiative similar to I-154.
- More than 95.5 percent of MIA’s total 2006 expenses and 95.4 percent of MIA’s total 2006 revenue was contributed to CI-97, CI-98, and I-154 and the California property rights initiative.

Contrary to the representations made to the IRS, MIA did not carry out its activities via the use of “volunteers.” More than \$670,000 of MIA’s money was used by the CI-97, CI-98, and I-154 ballot issue committees to pay signature gatherers. Hundreds of thousands of dollars were paid to media, campaign, and other electioneering service providers.

Contrary to the representations made to the IRS, MIA did not rely on contributions and donations from “local residents and businesses” to raise money in 2006. Trevis Butcher admitted under oath in the District Court proceeding that the “vast majority” of the money used to finance the CI-97, CI-98, and I-154 campaigns came from “out of state national organizations.”

State Senator Joe Balyeat, a proponent of the MIA-funded initiatives, admitted in a September 21, 2006 National Public Radio broadcast that New York real estate

developer Howard Rich was the “main one” funding the campaigns.

Montanans contributed a total of only \$3,425 cash directly to the three ballot issue campaigns (\$3,390 to CI-97, \$5 to CI-98, and \$30 to I-154). Most of the cash contributions from individual Montanans to the CI-97 campaign were apparently collected by and forwarded to CI-97 by ALG/ALGF.

MIA’s contributions, the vast majority of which came from out-of-state national organizations according to Butcher, constituted 94.9 percent of the cash spent on CI-97, 95.4 percent of the money spent on CI-98, and 93.8 percent of the total expenditures by the I-154 ballot issue committee.

Contrary to the representations made to the IRS, MIA did not limit its activities to Montana or to educating only Montanans. MIA contributed almost a third of its total 2006 revenue (\$600,000) to a California ballot issue similar to I-154.

Contrary to the representations made to the IRS, MIA’s fundraising success in 2006 (total revenue of \$1,862,813) dwarfed its December 2005 projection that it would only raise \$15,000 in its first year of existence.

VII. Conclusion

Based on the preceding Summary of Facts and Statement of Findings, there is substantial evidence to conclude that the following individuals and entities violated Montana’s campaign finance reporting and disclosure laws and rules and that a civil penalty action under Section 13-37-128, MCA, is warranted:

- Trevis Butcher
- MIA, the corporation and the political committee
- Don Crabbe
- MIA’s individual Officers and Directors
- ALG
- ALGF
- Howard Rich
- Paul Jacob
- William “Bill” Wilson
- John Tillman
- John Doe Defendants who coordinated the financing of express advocacy – campaign speech – with Trevis Butcher, MIA, and the CI-97, CI-98, and I-154 ballot issue committees. The John Doe Defendants will be identified upon completion of discovery in a civil penalty proceeding, or disclosed in any settlement negotiated in a civil penalty proceeding.

I am forwarding the facts and findings to the Fergus County Attorney and the Lewis & Clark County Attorney, pursuant to Section 13-37-124, MCA.

Because Trevis Butcher may have given false or misleading testimony regarding his absolute discretion to spend the money donated to MIA by “out-of-state national organizations” in the September 8, 2006 District Court proceedings, a copy of this decision is being sent to the Cascade County Attorney.

Because false or misleading information may have been submitted to CPP during this investigation, a copy of this decision is being sent to the Montana Attorney General.

MIA may have violated IRS rules by failing to timely provide CPP with copies of its IRS application for tax exempt status and other supporting documents. (CPP requested these documents on June 13, 2007 but MIA did not provide copies until June 19, 2008.)

In addition, because MIA may have submitted false or misleading information to the Internal Revenue Service to obtain tax exempt status, a copy of this decision is being mailed to the United States Attorney for the State of Montana, and the Internal Revenue Service.

DATED this 26 day of June, 2009.

A handwritten signature in black ink, appearing to read "Dennis Unsworth". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dennis Unsworth
Commissioner of Political Practices

Copies: Chris Gallus
Ed Greim
David Dennis
Trevis Butcher
Russell Bradley
Don Crabbe
ALG/ALGF
Jonathon Motl
Montana Attorney General
Cascade County Attorney
Fergus County Attorney
Lewis & Clark County Attorney
US Attorney for Montana
Internal Revenue Service