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MONTANA OFFICE OF
POLITICAL PRACTICES
OCT 25 2012 ACPD

October 25, 2012

Commissioner James Murry
Montana Office of Political Practices
P.O. Box 202401
1205 8th Avenue
Helena, MT 59620-2401

Re: Formal Complaint

Dear Commissioner Murry,

As per the following, I wish to submit a formal complaint to your office alleging violation of Montana Campaign Finance laws. This complaint is submitted in compliance with Montana statutes and 44.10.307, ARM. My name is Jeff Essmann and my address is PO Box 80945 Billings MT 59108.

I. Violators or Persons with Information Pertaining to Violations:

A. Violators:

1. Patients and Families United, PO Box 4146 Helena MT 59604.
2. Sarah Baugh, Treasurer.

II. Factual Basis for Complaint:

From approximately October 8, 2012 to October 15, 2012 Patients for Reform Not Repeal, a political action committee supporting the repeal of SB 423 through I 124, ran a radio advertisement on a number of radio stations owned and operated by Town Square Media that included the statement that “even the sponsor of the bill Jeff Essmann knows the bill must be changed.” Not only are these ads completely false, but the ad sponsors have failed to accurately, and timely report to your office in violation of Title 13, Chapter 37, Part 2, MCA.

I contacted the station management, told them that I had never stated that SB 423 “must be changed” and asked them to require the sponsor to document the claim made in the ad or stop broadcasting the advertisement.

The ad sponsors were not able to document their claim and the station removed the ad as a false claim on October 15, 2012. Copies of the relevant email chain is attached.

III. Claims and Legal Reference Pertaining to Violations

Patients for Reform not Repeal in its sponsorship of an advertisement that contained a claim that was false, misleading and intended to deceive the voters of Montana with respect to my position on I 124 (or SB 423) violated the provisions of MCA Section 13-37-131(1) to –wit: “It is unlawful for a person to misrepresent . . . any other matter that is relevant to the issues of the campaign with knowledge that the assertion is false or with a reckless disregard of whether or not the assertion is false.”

In addition, a review of the website of the Commissioner of Political Practices reveals that the same group has failed to file complete and timely campaign finance reports which disclose the source of funds and place of expenditure for the committee as required by law. The sections of law violated include: MCA Sections, 13-37-225, 13-37-226, and 13-37-228 through 13-37-230.

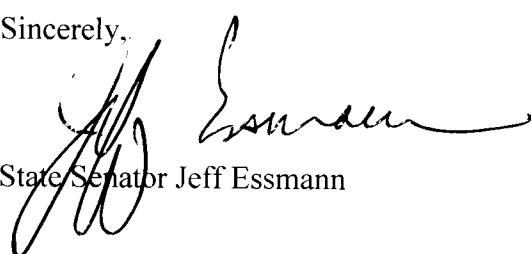
A person who violates any of the provisions of Montana’s campaign finance laws is subject to the civil penalty provisions of MCA § 13-37-128 which provides a penalty of \$500 or three times the amount of contribution or expenditure whichever is greater.

IV. Conclusion

This type of campaigning is reprehensible and most importantly illegal. No one has the right to put words intended to deceive and mislead the public into the mouth of another. Patients for Reform not Repeal could have contacted me to get my permission to use my name in support of their effort to repeal SB 423, but they did not as they knew I have actively opposed repeal of SB 423. They knew I participated in the drafting of the Voter Information pamphlet arguments to Montana voters to leave SB 423, a bill which tightened up the provisions of Montana law on the use of marijuana for medical purposes, on the books. They were intent on using my name in a false and misleading manner. They do not have the right to lie about me and should be punished. They should also be required to report the source of their revenue and the place of their expenditures.

If you need any additional assistance in your investigation, please contact me. Thanks.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Essmann".

State Senator Jeff Essmann

VERIFICATION

STATE OF MONTANA)
County of Yellowstone) : ss.

Jeff Essmann, being first duly sworn, deposes and says as follows:

That she/he is the Complainant in the above entitled case, that she/he has read the complaint, knows the contents thereof, and that the facts and matters contained therein are true, accurate and complete to the best of her/his knowledge and belief. Further, as to any facts which are stated as facts, to which she/he has personal knowledge, the same are hereby verified as being true. Still further the signature on the Complaint is the signature of Jeff ESSMANN

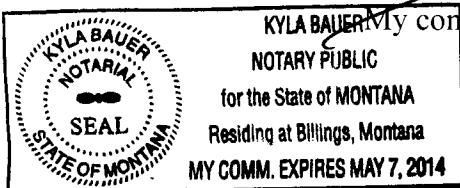
Jeff Essmann

Essmann Alf Essmann

On this 24th day of Oct, 2012, before me, a notary public, personally appeared Jeff Essmann, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she/he executed the same.

Kyla Bauer

Notary Public for the State of Montana
Residing at



From: Don Oylear
Sent: October-14-12 1:39 PM
To: 'Bob Brigham'
Subject: RE: Essman's fuss

Mr. Brigham –

Here is what your ad says “ Even the sponsor Jeff Essmann knows the bill must be changed.” None of Mr. Essman’s statements which you quote below say that he knows the bill “must” be changed. Change you copy to read “can be changed” or that Jeff Essman “predicts changes” or anything else along those lines and you are fine, but not as it reads now.

I am pulling the spot on Monday until you change the language.

When I know an ad to be false, it is my job to cease airing it.

Respectfully,

Don

Don Oylear
Market Manager Billings
Townsquare Media
Office – 406-869-3661
Cell – 406-694-6645



From: Bob Brigham [mailto:bob.brigham@gmail.com]
Sent: October-12-12 5:12 PM
To: Tara Hubbard; John Thomas; Don Oylear
Subject: Essman's fuss

Dear Mr. Oylear et al,

Thank you for alerting us to the objections raised to our ad by Sen. Essman.

We stand by our claims. Substantiation is provided below.

Bob Brigham

Campaign Manager

Patients for Reform, Not Repeal

Patients for Reform, Not Repeal

October 12, 2012

Response to objections regarding radio spot "Running Away"

AD CLAIM:

"And most Montanans don't support I.R. 124. Less than half say they'll vote for it."

SUBSTANTIATION:

Three respected, scientific polls were released this Fall showing less than 50% support for IR-124 / SB 423.

- 1) Public Policy Polling, Sept. 10-11, 2012: **46%** support for IR-124

Source:

<http://www.publicpolicypolling.com/main/2012/09/bullock-edges-hill-for-montana-governor.html>

2) Mason-Dixon, Sept. 17-19, 2012: **44%** support for IR-124

Source:

http://helenair.com/news/local/govt-and-politics/elections/voters-back-restrictions-on-cannabis-strong-majority-favors-notification-law/article_0a7aaf76-0486-11e2-8a41-001a4bcf887a.html

3) Public Policy Polling, Oct. 8-10, 2012: **44%** support for IR-124

Source:

http://www.publicpolicypolling.com/pdf/2011/PPP_Release_MT_101112.pdf

With three recent, professional polls showing support under 50%, **the claim is true.**

It is also true that a recent amateur/student "poll" (MSU-Billings) generated a far different result. However, this conflicting "poll" does not make the ad's claim untrue.

Notably, the MSU survey did not use the actual ballot language voters will face, but instead a "spin" on the question at hand. Substituting language for the actual ballot question is not an accepted practice in professional polling on ballot questions. The PPP poll, for instance, linked to directly above, uses the actual language of the ballot measure as voters will see it. The amateur poll does not raise a credible challenge to the ad's claim.

Patients for Reform, Not Repeal

October 12, 2012

Response to objections regarding radio spot "Running Away"

AD CLAIM:

"The sponsor of the bill, Jeff Essman, knows it must be changed."

SUBSTANTIATION:

In a Sept. 12, 2012, MTPR story, Sen. Essman was quoted referring to his bill as merely the "first steps" and "predict[ing]" that the legislature will take up the issue again in 2013.

Both statements are concessions by the author that the current law (SB 423) is imperfect and must, or simply will, be changed.

Sen. Essman "knows it must be changed." **The claim in the ad is truthful.**

The final passage of the transcript of the MTPR story appears below:

Voters will have the option to reject the law, but State Senator Jeff Essman predicts they won't.

"We took important first steps to get a situation that was widely regarded as out of control under control," he said.

However the vote for IR-124 comes out, Essman predicts the legislature will be taking up the issue again next session.

Source:

<http://mtprnews.wordpress.com/2012/09/12/marijuana-advocates-moving-on-after-mt-supreme-court-reversing-injunction-on-sb-423/>

CERTIFIED MAIL
TM

MONTANA STATE SENATE
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HELENA, MONTANA 59620-0500

SENATOR JEFF ESSMANN

SENATE DISTRICT 28

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Commissioner James Henry Murray
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