

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaint)	
Against Summit Independent)	SUMMARY OF FACTS
Living Center, Inc., Montana)	AND
Health Care Association, and)	STATEMENT OF FINDINGS
Montana Health Solutions)	

Jonathan Motl filed a complaint against Summit Independent Living Center, Montana Health Care Association, and Montana Health Solutions alleging violations of Montana campaign finance and practice laws.

SUMMARY OF FACTS

1. In 2008, a proposed statewide ballot initiative known as the Montana Home and Community Care Act or Initiative No. 159 (I-159) was approved for signature gathering to qualify it for the ballot. If approved by voters, I-159 would enact laws establishing a program to provide home-care services to low-income disabled and elderly persons by individual home-care providers. Under the program as proposed by I-159, a home-care recipient would choose an individual provider trained and certified by the state. Individual providers would be permitted to bargain collectively with the state, but only through a statewide union exclusively composed of individual providers who would not be permitted to strike.

2. I-159 was submitted to the secretary of state on April 14, 2008. The attorney general approved the petition language on May 9, 2008. The secretary of

state then approved the petition form for I-159 on May 12, 2008, and transmitted it to the sponsors, authorizing the gathering of signatures. The sponsors of I-159 voluntarily withdrew the initiative on June 25, 2008.

3. The complainant, Jonathan Motl, is a Helena attorney who was the author of I-159.

4. Montanans for In-Home Care (MIHC) was formed as a ballot issue committee to support I-159.

5. Montana Health Care Association (MHCA) describes itself on its website as a “non-profit, member-driven professional association serving Montana’s long term care facilities.” MHCA opposed I-159.

6. On July 17, 2008, MHCA filed a complaint alleging numerous campaign finance and practices violations by MIHC, the Service Employees International Union (SEIU), and SEIU’s PAC. Following an investigation the commissioner of political practices (CPP) found a number of violations, which were summarized in a summary of facts and statement of findings issued on August 31, 2011.

7. Summit Independent Living Center (Summit), which was formed in 1988, is an organization that provides services to assist persons with physical or mental disabilities. According to its website Summit’s mission is “to promote community awareness, equal access, and the independence of people with disabilities through advocacy, education, and the advancement of civil rights.” Summit opposed I-159.

8. Montana Health Solutions (MHS) is a private company that provides health care management services. MHS opposed I-159.

9. The complaint, filed in September, 2008, alleges the following specific violations of Montana law by each respective organization:

Claims Against Summit

Summit Claim 1

Summit failed to report the fair market value of in-kind staff and office overhead costs expended in opposition to I-159, including wages, benefits, and office overhead. The complaint cites § 13-37-101(7)(11), MCA; however, there is no such statute. It appears the complainant intended to cite § 13-1-101(11), MCA.

Summit Claim 2

Summit failed to report website development costs. Noting that MIHC reported website development costs of approximately \$6,000, the complaint implies that Summit should have reported a similar amount of costs related to its website development. The complaint does not cite a statute or rule that was alleged to have been violated by the failure to report these costs.

Summit Claim 3

Summit failed to include "paid for by" attribution language on some campaign materials on its website, in violation of § 13-35-225, MCA.

Summit Claim 4

Summit failed to register with CPP and report as a ballot issue committee, in violation of ARM 44.10.327.

Summit Claim 5

Summit failed to disclose the “nature” of its campaign activity in opposition to I-159.

Claims Against MHCA

MHCA Claim 1

MHCA failed to report the value of in-kind expenditures related to its activities in opposition to I-159.

MHCA Claim 2

MHCA failed to register with CPP and report as a ballot issue committee, in violation of ARM 44.10.327.

MHCA Claim 3

MHCA failed to disclose the “nature” of its campaign activity in opposition to I-159.

Claims Against MHS

MHS Claim 1

MHS failed to report the value of in-kind expenditures related to its activities in opposition to I-159.

MHS Claim 2

MHS failed to report expenditures paid by check.

MHS Claim 3

MHS failed to disclose the “nature” of its campaign activity in opposition to I-159.

Facts Related to Summit Claim 1

10. Summit filed a C-2 Statement of Organization as an incidental political committee on May 30, 2008, indicating it opposed I-159.

11. Summit filed a C-4 incidental committee campaign finance report on June 9, 2008. The report disclosed expenditures of \$2,748.97 for the period May 28 to June 3, 2008, describing the purpose of the expenditures as “to oppose I-159: staff time, expenses, printing, P.O. box.”

12. Summit filed a second C-4 incidental committee campaign finance report on July 10, 2008. The report disclosed expenditures of \$1,391.97 for the period June 4 to July 3, 2008, describing the purpose of the expenditures as “to oppose I-159: staff time, phone, postage.”

13. In its written response to the complaint Summit notes that the C-4 form “is not set up to report individual line items for the types of in-kind expenses” incurred and reported by the organization, therefore Summit reported the expenses in a lump sum. Summit’s response includes a spreadsheet providing details regarding the individual expense categories it reported as lump sums on the C-4 reports. Summit explains that in-kind staff hours were calculated at \$25 per hour, which is a figure that Summit routinely uses to allocate staff expenses for its annual overall budget, as well as when it bills for some services it provides. According to Summit, the \$25 per hour figure includes the costs of salaries, benefits, office overhead, and administrative expenses. Finally, Summit notes that

the hours listed reflect actual hours spent by staff related to a variety of campaign activities pertaining to the organization's opposition to I-159.

Facts Related to Summit Claim 2

14. The complaint alleges that Summit developed an extensive website in opposition to I-159. The complaint notes that MIHC reported website development costs valued at approximately \$6,000, and that Summit has not reported similar costs for its website communications in opposition to I-159.

15. In its response Summit states that its webmaster, Travis Hoffman, spent 27 hours developing website materials opposing I-159, which were attached as webpages to Summit's existing website. Summit states that Hoffman's time was included in the total lump sum amount reported on Summit's C-4 reports (\$2,748.97), and detailed on the spreadsheet attached to Summit's response, using the \$25 per hour valuation described in Fact 13. Summit also notes that its existing website has been active for more than ten years.

Facts Related to Summit Claim 3

16. Noting that some of the campaign messages opposing I-159 on Summit's website did not include the language "paid for by," the complaint requests that to the extent "any disclosure violation is found against MIHC it should be found equally" against Summit, referring to the campaign finances and practices complaint filed against MIHC in July, 2008, which resulted in the August 31, 2011 summary of facts and statement of findings. See Fact 6.

17. Campaign materials on Summit's website did not include the words "paid for by," but included the following language:

Summit Independent Living Center, Inc.
AGAINST I-159
P.O. Box 3184
Missoula, MT 59806
406-728-1630
Mike Mayer, Treasurer

Facts Related to Summit Claim 4

18. The complaint alleges that Summit should have registered and reported as a ballot issue committee, based on the following factors:

- Summit's website was labeled, in part "summitilcagainst159;"
- Summit formed a committee organized to oppose a ballot issue; and
- Summit was not involved in incidental activity, but was instead organized to actively oppose I-159.

19. Summit was incorporated on June 27, 1988, and exists as a nonprofit, public benefit corporation without members, organized for charitable purposes. In response to the complaint, Summit contends that it registered as an incidental political committee based on its conversations with staff at the CPP office and its understanding of Montana campaign finance and practices laws. Summit notes that it is a nonprofit organization whose mission is to promote equal access, community awareness, and the independence of people with disabilities through advocacy, education, and the advancement of civil rights. Summit believed that several aspects of I-159 would be detrimental to people with

disabilities and senior citizens who require in-home care. Summit also contends that it spent slightly more than \$4,000 on campaign activities opposing I-159, received only \$23 in contributions, and did not solicit or receive contributions from outside organizations, businesses, or individuals. The amount spent by Summit opposing I-159 constitutes approximately .1% of Summit's 2008 operating budget. Summit also notes that it conducted activities in opposition to I-159 for only a short period of time, from May 28 to June 20, 2008, and that this was the first and only time that Summit engaged in political activity throughout its more than 20-year existence. Therefore, Summit believes it properly registered and filed reports as an incidental political committee.

Facts Related to Summit Claim 5

20. Citing ARM 44.10.513, the complaint alleges that the campaign finance reports filed by Summit failed to properly disclose the "nature" of its campaign activities in opposition to I-159. The complaint notes that MHCA filed a complaint containing a similar allegation against MIHC (see Fact 6), and suggests that if CPP finds MIHC violated that requirement, then SILC is also in violation. Summit did not directly respond to this claim.

21. In the summary of facts and statement of findings referenced in Fact 6, CPP found that MIHC did not violate the requirement that it disclose the nature of its campaign activities in support of I-159.

22. Summit's C-4 campaign finance reports did not disclose any in-kind contributions. The reports disclosed expenditures with descriptions including "to

oppose I-159,” “staff time,” “phone,” “postage,” “expenses,” “printing,” and “P.O. box.”

Facts Related to MHCA Claim 1

23. The complaint alleges that MHCA failed to report the fair market value of in-kind costs and expenses related to its activities in opposition to I-159. The complaint notes that MHCA has an office staffed by an executive director, as well as a board of directors whose members represent nursing homes, hospitals, and home care entities located throughout Montana. According to the complaint, over a period of two months MHCA hired two law firms, a political process consultant, and a video production firm; and placed ads in four newspapers. The complaint alleges that MHCA’s C-4 campaign finance reports disclosed no proportional share of its office and staff costs.

24. In response MHCA states that it has no employees and no office overhead costs. MHCA contracts with RMS Management Services (RMS) to provide office space, staff, equipment, and supplies to run the association, and has had this contractual relationship for almost thirty years. According to its response, MHCA entered into a separate contractual relationship with RMS for the specific purpose of providing services, staff, and equipment related to MHCA’s efforts in opposition to I-159. RMS charged an amount that it deemed appropriate for the services provided, as it does with all of its clients, and MHCA reported that amount as an expenditure related to I-159. MHCA states that it also sought and

paid for legal advice regarding compliance with Montana's campaign reporting requirements.

25. Rose Hughes is a partner in RMS, which has designated her to act as executive director of MHCA pursuant to a contract between MHCA and RMS.

Facts Related to MHCA Claim 2

26. The complaint alleges that based on its extensive activities in opposition to I-159 MHCA was required to register and report as a ballot issue committee.

27. In response, MHCA notes that it has existed as an organization since the 1960's, and during that time has been engaged in numerous educational and other activities in support of its members and the people they serve. MHCA was organized as a non-profit association serving long-term care entities. MHCA contends that I-159 was directly related to Montana's long-term care system and, if it became law, would have adversely affected the members that MHCA serves. Therefore, for the first time in all its years of existence, MHCA decided to become involved in an effort to oppose a ballot issue. MHCA believes that it appropriately registered and reported as an incidental political committee.

28. Records at the office of the secretary of states show that MHCA has been registered as a business entity since 1962. In addition, MHCA's website describes itself as a non-profit, member-driven professional association, founded in 1962, serving Montana's long-term care facilities.

Facts Related to MHCA Claim 3

29. Citing ARM 44.10.513, the complaint alleges that the campaign finance reports filed by MHCA failed to properly disclose the “nature” of its campaign activities in opposition to I-159. The complaint appears to seek a finding of liability only if CPP finds that MIHC committed a similar violation. See Fact 20.

30. As noted in Fact 21, in a previously issued summary of facts and statement of findings CPP found that MIHC did not violate the requirement that it disclose the nature of its campaign activities in support of I-159.

31. In response to this claim MHCA notes that the rule cited in the complaint to support this allegation (ARM 44.10.513) deals only with the reporting of in-kind contributions, and MHCA’s campaign finance reports do not disclose that it received any in-kind contributions.

32. MHCA’s campaign finance reports disclosed expenditures made to RMS for items including staff, office space, equipment, copies, fax, and postage.

Facts Related to MHS Claim 1

33. The complaint alleges that MHS has an office with staff, and that it was required to disclose the proportional share of the fair market value of any staff time (including salaries), office overhead, and other costs such as travel reimbursement, spent in opposing I-159.

34. On July 10, 2008 MHS filed a C-4 campaign finance report disclosing an in-kind contribution of \$2,030, described as “staff time.” In its response to the complaint MHS notes that after filing the report MHS

representative Daryl Holzer had a telephone conversation with Mary Baker, Program Supervisor at the CPP office. During that conversation it was determined that the amount reported as an in-kind contribution should have been reported as an expenditure, and Ms. Baker placed a note in the file summarizing the conversation. MHS notes that it was not asked to file an amended C-4 report reflecting the change, but nevertheless it submitted an amended report with its response to the complaint. The amended report includes five entries designated as expenditures, and totaling \$2,030. Each entry is described as “staff time to oppose I-159 (amount includes benefits and overhead).”

Facts Related to MHS Claim 2

35. The complaint states that handwritten notes from “MB” in MHS’s file at the CPP office indicate that “checks” were written. The complaint claims that since MHS did not report any amounts that represent a paid account requiring a check, MHS failed to report expenditures paid by check.

36. In response MHS states that the notation regarding checks related to Holzer’s telephone conversation with Mary Baker (Fact 34), during which Holzer advised Baker that MHS had paid, by check, the amounts incorrectly reported as in-kind contributions.

37. Montanans for Quality Home Care filed a C-4 incidental political committee report on June 11, 2008, reporting an expenditure of \$2,030 to MHS, and describing the purpose of the expenditure as “to oppose I-159 - staff time independent.” That report also disclosed a \$120 expenditure by Consumer Direct

Personal Care, LLC, describing the purpose as “to oppose I-159.” Mary Baker reviewed the C-4 and determined 1) that MHS needed to register as an incidental committee as “Montana Health Solutions” rather than as Montanans for Quality Home Care; 2) MHS needed to amend its C-4 to reflect only its payment; and 3) Consumer Direct Personal Care needed to report its expenditures by filing as an incidental political committee.

38. MHS then filed an amended C-4 report correctly identifying itself as “Montana Health Solutions, Inc.” and reporting its expenditure of \$2,030. MHS’s amended C-4 did not report any in-kind contributions. Mary Baker clarified with MHS that the checks written for staff time to oppose I-159 were written for MHS, not for Montanans for Quality Home Care. MHS did not make any unreported expenditures.

39. Consumer Direct Personal Care filed as a separate incidental political committee and its C-4 reported its \$120 expenditure.

Facts Related to MHS Claim 3

40. The complaint alleges that campaign finance reports filed by MHS failed to properly disclose the “nature” of its campaign activities in opposition to I-159. The complaint appears to seek a finding of liability only if CPP finds that MIHC committed a similar violation. See Fact 20.

41. As noted in Fact 21, in a previously issued summary of facts and statement of findings CPP found that MIHC did not violate the requirement that it disclose the nature of its campaign activities in support of I-159.

42. In response to the complaint MHS notes that the rule cited in the complaint to support this allegation (ARM 44.10.513) deals only with the reporting of in-kind contributions, and MHS did not make any in-kind contributions.

43. MHS's campaign finance reports do not reflect any in-kind contributions by MHS. No evidence was disclosed during the investigation that would support a conclusion that MHS made in-kind contributions connected with its opposition to I-159.

STATEMENT OF FINDINGS

Summit Claim 1

The complaint alleges that Summit failed to report the fair market value of in-kind staff and office overhead costs expended in opposition to I-159, which fails to meet the "anything of value" standard for reporting of expenditures. § 13-37-230, MCA requires campaign finance reports to disclose "expenditures made." An "expenditure" is broadly defined to include a "purchase, payment, distribution, loan, advance, promise, pledge, or gift of money *or anything of value* made for the purpose of influencing the results of an election." § 13-1-101(11)(a), MCA (emphasis added). An "in-kind expenditure" means "the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a person, candidate, or political committee" for the purpose of supporting or opposing, *inter alia*, a ballot issue. ARM 44.10.323(2).

Summit reported its expenditures on the C-4 form in a lump sum, noting that the form is not set up to report itemized expenditures. Summit later provided a spreadsheet explaining individual expense categories. Summit reported in-kind staff hours based on a calculation of \$25 per hour, which is a figure that Summit has routinely used in the past to allocate staff expenses for annual budget purposes. Summit claims that the \$25 per hour figure includes the cost of salaries, benefits, office overhead, and administrative expenses.

Summit properly reported the value of its in-kind expenditures, and there is no basis to conclude that the organization failed to report the fair market value of expenditures associated with staff and office overhead costs.

Summit Claim 2

The complaint alleges that Summit did not properly report costs associated with development and utilization of its website to oppose I-159. Summit reported its website costs as part of its staff expenses, at its customary rate of \$25 per hour for 27 hours spent by its webmaster, Travis Hoffman. That amount is included in the total expenditures of \$2,748.97 reported by Summit on its C-4 reports. Unlike MIHC, Summit had an existing website for a number of years, therefore it is not realistic to compare its website costs with the approximately \$6,000 in website costs reported by MIHC. Summit did not fail to properly report its website costs.

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Summit Claim 3

The complaint alleges that Summit failed to provide proper attribution language by including the words “paid for by” on its website campaign materials, in violation of § 13-35-225, MCA. Subsection (1) of the statute 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.

To comply with the statute, Summit’s communications should have included the attribution language “paid for by” followed by the name of the committee, name of the committee treasurer, and address of either the committee or its treasurer.

While the words “paid for by” were not included on the website campaign materials, all other identifying and contact information for Summit was included.

See Fact 17.

In Matter of the Complaint Against CI-97 Stop Overspending Montana, et al., Summary of Facts and Statement of Findings (April 15, 2008), Commissioner Dennis Unsworth decided not to prosecute an alleged technical violation of the attribution requirements of § 13-35-225(1), MCA where he found that, despite the

violations, the attribution language did not deprive the public of notice regarding which political committee paid for the campaign materials and how the committee could be contacted. See also Matter of the Complaint Against Montanans for In-Home Care for I-159, SEIU 775 Montana, and SEIU 775 PAC, Summary of Facts and Statement of Findings (August 31, 2011). For similar reasons, I will decline to prosecute the technical violations of the attribution requirements in this case.

Summit Claim 4

The complaint alleges that Summit should have registered and reported as a ballot issue committee, rather than as an incidental political committee. ARM 44.10.327 describes the different types of political committees:

POLITICAL COMMITTEE, TYPES

(1) For purposes of Title 13, chapters 35 and 37, MCA, and these rules, political committees shall be of three types:

- (a) principal campaign committee;
- (b) independent committee; and
- (c) incidental committee.

(2) These types of political committees are defined as follows:

(a) A principal campaign committee is a political committee that is specifically organized to support or oppose a particular candidate or issue. There are three types of principal campaign committees.

(i) A ballot issue committee is specifically organized to support or oppose a ballot issue, as defined in 13-1-101, MCA.

...

(c) 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.

(3) "Primary purpose" shall be determined based upon such criteria as allocation of budget, staff or members' activity, and the statement of purpose or goals of the individuals or person.

Summit has existed as a nonprofit corporation since 1988. Summit's stated mission is to promote equal access, community awareness, and independence of people with disabilities through advocacy, education, and the advancement of civil rights. Summit's activities in opposition to I-159 marked the first and only time in its existence that it became involved in a political matter. The amount spent by Summit opposing I-159 is a small fraction of the organization's 2008 budget. See Fact 19.

Summit was not specifically organized to oppose I-159, and it was clearly not organized for the primary purpose of influencing elections. Summit became incidentally involved in the political process when it opposed I-159 for a short period of time in 2008. Thus, Summit was properly registered as an incidental political committee.

Summit Claim 5

Citing ARM 44.10.513, the complaint alleges that Summit failed to disclose the "nature" of its campaign activities in opposition to I-159. The complaint notes that MHCA's complaint alleged that MIHC's campaign finance

reports similarly failed to report the nature of its campaign activities, and to the extent such a requirement exists for MIHC then it also exists for Summit.

ARM 44.10.513 pertains to reporting of in-kind contributions. ARM 44.10.531 provides information and guidance for reporting expenditures. ARM 44.10.533(1)(a) states that an in-kind expenditure shall be reported on the appropriate reporting schedule and, in addition to other reporting requirements, shall “identify it as to its nature.” Summit’s C-4 reports disclosed expenditures “to oppose I-159,” listing specific items including staff time, expenses, printing, telephone, postage, and expenses for a post office box.

In a summary of facts and statement of findings issued in relation to the complaint filed by MHCA, CPP noted that MIHC disclosed the names of individual staff members and the percentage of their time, salary, benefits and other costs attributable to providing services related to MIHC’s support of I-159. CPP found that MIHC adequately identified the “nature” of the in-kind contributions it received and its campaign activities in support of I-159. For similar reasons I find that SILC also adequately disclosed the nature of expenditures it made in opposition to I-159.

MHCA Claim 1

The complaint alleges that MHCA failed to report the fair market value of in-kind costs and expenses related to its activities in opposition to I-159.

According to the complaint, MHCA should have reported the proportional share of

its staff and office overhead costs that were attributable to its efforts opposing the ballot issue.

MHCA has no employees and no office space or overhead costs. MHCA contracts with RMS to provide office space, staff, equipment, and supplies to operate MHCA. See Fact 24. Rose Hughes is a partner in RMS, which has designated her to act as executive director of MHCA pursuant to the contract. RMS billed an appropriate amount for the services it provided and MHCA paid that amount. MHCA filed C-4 campaign finance reports disclosing the payments to RMS as expenditures. There is no basis to conclude that MHCA failed to report the fair market value of in-kind costs or expenses.

MHCA Claim 2

The complaint alleges that based on its “extensive activity” in opposition to I-159 MHCA was required to register and report as a ballot issue committee. This claim is similar to Claim 4 alleged against SILC, discussed at pp. 17-18 of this summary of facts and statement of findings.

MHCA was organized in April, 1962. According to its website MHCA is a non-profit, member-driven professional association serving Montana’s long term care facilities. MHCA contends that I-159, if it became law, would have adversely affected the members that MHCA serves. Therefore, for the first and only time during its existence MHCA became involved with a ballot issue, engaging in efforts to oppose I-159. MHCA registered and reported as an incidental political committee.

MHCA was not specifically organized to oppose I-159, and it was clearly not organized for the primary purpose of influencing elections. MHCA became incidentally involved in the political process when it opposed I-159 for a short period of time in 2008. Thus, MHCA was properly registered as an incidental political committee.

MHCA Claim 3

Citing ARM 44.10.513, the complaint alleges that campaign finance reports filed by MHCA failed to properly disclose the “nature” of its campaign activities in opposition to I-159. ARM 44.10.513 pertains to reporting of in-kind contributions. ARM 44.10.531 provides information and guidance for reporting expenditures. ARM 44.10.533(1)(a) states that an in-kind expenditure shall be reported on the appropriate reporting schedule and, in addition to other reporting requirements, shall “identify it as to its nature.” MHCA’s C-4 reports disclosed expenditures made to RMS, described as contracted fees for staff, space, equipment, fees, costs, copies, fax, and postage. See Facts 24 and 32.

In a summary of facts and statement of findings issued in relation to the complaint filed by MHCA, CPP noted that MIHC disclosed the names of individual staff members and the percentage of their time, salary, benefits and other costs attributable to providing services to MIHC related to I-159. CPP found that MIHC adequately identified the “nature” of the in-kind contributions it received and its campaign activities in support of I-159. For similar reasons I find

that MHCA adequately disclosed the nature of its expenditures related to its campaign activities in opposition to I-159.

MHS Claim 1

The complaint alleges that MHS has an office with staff, and that it was required disclose the proportional share of the fair market value of any staff time, office overhead, and other costs such as travel reimbursement, expended in opposition to I-159.

MHS filed its initial C-4 campaign finance report disclosing an in-kind contribution of \$2,030, described as “staff time.” Following a telephone conversation with Mary Baker, Program Supervisor at the CPP office, the in-kind contribution entry was corrected to reflect an in-kind expenditure for staff time and overhead expenses. Baker made a handwritten notation on the original C-4. Although not requested to do so, in its response to the complaint MHS filed an amended C-4 reflecting the correction. MHS did not make any in-kind contributions, and it properly disclosed the value of staff time and office overhead expended in opposition to I-159.

MHS Claim 2

The complaint alleges that, based on notes included in CPP’s files, MHS failed to report expenditures made by check. See Fact 35. The facts relevant to this claim are set out in Facts 34 – 38. In summary, MHS made expenditures in opposition to I-159, and paid for those expenditures by check. The issue of “checks” arose when MHS initially registered and reported under the name

Montanans for Quality Home Care, rather than MHS. Following a telephone conversation with CPP Program Supervisor Mary Baker, MHS filed an amended C-4 reflecting its correct incidental committee name (Montana Health Solutions, Inc.) and reporting expenditures of \$2,030 and no in-kind contributions. Baker confirmed that MHS wrote checks for the reported staff time to oppose I-159, and made a notation in the file to that effect. MHS did not make any unreported expenditures.

MHS Claim 3


Citing ARM 44.10.513, the complaint alleges that campaign finance reports filed by MHS failed to properly disclose the “nature” of its campaign activities in opposition to I-159. ARM 44.10.513 pertains to reporting of in-kind contributions. ARM 44.10.531 provides information and guidance for reporting expenditures. ARM 44.10.533(1)(a) states that an in-kind expenditure shall be reported on the appropriate reporting schedule and, in addition to other reporting requirements, shall “identify it as to its nature.” MHS’s C-4 reports, including the amended report it submitted with its response to the complaint, disclosed expenditures made for staff time and office overhead to oppose I-159. I find that MHS adequately disclosed the nature of its expenditures related to its campaign activities in opposition to I-159.

CONCLUSION

Although campaign messages on Summit’s website did not include the words “paid for by,” all other identifying and contact information for Summit was

listed on the website. Therefore, a civil prosecution of the technical violation of § 13-35-225, MCA is not justified. In addition, based on the preceding summary of facts and statement of findings there is insufficient evidence to conclude that Summit, MHCA, or MHS violated any other Montana campaign finance and practices laws or rules.

Dated this 9th day of March, 2012.


James W. Murry
Deputy Commissioner of Political Practices