

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of the Complaints    )  
Against PRIDE, Inc., Planned        )  
Parenthood of Montana, and         )  
Yellowstone AIDS Project            )

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**SUMMARY OF FACTS  
AND  
STATEMENT OF FINDINGS**

Dallas Erickson filed complaints against three organizations, alleging that they violated Montana campaign finance and practices laws and regulations.

**SUMMARY OF FACTS**

1. Complainant Dallas Erickson filed separate complaints against PRIDE, Inc., Planned Parenthood of Montana, and the Yellowstone AIDS Project. The complaints allege that the three organizations sponsored a meeting at the Venture Theatre in Billings on May 3, 2006, to oppose two ballot measures, and failed to file campaign finance reports as required by Montana law. In addition, the complaints allege that written materials opposing the ballot issues were distributed at the meeting, and the materials did not comply with § 13-35-225, MCA.

2. In the June 6, 2006 election two ballot issues were submitted to the voters of Yellowstone County. One ballot issue proposed an ordinance that would have imposed a county-wide ban on obscenity. The second ballot issue proposed an ordinance that used the county's zoning regulations to restrict the operations of strip clubs and other sexually oriented businesses.

3. The complainant, Dallas Erickson, was instrumental in ensuring that the two proposed ordinances were placed on the ballot.

4. Voters rejected the ballot issue that would have banned obscenity, but approved the ballot issue adopting an ordinance regulating sexually oriented businesses.

5. PRIDE, Inc. (PRIDE) is a Montana organization that supports rights for lesbian, gay, bisexual, and transgender Montanans. Planned Parenthood of Montana (PPM) provides reproductive health care and sex education services. The Yellowstone AIDS Project (YAP) is an organization that seeks to provide education and awareness regarding HIV and AIDS.

6. PRIDE, PPM, and YAP co-sponsored a forum at the Venture Theatre in Billings on Wednesday, May 3, 2006, from 7:30 to 9:30 p.m. A Billings Gazette article published on the day of the event stated: “Karl Olson, director of PRIDE, said the event at Venture Theatre will be structured as a public forum to allow people to speak for and against the proposed obscenity ordinance.” A Billings Gazette article published the day after the event stated: “Of the 25 people who attended, all but a handful oppose the measures.”

7. Karl Olson was the Executive Director of PRIDE from 1999 to 2006. According to Olson, the event at the Venture Theatre was an open forum where both sides were represented. Olson stated that PPM and YAP were “nominally involved” in the organization of the forum, but it was primarily organized and sponsored by PRIDE. The forum was held at the Venture Theatre, but according to Olson there was no charge for the use of the building for the forum.

8. An email from Karl Olson dated April 20, 2006 references the May 3 forum and the obscenity ordinances, and states: “We will have more time to feature a variety of voices on the issue.”

9. PRIDE purchased an ad that ran in the Billings Outpost newspaper on April 27, 2006. The ad stated the following:

**EROTICISTS UNITE!**

Wednesday, May 3                      the Venture Theatre

7:30 – 9:30 p.m.                      2317 Montana Ave.

**Don't let right-wing evangelistas gag your freedom of expression!**

Calling all sexual minorities, artists, cultural dissidents, educators, civil libertarians, and libertines:

The proposed "obscenity" ordinance is anti-democratic, anti-human rights, anti-gay and anti-sex . . .

Speak out, act up, dress down and learn how to inspire a NO vote in June. Censorship is obscene.

The ad states, at the bottom, that the event at the Venture Theatre was sponsored by PRIDE, PPM, and YAP. The ad contains no "paid for by" attribution language required by § 13-35-225, MCA. The ad cost \$300. PRIDE did not consult with or act in coordination with any other organization when it decided to purchase the ad regarding the scheduled public forum. PRIDE did not file a campaign finance report with the office of the Commissioner, reporting the cost of the ad.

10. Olson appeared at the forum and spoke about sexuality, culture, and health. He was not paid by PRIDE for his time attending and speaking at the forum. According to Olson, he did not specifically address the two ordinances during his presentation. Olson stated that after he spoke the floor was open for others to speak, and people supporting and opposing the two ordinances made statements.

11. Olson stated that PRIDE did not distribute any written materials at the forum. He recalls some copies of the two ordinances being circulated, but he stated that PRIDE did not produce the copies. No one else interviewed during this investigation recalled any written materials in opposition to the two ballot issues being distributed or circulated at the forum.

12. A representative of the Venture Theatre stated that sometimes the facilities are made available for meetings or events with no rental charge. The person could not recall whether or not any rental fee was charged for the May 3, 2006 forum. The Venture Theatre was unable to find any computer or hard copy records establishing that a rental fee was charged for the use of the facilities on May 3, 2006, to PRIDE or to any other group or organization.

13. On April 20, 2006 Karl Olson emailed Stacey James, CEO of PPM, advising her that PRIDE had reserved the Venture Theatre for a public forum to be held on May 3, 2006. James recalled that Olson also telephoned her and requested money to help pay for rent for the public forum at the Venture Theatre. On April 20, 2006 PPM donated \$100 to PRIDE, ostensibly to help cover the rental cost for the forum. Karl Olson, however, denies that the Venture Theatre required any rental payment for the use of the facilities to host the public forum. (See Fact 7). And, as noted above, the Venture Theatre was unable to locate any records establishing that rent was charged for use of the facilities for the forum on that evening. (See Fact 11). Neither Olson nor anyone else associated with PRIDE has been able to determine what use was made of the \$100 received from PPM.

## **STATEMENT OF FINDINGS**

### **Campaign Finance Reports**

With limited exceptions not applicable here, § 13-37-225, MCA requires a political committee to file periodic reports of contributions and expenditures. § 13-1-101(20), MCA contains the following definition:

"Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

- (a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or
- (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or
- (c) as an earmarked contribution.

A “person” includes an individual, a corporation, an association, an organization, and a group of persons. (§ 13-1-101(19), MCA.) PRIDE, PPM, and YAP all qualify as a “person,” and therefore if any of them made a contribution or expenditure to oppose one or both of the two Yellowstone County ballot issues they would have become a political committee under the definition of the term in § 13-1-101(20)(b), MCA.

Based on the facts disclosed during the investigation, it is clear that no reportable contributions or expenditures arose as a result of the forum held at the Venture Theatre. The event was described by all involved as a public forum where people who were opposed to or in favor of the two ballot issues could speak. Those who attended, including the person who wrote an article in the Billings Gazette, recalled that both proponents and opponents of the ballot issues spoke. There is no evidence that any rent was paid for the use of the building, Karl Olson was not paid by PRIDE for his time attending the forum, and there is no evidence that any flyers or campaign materials opposing the ballot issues were produced for or distributed at the public forum.

However, when PRIDE made an expenditure to purchase the ad described in Fact 9, it incurred certain reporting responsibilities. The ad described the “obscenity” ordinance in negative terms and urged the reader to attend the forum to “learn how to inspire a NO vote in June.” There can be only one reasonable interpretation of the ad – it advocated the defeat of a ballot issue. ARM 44.10.323(3) defines an independent expenditure as “an expenditure for communications expressly advocating the success or defeat of a candidate or ballot issue which is not made with the cooperation or prior consent of or in consultation with, or at the request or suggestion of, a candidate or political committee or an agent of a candidate or political committee.” As described in Fact 9, PRIDE acted alone when it made the decision to purchase the ad regarding the scheduled public forum; therefore the expenditure meets the definition of an independent expenditure. An independent expenditure must be reported “in accordance with the procedures for reporting other expenditures.” (ARM 44.10.531(4).)

Under the rules administered by the Commissioner of Political Practices, PRIDE became an “incidental” political committee when it made the expenditure for the newspaper ad opposing a ballot issue. An incidental committee is a political committee “that is not specifically organized or maintained for the primary purpose of influencing elections but that may incidentally become a political committee by making a contribution or expenditure to support or oppose a candidate and/or issue.” (ARM 44.10.327(2)(c).)

The Legislature has authorized the Commissioner to establish reporting requirements for incidental political committees. (§ 13-37-226(6), MCA.) ARM 44.10.411 sets forth reporting responsibilities for incidental political committees. An incidental committee must file a “statement of organization” as required by § 13-37-201, MCA within 5 days after it makes an expenditure, and must thereafter file periodic campaign finance reports as required in the rule. (ARM 44.10.411(1).) However, ARM 44.10.411(3)(a) provides that an incidental committee that makes expenditures not exceeding \$500 to a local issue is not required to file periodic reports of contributions or expenditures, but must file a statement of organization. The \$500 or less exception in the rule is based on § 13-37-226(4), MCA, which provides:

Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

Therefore, since PRIDE expended less than \$500 when it purchased the ad opposing the county ballot issues, it was only required to file a statement of organization. PRIDE’s failure to do so constitutes a violation of Montana’s campaign finance and disclosure laws and rules.

#### Attribution Requirements

§ 13-35-225, MCA provides:

**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).

The Montana Legislature has established specific requirements for attribution on campaign materials. In the case of political committees, including incidental political committees such as PRIDE in this case, campaign materials must contain the attribution "paid for by" followed by the names of the committee and committee treasurer, and the address of the committee or committee treasurer. The ad placed in the Billings Outpost by PRIDE did not comply with this requirement.

### **CONCLUSION**

Based on the preceding Summary of Facts and Statement of Findings there is insufficient evidence to conclude that PRIDE, PPM, or YAP violated Montana campaign finance reporting and disclosure laws and rules by failing to report contributions or expenditures pertaining to the public forum held at the Venture Theatre on May 3, 2006.

There is, however, sufficient evidence to conclude that PRIDE violated Montana campaign finance reporting and disclosure laws and rules by failing to file a statement of organization following its independent expenditure for a newspaper ad opposing a ballot issue, and by failing to include a proper attribution on the newspaper ad.

Dated this 22nd day of July, 2008.



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Dennis Unsworth  
Commissioner