

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

---

In the Matter of the Complaint     )  
Against Yes CI-97 Stop             )  
Overspending Montana, Yes         )  
CI-98 Citizens Right to Recall     )  
Montana, and Yes I-154            )  
Protect Our Homes Montana         )

---

**SUMMARY OF FACTS  
AND  
STATEMENT OF FINDINGS**

Janet Ellis filed a complaint alleging that political committees supporting three ballot issues in 2006 violated Montana campaign finance and practices laws. The complaint alleges that campaign materials produced by the three committees did not list the name of the committee treasurer, as required by § 13-35-225, MCA. Based on the Summary of Facts and Statement of Findings there is sufficient evidence to conclude that Yes CI-97, Yes CI-98, and Yes I-154 violated Montana campaign finance reporting and disclosure laws and rules. However, for the reasons described below (beginning on page 4) I have determined it is not in the best interests of the State of Montana to proceed with a civil penalty action under § 13-37-128, MCA.

**SUMMARY OF FACTS**

1. CI-97 was a proposed constitutional initiative that would have imposed limits on spending and taxation authority of the State of Montana. CI-98 was a proposed constitutional initiative that would have revised the process for removing Montanan judges from office. I-154 was a proposed statutory initiative that would have revised the legal definition of a government taking through eminent domain, while revising the obligation of governments to compensate property owners. All three initiatives were proposed in 2006 and were certified for the ballot by the office of the Montana Secretary of State.

2. Yes CI-97 Stop Overspending Montana (Yes CI-97) is a political committee formed for the purpose of supporting CI-97. Yes CI-98 Citizens Right to Recall Montana (Yes CI-98) is a political committee formed for the purpose of supporting CI-98. Yes I-154 Protect Our Homes Montana (Yes I-154) is a political committee formed for the purpose of supporting I-154. The committees filed Statements of Organization (form C-2) with the office of the Commissioner of Political Practices (Commissioner), each of which listed Trevis Butcher as the Treasurer and Don Crabbe as the Deputy Treasurer.

3. The complaint alleges that the three committees jointly produced and circulated campaign material that did not list the name of the treasurer of the ballot committees as required by Montana law.

4. On September 13, 2006, following a bench trial resulting from a challenge to the process by which the three initiatives were qualified for the ballot, District Judge Dirk Sandefur issued a decision invalidating the Secretary of State's certification of CI-97, CI-98, and I-154 based on irregularities in the signature-gathering process.

5. Following Judge Sandefur's ruling, the committees jointly distributed certain campaign materials regarding the three initiatives. The materials included a letter directed to persons likely to vote by absentee ballot, advising the recipients to review enclosed campaign literature regarding Yes CI-97, Yes CI-98, and Yes I-154. The letter referred to Judge Sandefur's ruling and advised the reader that the committees were "fighting for your right to vote." The letter stated that the committees had appealed Judge Sandefur's ruling to the Montana Supreme Court, and that while the appeal was pending the three initiatives would remain on the ballot. The letter noted that the ballots "do contain these very important issues" and urged voters to mark their ballots. The letter concluded with the following:

Thank you for your consideration in these very important and historic issues,

Trevis Butcher,  
Campaign Coordinator

6. Accompanying the letter was a card stating: “I would like to help make Montana a better place to work and live.” The card contained a space for a person to write in their name, address and other contact information. In addition, the card invited the readers to indicate whether they would like to write a letter to the editor, volunteer for one or more of the campaigns, contact friends and neighbors, make a donation, or place a sign in their yard.

7. Both the letter and the card contained the following attribution:

Paid for jointly by: Yes On CI-97 Stop Over Spending Montana, Yes On CI-98 Citizens Right to Recall Montana, & Yes On I-154 Protect Our Homes Montana, PO Box 7 – Winifred, MT, 59489 – Ph 406 350 2915.

### **STATEMENT OF FINDINGS**

The complaint alleges that the campaign materials created and distributed by the three political committees violated § 13-35-225, MCA, because the name of the treasurer of the committees was not included. § 13-35-225, MCA provides, in pertinent part:

**Election materials not to be anonymous -- statement of accuracy.** (1)  
All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign. *In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.* (Emphasis added)

Although the campaign materials produced and distributed by the three political committees referred to committee treasurer Trevis Butcher as the “campaign coordinator,” the attribution did not include the name of the committee treasurer, and therefore the materials were in violation of § 13-35-225(1), MCA.

## CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings there is sufficient evidence to conclude that Yes CI-97, Yes CI-98, and Yes I-154 violated Montana campaign finance reporting and disclosure laws and rules. A violation of § 13-35-225, MCA may result in a civil action under § 13-37-128, MCA seeking a penalty of up to \$500 or three times the amount of the unlawful contributions or expenditures, whichever is greater. However, for the reasons described below I have determined it is not in the best interests of the State of Montana to proceed with a civil penalty action under § 13-37-128, MCA.

§ 13-35-124(1), MCA requires the Commissioner to notify the county attorney after making a determination that “there appears to be sufficient evidence to justify a civil or criminal prosecution . . .” The determination of whether a prosecution is justified must take into account the law and the particular factual circumstances of each case. A prosecutor can decide not to prosecute whenever he or she in good faith believes that a prosecution would not be in the best interests of the state. Despite the finding that the campaign materials created and distributed by the three political committees did not comply with all of the attribution requirements of § 13-35-225(1), MCA, I have concluded that a civil prosecution is not justified in this particular case.

While the letter described in Fact 5 was signed by Trevis Butcher, as the “campaign coordinator,” the “paid for by” sections of the materials did not include the name of Trevis Butcher as the treasurer of the committees. To that limited extent, the campaign materials violated § 13-35-225(1).

However, the attribution on the materials complied in all other material respects with the requirements of the statute. The fact that the name of the committee treasurer was not included in the “paid for by” section of the materials did not deprive the public of notice regarding which political committees paid for the campaign materials, and how those committees could be contacted. In fact, although the law does not require it, the attribution included a telephone contact number.

In this case, in consideration of the particular circumstances surrounding the violation and the costs associated with a prosecution, I have determined that it would not be in the best interests of the State of Montana to pursue a civil prosecution against the three political committees.

Political committees should be aware, however, that the Legislature has established specific requirements for attribution on campaign materials. While I have determined that this is not an appropriate case in which to proceed with a prosecution, this office reserves the right to pursue a civil penalty enforcement action to address similar violations in the future, when circumstances call for it.

Dated this 15<sup>th</sup> day of April, 2008.

A handwritten signature in black ink, appearing to read "Dennis Unsworth", written over a horizontal line.

Dennis Unsworth  
Commissioner