

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of the Complaint	)	<b>SUMMARY OF FACTS</b>
Against the Canyon Ferry Road	)	<b>AND</b>
Baptist Church	)	<b>STATEMENT OF FINDINGS</b>

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Montanans for Families and Fairness filed a complaint alleging that the Canyon Ferry Road Baptist Church violated Montana campaign finance and practices laws by failing to file campaign finance disclosure forms and reports.

**SUMMARY OF FACTS**

1. The Canyon Ferry Road Baptist Church of East Helena, Inc. (Church) is a Montana public benefit corporation with members. The Church is located at 3384 Canyon Ferry Road, East Helena, Montana.

2. Berthold Gotlieb (B.G.) Stumberg III is the pastor of the Church.

3. The Church pays Pastor Stumberg an annual salary, including benefits and housing allowances, of \$63,000.

4. According to Pastor Stumberg, the Church makes monthly building payments of \$2,200 and, with utilities, it costs the Church \$3,000 to \$3,500 just to open the doors.

5. A weekly cleaning service charges the Church \$13,000 annually to clean up after Sunday events. The Church charges outside groups such as hunter safety courses and non-member weddings a \$75 fee for the cleaning service.

6. Pastor Stumberg and the Church generally adhere to the Christian doctrines of the Southern Baptist Convention, including the belief that marriage may only exist between one man and one woman.

7. In 2004, efforts were made to obtain sufficient signatures to qualify Constitutional Initiative 96 (CI-96) for placement on the November, 2004 ballot in

Montana. CI-96, also known as the Montana Marriage Protection Amendment, would amend the Montana Constitution by providing: “Only a marriage between one man and one woman shall be valid or recognized as a marriage in this state.”

8. The form of the petition for CI-96 received final approval from the office of the Secretary of State on April 29, 2004.

9. Jeff Laszloffy was the Treasurer of a ballot issue political committee known as the Focus on the Family Montana Marriage Amendment Committee, the primary sponsor of CI-96. At the time Mr. Laszloffy was also, and continues to serve as, the President and CEO of the Montana Family Foundation. Pastor Stumberg recalls Mr. Laszloffy suggesting to him that CI-96 petitions should be made available for signing in the Church, and Pastor Stumberg agreed to do so. Mr. Laszloffy contends that he never spoke with or communicated with Pastor Stumberg regarding CI-96 or the CI-96 petitions.

10. Pastor Stumberg contends that Mr. Laszloffy told him CI-96 petitions could be signed in the Church, and the Church did not have to report any expenditures for that activity. As noted above, Mr. Laszloffy contends he never communicated directly with Pastor Stumberg regarding CI-96 or the petitions. Mr. Laszloffy also states he did not advise Pastor Stumberg regarding the Church’s reporting responsibilities.

11. The Montana Family Foundation reviewed guidelines from the American Center for Law and Justice and the Liberty Counsel and, based on those guidelines, prepared a list of what churches can and cannot do under IRS guidelines and rules. The list was sent to churches statewide in Montana. The list, designated “What Churches May and May Not Do With Respect to Civic Involvement,” was also available on the Montana Family Foundation’s website, and is still posted on the website. The list states that while churches may not endorse or oppose candidates, they may educate on the political process and on political, social, and legislative issues; encourage their members to voice their opinions in favor of or in opposition to legislation; become

involved in petition drives supporting or opposing legislation; and support or oppose legislation, either related or unrelated to the church organization. The list does not specifically mention state ballot issues such as CI-96.

12. The Montana Family Foundation's website also included CI-96 petitions that could be downloaded for free. Terri Paske, a member of the Church, printed out CI-96 petitions she obtained from the Montana Family Foundation website and made copies of the petitions on the Church's copy machine, using her own paper. With Pastor Stumberg's permission, Ms. Paske put approximately 20 copies of the petition in the Church foyer on May 9, 2004. The Church kept the petition copies available for signing in the foyer until the June 13, 2004 deadline for submission of signed petitions to the sponsor. As the petitions were signed, Ms. Paske picked them up, had them notarized, and sent them to the sponsor of the initiative.

13. Pastor Stumberg arranged for the congregation of the Church to view an audio-visual simulcast of a program called "The Battle for Marriage" on the evening of May 23, 2004. The Church opened the event to the public, advertised the event through public service announcements on local radio stations, and copied flyers advertising the program for members of the congregation to display at work.

14. The simulcast was viewed by members of the Church's congregation and members of the public during the Church's regular Sunday evening worship service on May 23, 2004, although the service started slightly earlier than normal to accommodate the scheduled simulcast. Church records disclose that 93 people attended the event.

15. At the time of the simulcast referenced above, CI-96 had not yet garnered sufficient signatures to qualify it for placement on the November, 2004 ballot.

16. The Church would have held an evening service on May 23, 2004 regardless of whether the simulcast had been available on that date. The Church frequently has access to and avails itself of similar simulcasts on a wide variety of religious topics.

17. Pastor Stumberg opened the May 23, 2004 evening service with prayers and a hymn, and then made some introductory comments regarding the importance of preserving marriage as being between one man and one woman.

18. The Battle for Marriage program included presentations by several Christian ministries regarding their views of marriage. It also included discussions regarding a proposed amendment to the United States Constitution that would establish a definition of marriage as being solely between one man and one woman.

19. The Battle for Marriage did not expressly support or oppose any ballot issue or candidate for public office in Montana.

20. Following the presentation of the Battle for Marriage, Pastor Stumberg told the attendees about CI-96, explaining that if it passed it would amend the Montana Constitution by defining marriage as a union between one man and one woman. He told the attendees that the threat to marriage existed in Montana, and that his congregation should resist it through prayer and by signing the CI-96 petition. At the conclusion of the May 23, 2004 worship service, Pastor Stumberg advised the attendees that CI-96 petitions were available at a location near the Church's exits, and he encouraged those in attendance to sign the petitions.

21. The Battle for Marriage was provided through a satellite network operated by the Christian Communication Network, which was in turn provided by the Montana Southern Baptist Convention. The Church did not pay a fee to the Christian Communication Network or to the Montana Southern Baptist convention to watch and present the Battle for Marriage simulcast on May 23, 2004.

22. On Sunday, May 30, 2004, Pastor Stumberg circulated CI-96 petitions throughout the Church during announcement time at all three regularly scheduled services.

23. To be considered, signed petitions to put CI-96 on the ballot had to be turned in to the sponsoring organization, then submitted to the appropriate election officials no later than June 18, 2004.

24. CI-96 petitions were available for signatures in the Church from May 9, 2004 until petition signatures were submitted to the sponsoring organization on June 13, 2004.

25. By the time Ms. Paske turned in the signed petitions they contained 98 valid signatures for Lewis and Clark County, all but six of which were signatures of Church members. Ms. Paske also collected signatures at the Church from residents of Broadwater and Jefferson Counties.

26. Ultimately, the requisite number of signatures was obtained and CI-96 was placed on the November, 2004 ballot.

27. CI-96 was passed by the voters of Montana in the November, 2004 election.

28. Aside from its involvement with the efforts to obtain signatures to place CI-96 on the ballot, the Church did not discuss political candidates or other ballot issues, or make other ballot issue petitions available for signing at the Church, at any services either before or after May 23, 2004.

29. Neither Pastor Stumberg nor any other representative of the Church filed any campaign finance disclosure forms with the office of the Commissioner of Political Practices (Commissioner).

30. Neither Pastor Stumberg nor Terri Paske made any effort to consult the Commissioner's office or Montana campaign finance and practices laws regarding whether the Church had any filing responsibilities related to its efforts concerning CI-96.

31. Several other churches made contributions in support of or in opposition to CI-96, and reported those contributions to the Commissioner's office.

## STATEMENT OF FINDINGS

The complaint alleges that as a result of its activities in support of the effort to place CI-96 on the ballot, the Church became an incidental political committee, and failed to file a statement of organization and other campaign finance disclosure documents as required by Montana law.

A “political committee” is defined in Mont. Code Ann. § 13-1-101(20) as

. . . a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

. . .

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue;

A “person” includes a corporation, association, firm, organization, etc. Mont. Code Ann. § 13-1-101(19). The Church, as a public benefit corporation, meets the definition of a “person” under Montana law. The next question is whether the Church made a contribution or expenditure to support a ballot issue.

“Issue” or “ballot issue” is defined as

. . . a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35 and 37, an issue becomes a “ballot issue” upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a “ballot issue” upon approval by the secretary of state of the form of the petition or referral. (Emphasis added).

Mont. Code Ann. § 13-1-101(17). As noted in Fact 8, the form of the petition for CI-96 was approved by the office of the Secretary of State on April 29, 2004; therefore CI-96 was a “ballot issue” when the Church engaged in its signature-gathering activities.

“Contribution” is generally defined as “an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election.” Mont. Code Ann. § 13-1-101(7)(a)(i) (emphasis added). The term “anything of value” means “any goods that have a certain utility to the recipient that is real and that is ordinarily not given away for free but is purchased.” Mont. Code Ann. § 13-1-101(3). ARM 44.10.321(2) defines an “in-kind” contribution as “the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate, ballot issue, or political committee . . . .” The definition of “in-kind expenditure” is similar. See ARM 44.10.323(2).

A comprehensive description of the requirements for reporting in-kind contributions under Montana law is included in former Commissioner Ed Argenbright’s April 30, 1998 Summary of Facts and Statement of Findings in *Matter of the Complaint Against Montanans for Common Sense Water Laws/Against I-122* (MCSWL), which reads, in pertinent part, as follows:

1. Only an individual (a human being) may escape reporting an in-kind contribution by volunteering his or her time (Section 13-1-101(6)(b)(i), MCA)<sup>1</sup>. If the campaign-related work by a human being also involves the use of equipment (fax machines, telephones, etc.) or property (the use of office space), the fair market value of the equipment and property must be reported.
2. Entities, other than a human being, may not volunteer time and escape reporting in-kind contributions. If a business, corporation, membership association, partnership, club, union, committee, firm, or group makes an employee, officer, board member or independent contractor available for campaign-related services, the fair market value of those services must be reported by the entity as an in-kind contribution.
3. Entities, including a human being, who provided equipment or property

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<sup>1</sup> This subsection has been renumbered (7)(b)(i).

for campaign-related activities, must report the fair market value of the equipment and property. For example, the fair market value of providing phones, FAX machines, membership lists and similar items for use in a campaign must be determined and reported.

4. ARM 44.10.513 and 44.10.533 define how in-kind contributions and expenditures must be valued and reported. . . .

MCSWL at 74-77.

Several years later, former Commissioner Linda L. Vaughey issued a Summary of Facts and Statement of Findings in *Matter of the Complaint Against Mont-PIRG, Montana Common Cause, the League of Women Voters of Montana, et al.* (August 13, 2002) (Mont-PIRG). I-125 was an initiative that prohibited direct corporate spending on ballot issues. C.B. Pearson was being paid to manage the I-125 campaign, seeking to qualify the initiative for the ballot. During the same period of time Pearson taught an environmental organizing course through the University of Montana (UM) Department of Environmental Studies in Missoula. Although UM did not pay Pearson's salary<sup>2</sup>, UM provided office space, a desk, a file cabinet, phone, phone number, voicemail, email, and a mailing address to Pearson. In addition, UM provided classroom space for the course. As part of the course Pearson instructed his students regarding how to circulate and obtain signatures on I-125 petitions, and class members actually gathered signatures. Pearson estimated that fewer than 500 I-125 signatures were collected by the class. Commissioner Vaughey found that Mr. Pearson should have reported the fair market value of a portion of his salary for teaching the course, in addition to the fair market value of his use of UM office space, equipment, and supplies, as in-kind contributions. Mont-PIRG at 54-55.

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<sup>2</sup> Pearson's salary for teaching the course was paid by Green Corps, a nonprofit educational organization.



The Commissioner's rules define an incidental political committee as one "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).

Montana's Campaign Finance and Practices Act requires the "full disclosure and reporting of the sources and disposition of funds used . . . to support candidates, political committees or issues . . ." Section 1, Chapter 480, Laws of 1975. Applying the definitions and legal principals cited and discussed above, it is clear that when the Church and Pastor Stumberg chose to engage in activities supporting the effort to place CI-96 on the ballot, the Church became an incidental political committee under Montana law, with corresponding reporting obligations. Use of the Church's facilities to obtain signatures on CI-96 petitions, along with Pastor Stumberg's encouragement of persons to sign the CI-96 petitions during regularly scheduled Church services, obviously had value to the campaign in support of CI-96. Pastor Stumberg was not acting as a volunteer when he engaged in the activities supporting CI-96, since those activities occurred in the Church building and during regularly scheduled Church services.

There is insufficient evidence to conclude that the Church's activities were coordinated with the ballot issue committee supporting CI-96. Facts 9, 10, and 11 describe circumstances that may, to some extent, explain Pastor Stumberg's recollection that he had communications with Jeff Laszloffy regarding CI-96. Although Mr. Laszloffy denies that he directly communicated with Pastor Stumberg regarding the ballot issue, the Montana Family Foundation website included information regarding what activities churches could and could not engage in. While the list did not

specifically mention state ballot issues, the website also included copies of CI-96 petitions that could be downloaded for free. In any event, based on the specific facts in this particular case I cannot conclude that there were any coordinated expenditures that would have to be reported pursuant to ARM 44.10.323(4). Nevertheless, when the Church engaged in the activities described herein it incurred filing and reporting obligations that it did not fulfill.

The Legislature has authorized the Commissioner to establish reporting requirements for incidental political committees. Mont. Code Ann. § 13-37-226(6). When they make a contribution or expenditure, incidental committees are required to file a Form C-2, which is a Statement of Organization, and a Form C-4, a report listing its contributions and expenditures. The Church's failure to file the necessary campaign finance disclosure forms violates Montana campaign finance and disclosure laws and rules. See Mont. Code Ann. §§ 13-37-201 and 13-37-226, and ARM 44.10.321, 44.10.323, 44.10.411, 44.10.513, and 44.10.533.

### **CONCLUSION**

Based on the preceding Summary of Facts and Statement of Findings there is sufficient evidence to conclude that the Canyon Ferry Road Baptist Church violated Montana campaign finance and practices laws and regulations.

Dated this \_\_\_\_\_ day of March, 2006.

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Gordon Higgins  
Commissioner