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COMMISSIONER OF
POLITICAL PRACTICES

September 27, 2016

Commissioner of Political Practices
Commissioner Jonathan Motl
1209 Eighth Ave.
PO Box 202401
Helena, MT 59620

RE: Complaint against Montana Citizens for I-182 and Montana Cannabis Industry Association, Inc.

Dear Commissioner Motl,

Safe Montana hereby submits this combined complaint against Montana Citizens for I-182 primary ballot committee and Montana Cannabis Industry Association, Inc. incidental committee ("MCIA") whose contact information is:

Montana Citizens for I-182
Jeff Krauss, Treasurer
PO Box 1663
Helena, MT 59624
(406) 587-3284
(406) 599-5836

Montana Cannabis Industry Association
James Haney, Treasurer
PO Box 50074
Billings, MT 59105
(406) 670-0143

Safe Montana believes that the primary ballot committee and the incidental ballot committee are purposefully structured in a manner to hide who is truly funding the I-182 ballot issue campaign. This complaint is combined against both political committees since the allegations against the two are so intertwined. The Commissioner should investigate the deceptive dark money reporting practices of both committees to ensure full transparency in the funding of the ballot issue.

- I. **Montana Citizens for I-182 is being used as a "shell" primary ballot committee to hide the real contributors to and expenditures of the I-182 campaign while the Montana Cannabis Industry Association is the real primary ballot committee and should be required to report as such.**

Montana law defines the several different types of political committees including a ballot issue committee and an incidental committee. Montana law defines "ballot committee" as "a political committee specifically organized to support or oppose a ballot issue." Mont. Code Ann. § 13-1-101(7). While "incidental committee" is defined as:

a political committee that is not specifically organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that may incidentally become a political committee by receiving a contribution or making an expenditure. (b) For purposes of this subsection (22), the primary purpose is determined by the commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the statement of purpose or goal of the person or individuals that for the committee."

Mont. Code Ann. § 13-1-101(22); *see also* Admin. R. Mont. 44.11.202(6).

Administrative Rule of Montana 44.11.203 provides a list of items the Commissioner may review to determine whether a committee has properly registered as an incidental committee. Some of these items include: "allocation and source of budget" and "allocation of staff or members' activity". *Id.* The Commissioner also has the authority to reclassify a committee if it has improperly classified itself. *Id.*; Admin. R. Mont. 44.11.204.

Safe Montana submits that Montana Citizens for I-182 primary ballot committee and Montana Cannabis Industry Association, Inc. incidental committee are in violation of several laws and regulations regarding the registration, classification, and reporting of political committees which include, but are not limited to: Mont. Code Ann. §§ 13-1-101, 13-37-201, 13-37-217, 13-37-225, 13-37-229, 13-37-231, 13-37-232; and Admin. R. Mont. 44.11.202, 44.11.204, 44.11.402, 44.11.403, 44.11.502, 44.11.503.

A simple review of the filed C-4 incidental committee finance reports by the Montana Cannabis Industry Association reveal that it is the entity that has been making all the expenditures in furtherance of the I-182 ballot initiative campaign. M+R Strategic Services (who appears to be doing everything for the campaign) is the sole payee of the Montana Cannabis Industry Association, and has been paid \$227,500 through the end of August. This number will likely increase by tens of thousands of dollars in the next two months leading up to the campaign. The funds were spent in for the following general purposes: "campaign management, travel, printing, and telecommunications"; "campaign management, field staff for petitioning, travel, office overhead and materials"; "campaign mgmt., materials, polling, travel, office overhead, website and database"; "polling by Harstad Research"; and "digital advertising campaign". *See* filed MCIA C-4 reports purpose description columns. All of these general descriptors describe every aspect of expenditures normally made in an attempt to qualify a ballot measure for the ballot and then have the measure approved by the voters. These actions are not "incidental" to the passage of a ballot initiative at all.

Contrarily, the alleged ballot issue committee, Montana Citizens for I-182 has only made a total of three expenditures through the end of August totaling \$81.01, all for the purpose of paying credit card transaction fees. Clearly Montana Citizens for I-182 is not operating a campaign at all. It appears to only be collecting small donations and paying credit card fees—these activities seem woefully lacking for the purpose of running a campaign.

The comparison is staggering: Montana Citizens for I-182 has spent \$81.01 on credit card fees compared to the Montana Cannabis Industry Association's \$227,500 spent on campaign management, field staff for petitioning, travel, printing, telecommunications, materials, polling, office overhead, website, database, and a digital advertising campaign.

These political committees cannot claim with any credibility that the Montana Cannabis Industry Association, Inc. is not the primary ballot committee specifically organized to support and advocate for the passage of I-182. Montana Citizens for I-182 was likely set up as a shell political committee to hide the true source of the persons and entities bankrolling the I-182. As listed above, this reporting and disclosure scheme is in violation of multiple Montana laws and regulations. The Commissioner should reclassify the Montana Cannabis Industry Association, Inc. as the primary ballot issue committee supporting I-182 and Montana Citizens for I-182 as the incidental committee who has incidentally accepted a few contributions.

II. Both Montana Citizens for I-182 and Montana Cannabis Industry Association, Inc. filed late reports in violation of Montana Code Annotated § 13-37-226.

Montana Citizens for I-182 filed two late reports. The first late report covered the time period from 3/28/2016 through 4/26/2016 and was filed one day late on May 2, 2016. The second late report covered the time period from 7/28/2016 through 8/27/2016 and was filed one day late on September 2, 2016. One day late is still in violation of Montana Code Annotated § 13-37-226. It is also important to note that Montana Citizens for I-182 went through and filed amended reports for each and every report it filed with the exception of the report due July 1, 2016, on September 8, 2016. No doubt this was in an attempt to fix all of the errors in its campaign filings up until this point so it could file a frivolous campaign complaint against Safe Montana and be rewarded with a news story. The original reports likely had several errors for which complaints could have been filed and the I-182 campaign withheld the truth from the voters for months until the amended reports were filed.

Montana Cannabis Industry Association appears to have only filed two reports on time. The rest of the reports were late. The first late report covered the time period from 4/27/2016 through 5/18/2016 and was filed two days late on May 25, 2016. The second late report covered the time period from 5/19/2016 through 5/27/2016 and was filed seven days late on June 8, 2016. The third late report covered the time period from 6/2/2016 through 6/27/2016 and was filed nearly a month late on July 27, 2016. While this report was extremely late, the committee also completely failed to file the post primary report. The post primary report was to cover 5/28/2016 through 6/22/2016 and was due 6/27/2016. The next report covered 6/23/2016 through 6/26/2016 and was due July 1, 2017. Yet, as noted above, neither of these reports were timely filed and one report was not filed at all. The fourth late report was six days late, filed on September 7, 2016, covering 7/28/2016 through 8/27/2016. Each late report is a violation Montana Code Annotated § 13-37-226. Failure to file the post primary report is a violation of Montana Code Annotated § 13-37-225.

III. The Montana Cannabis Industry Association violates Montana law by failing to specifically identify the purpose of large payments to M+R Strategic Services in violation of Montana Code Annotated § 13-37-232 and Administrative Rules of Montana 44.11.502, 44.11.503, and 44.11.403.

Montana law requires the purpose of each expenditure of a political committee to be described in detail. Mont. Code Ann. § 13-37-232(3). This statute provides that "Reports of expenditures made to a consultant, advertising agency, polling firm, or other person that performs services for or on behalf of an incidental committee must be itemized and described in sufficient detail to disclose the specific services performed by the entity to which payment or reimbursement was made." *Id.* Administrative rule further provides the following with regard to reporting of expenditures:

(7) For purposes of the disclosure requirements of 13-37-229 and 13-37-232, MCA, the "purpose" of each expenditure as reported on the commissioner's campaign finance reporting forms shall specifically describe the purpose, quantity, subject matter, as appropriate to each expenditure, and must be detailed enough to distinguish among expenditures for similar purposes. For example, two expenditures for direct mail advertisements should not both be reported as "Flyers."

Admin. R. Mont. 44.11.502(7). The purposes that have been reported include: "campaign management, travel, printing, and telecommunications"; "campaign management, field staff for petitioning, travel, office overhead and materials"; and "campaign mgmt., materials, polling, travel, office overhead, website and database". At first blush these descriptions may appear to be detailed, but when the amounts are reviewed in conjunction with the general purposes, it is clear more detail is required. For example, the description of "campaign mgmt., materials, polling, travel, office overhead, website and database" was for a payment of \$49,500. How much of this amount was for polling and to which polling firm? How much of this amount was for office overhead? How much of this amount was for the website? In each instance, the MCIA is paying M+R Strategic Services tens of thousands of dollars - \$49,500, \$29,000, \$10,000, \$20,000, \$34,000, \$15,000, etc. Yet, none of these significant payments is detailed as to exactly what these expenditures paid for and in what amounts. To comply with the law and full disclosure, a breakdown of these large payments with the specific amounts as to each purpose should have been provided, and these purposes "must be detailed enough to distinguish among expenditures for similar purposes. For example, two expenditures for direct mail advertisements should not both be reported as "Flyers". Admin. R. Mont. 44.11.502(7).

Also in violation of Montana Code Annotated § 13-37-232 and Administrative Rule of Montana 44.11.503, the MCIA fails to disclose any in kind expenditures on behalf of the Montana Citizens for I-182 campaign for the payment of its staff working to support the ballot initiative. It would be shocking if an Association that has made over one hundred thousand dollars in in-kind contributions to a ballot initiative campaign has not had its staff spend any time to further the campaign. The Montana Citizens for I-182 committee fails to report receipt of any in-kind contributions from the MCIA for staff time in violation of Montana Code Annotated § 13-37-232 and Administrative Rule of Montana 44.11.403.

IV. I-182 is primarily being funded through Dark Money and illegal federal drug money in violation of Montana Code Annotated § 13-37-217.

The original reports filed by Montana Citizens for I-182 named all of its in kind contributions as coming from the "Montana Cannabis *Information* Association". It seems quite misleading that for months, the Montana Cannabis *Information* Association was the named in-kind contributor of hundreds of thousands of dollars, yet when one would search for the financial reports of this committee, there were none. The Montana Cannabis *Information* Association was not a properly registered incidental committee and never filed any campaign finance reports. If Mr. Krauss and Mr. Haney would like to allege dark money involvement and hiding where the funding of a particular ballot initiative is coming from, filing reports using the incorrect name of the primary contributor to the campaign is surely one way to deceive the public. Furthermore, the amended reports that now name the Montana Cannabis *Industry* Association, Inc. as the primary funder of I-182 use the name of a corporation that has been inactive since December 4, 2012. Research was required on the Montana Secretary of State's website and in a phone call to the Secretary of State's office to determine which entity was the legitimate entity. Of note, the Montana Cannabis Industry Association is NOT an assumed business name of the Montana Cannabis *Information* Association.

These acts call into the question where exactly the money is coming from to fund the campaign. It is highly suspect that an entity that has not been legally registered in the State of Montana for nearly four years has found funds to pump hundreds of thousands of dollars into the pro-marijuana initiative. The Montana Cannabis Industry Association has reported receipt of \$49,752 in contributions either earmarked for the I-182 campaign or in response to a specific fundraising solicitation for I-182. Montana Citizens for I-182 has reported receiving \$227,500 in in-kind contributions from the MICA. If the MICA has spent at least \$227,500 on the I-182 campaign, the source of the other \$177,748 is unaccounted for. Perhaps the MICA is reporting just enough in solicited contributions so no questions will be asked as to whether the rest of the money is coming from.

Marijuana is a schedule I federal illegal drug, the recreational sale of which is illegal in Montana and most other states. In the past the Montana Cannabis Industry/Information Association has received funding from several entities that claim to be Montana providers of medical marijuana, however, at least one of the Association's large past contributors, Chuck Campbell, owner of Montana Buds has donated large sums of money to the Association. In the last six months Mr. Campbell who is the largest provider of marijuana in the State has been raided by and is under investigation for drug distribution by the DEA. (See attached newspaper articles).

Montana law requires that contributions be reported in the name of the individual or entity who actually makes the contribution, and the practices of the Montana Citizens for I-182 and Montana Cannabis Industry (or Information) Association violate Mont. Code Ann. § 13-37-217. This statute provides:

13-37-217. Contributions in name of undisclosed principal. A person may not make a contribution of the person's own money or of another 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. A person may not knowingly receive a contribution or enter or cause the contribution to be entered in the person's accounts or records in another name than that of the person by whom it was actually furnished.

Montana citizens deserve transparency in their elections. If nearly \$200,000 spent to fund the I-182 campaign is being funded by gains from the sale of illegal recreational marijuana, Montana voters have the right to know.

Safe Montana thanks the Commissioner in advance for thoroughly investigating the true source of funding for the I-182 ballot initiative, prosecuting violations under Montana Code Annotated § 13-37-128 to the fullest extent, and preventing the Montana Citizens for I-182 and Montana Cannabis Industry (or Information) Association's dark money scheme from continuing.

