

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaints)
Against 400% Interest is Too)
High – Cap the Rate, Montana)
Women Vote, Montana Human)
Rights Network, AARP)
Montana, Rural Dynamics, Inc.,)
NeighborWorks Montana, and)
Montana Community)
Foundation and its Endowed)
Fund, Women’s Foundation)
of Montana)

**SUMMARY OF FACTS
AND
STATEMENT OF FINDINGS**

Bernard J. Harrington filed complaints against 400% Interest is Too High – Cap the Rate, Montana Women Vote, Montana Human Rights Network, AARP Montana, Rural Dynamics, Inc., NeighborWorks Montana, and the Montana Community Foundation and its endowed fund, the Women’s Foundation of Montana, alleging violations of Montana campaign finance and practice laws.

SUMMARY OF FACTS

1. In 2010, a proposed statewide ballot initiative known as Initiative No. 164 (I-164) was approved for signature gathering to qualify it for the ballot. I-164 would limit the annual interest, fees, and charges that payday, title, retail installment lenders, and consumer loan licensees could charge on loans to 36 percent. On April 23, 2010, the office of the Montana Secretary of State prepared the form of the petition and transmitted it to the person who submitted the proposed issue, thereby approving the initiative petition for signature gathering.

2. I-164 ultimately qualified for the ballot and was approved by the voters at the general election in 2010.

3. Complainant Bernard Harrington (Harrington) owned six payday loan businesses. On May 28, 2010, Harrington filed seven complaints with the office of the Commissioner of Political Practices (CPP) alleging that the following entities violated Montana campaign finance and practices statutes or rules:

- 400% Interest is Too High – Cap the Rate
- Montana Women Vote
- NeighborWorks Montana
- Rural Dynamics, Inc.
- Montana Human Rights Network
- Montana Community Foundation and Montana Women’s Foundation
- AARP Montana

4. 400% Interest is Too High – Cap the Rate (Cap the Rate) was formed as a ballot issue committee to support I-164. Cap the Rate filed its C-2 Statement of Organization on April 27, 2010.

5. According to its website, Montana Women Vote (Women Vote) is a coalition of non-profit organizations that encourages low-income women to participate in the democratic process.

6. NeighborWorks Montana (NeighborWorks) is an organization that provides homebuyer education and planning services and counseling, foreclosure

prevention services, and funds for down payments, closing costs, and other expenses related to the home purchasing process.

7. Rural Dynamics, Inc. (Rural Dynamics) is a nonprofit organization that acts as a consumer credit counseling agency, providing debt management services and education to clients.

8. The Montana Human Rights Network (MHRN), according to its website, is a grassroots, membership-based organization that seeks to promote democratic values such as pluralism, equality, and justice.

9. The Montana Community Foundation (Foundation) is a nonprofit community foundation that manages and invests charitable funds for individuals, families, businesses, and other nonprofit organizations. The Women's Foundation of Montana is an endowed fund of the Foundation. According to its website the Women's Foundation of Montana raises funds to build an endowment to provide a permanent source of grants to invest in economic self-sufficiency for women.

10. AARP Montana (AARP) is part of AARP, a national nonprofit organization and interest group that provides services and information for persons 50 years of age and older.

11. The complaint alleges the following specific violations of Montana law by each respective entity:

Claims Against Cap the Rate

Cap the Rate Claim 1

Cap the Rate's name violates Mont. Code Ann. § 13-37-210, Montana's statute providing requirements for naming of political committees. Cap the Rate's C-6 campaign financial disclosure reports filed in May 2010 only reported contributions from nonprofit organizations, all of which (according to the complaint) "share a common special interest in that they are nonprofit organizations."

Cap the Rate Claim 2

Cap the Rate violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411, when it failed to report two \$5,000 earmarked contributions it received from Service Employees International Union (SEIU) and NeighborWorks.

Cap the Rate Claim 3

Amounts reported on C-4 financial disclosure reports filed by the Foundation, MHRN, and AARP do not match amounts reported on Cap the Rate's C-6 financial disclosure reports.

Claims Against Women Vote

Women Vote Claim 1

Women Vote violated Mont. Code Ann. § 13-35-225 by failing to include the required "paid for by" disclaimer language on its website, Facebook page, and a flyer when referencing the I-164 campaign.

Women Vote Claim 2

Women Vote violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411 and 44.10.323, by failing to report resources it utilized to support I-164.

Women Vote Claim 3

Women Vote filed its C-2 statement of organization more than five days after making an expenditure, in violation of Mont. Code Ann. § 13-37-201.

Women Vote Claim 4

The complaint alleges that by engaging in political activity, Women Vote “may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations.”

Claims Against NeighborWorks

NeighborWorks Claim 1

NeighborWorks violated Mont. Code Ann. § 13-35-225 by failing to include the required “paid for by” disclaimer language on its website when referencing the I-164 campaign.

NeighborWorks Claim 2

NeighborWorks violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411 and 44.10.323, by failing to report resources it utilized to support I-164.

NeighborWorks Claim 3

NeighborWorks filed its C-2 statement of organization more than five days after making an expenditure, in violation of Mont. Code Ann. § 13-37-201.

NeighborWorks Claim 4

The complaint alleges that by engaging in political activity, NeighborWorks “may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations.”

NeighborWorks Claim 5

The complaint alleges that employers of board members serving on the NeighborWorks board of directors were required to file as incidental committees and report the time that the employer compensated its employee for his or her participation on the NeighborWorks board of directors.

Claims Against Rural Dynamics

Rural Dynamics Claim 1

Rural Dynamics violated Mont. Code Ann. § 13-35-225 by failing to include the required “paid for by” disclaimer language on its website when referencing the I-164 campaign.

Rural Dynamics Claim 2

Rural Dynamics violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411 and 44.10.323, by failing to report resources it utilized to support I-164.

Rural Dynamics Claim 3

Rural Dynamics filed its C-2 statement of organization more than five days after making an expenditure, in violation of Mont. Code Ann. § 13-37-201.

Rural Dynamics Claim 4

The complaint alleges that by engaging in political activity, Rural Dynamics “may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations.”

Claims Against MHRN

MHRN Claim 1

MHRN violated Mont. Code Ann. § 13-35-225 by failing to include the required “paid for by” disclaimer language on its website, specifically its Facebook page, when referencing the I-164 campaign.

MHRN Claim 2

MHRN violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411 and 44.10.323, by failing to report resources it utilized to support I-164.

MHRN Claim 3

Amounts reported on C-4 financial disclosure reports filed by MHRN do not match amounts reported on Cap the Rate’s C-6 financial disclosure reports.

MHRN Claim 4

MHRN filed its C-2 statement of organization more than five days after making an expenditure, in violation of Mont. Code Ann. § 13-37-201.

MHRN Claim 5

The complaint alleges that by engaging in political activity, MHRN “may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations.”

Claims Against the Foundation

Foundation Claim 1

The Foundation violated Mont. Code Ann. § 13-35-225 by failing to include the required “paid for by” disclaimer language on its website when referencing the I-164 campaign.

Foundation Claim 2

The Foundation violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411 and 44.10.323, by failing to report resources it utilized to support I-164.

Foundation Claim 3

Amounts reported on C-4 financial disclosure reports filed by the Foundation do not match amounts reported on Cap the Rate’s C-6 financial disclosure reports.

Foundation Claim 4

The Foundation filed its C-2 statement of organization more than five days after making an expenditure, in violation of Mont. Code Ann. § 13-37-201.

Foundation Claim 5

The complaint alleges that by engaging in political activity, the Foundation “may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations.”

Foundation Claim 6

The complaint alleges that employers of board members serving on the Foundation board of directors were required to file as incidental committees and report the time that the employer compensated its employee for his or her participation on the Foundation board of directors.

Claims Against AARP

AARP Claim 1

AARP violated Mont. Code Ann. § 13-35-225 by failing to include the required “paid for by” disclaimer language on its website when referencing the I-164 campaign.

AARP Claim 2

AARP violated Mont. Code Ann. §§ 13-37-229 and 13-37-230, as well as ARM 44.10.411 and 44.10.323, by failing to report resources it utilized to support I-164.

AARP Claim 3

Amounts reported on C-4 financial disclosure reports filed by AARP do not match amounts reported on Cap the Rate's C-6 financial disclosure reports.

AARP Claim 4

AARP filed its C-2 statement of organization more than five days after making an expenditure, in violation of Mont. Code Ann. § 13-37-201.

AARP Claim 5

The complaint alleges that by engaging in political activity, AARP "may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations."

Facts Related to Claims Against Cap the Rate

12. On October 22, 1999 CPP issued an opinion entitled "Interpretation and Enforcement of Naming and Labeling Statute." The opinion states that a violation of the statute occurs if a majority of the contributors to a political committee share an identifiable economic or special interest. Determinations of shared economic or special interest will be based on the "name of the employer" and the "occupation" information provided by the contributor and listed on the committee's C-6 financial disclosure reports.

13. An examination of Cap the Rate's C-6 financial disclosure reports filed with CPP discloses that numerous individuals and organizations made contributions to the political committee. None of the individuals who contributed

share a common employer. Many of the organizations who contributed are nonprofit organizations. The organizations provide services for various groups of people including, for example, low income women (Women Vote), homebuyers (NeighborWorks), persons with debt issues (Rural Dynamics and Center for Responsible Lending), persons seeking family planning services (Bridger Clinic) and persons 50 years of age and older (AARP). Some of the organizations promote social, economic, and racial justice and equality (Western States Center, Montana Organizing Project, and MHRN). One organization's specific goal is to fight what it describes as predatory lending practices (Center for Responsible Lending). One organization refers to itself as the public policy branch of the Catholic Church in Montana (Montana Catholic Conference). Two unions made contributions (National Education Association and SEIU). There is not a majority of contributors to Cap the Rate who share an identifiable common economic or special interest.

14. Cap the Rate reported that it made its first expenditure on March 10, 2010, purchasing check blanks for its checking account.

15. Cap the Rate filed a C-2 statement of organization with CPP on April 27, 2010.

16. The Foundation filed C-4 financial disclosure reports as an incidental political committee. The Foundation reported receiving a \$5,000 earmarked contribution from NeighborWorks on February 1, 2010 (reported as a contribution from the Montana Homeownership Network). A C-4 filed by

NeighborWorks discloses a \$5,000 contribution it made to Cap the Rate, "c/o MT Women's Foundation" on February 1, 2010.

17. The Foundation reported receiving a \$5,000 earmarked contribution from SEIU on February 16, 2010. A C-4 filed by SEIU discloses a \$5,000 contribution it made to Cap the Rate, "c/o MT Women's Foundation."

18. Cap the Rate filed a C-6 financial disclosure report on May 10, 2010, for the reporting period February 1 to May 5, 2010. The C-6 reports earmarked contributions from the Foundation in the amount of \$18,800, received between February 1 and May 3, 2010. The description of the contribution reads: "Earmarked contributions as reported on C-4." Cap the Rate's C-6 does not identify the original contributors of the money to the Foundation.

19. The complaint alleges that the contributions reported by the Foundation do not match those reported as received by Cap the Rate, resulting in a discrepancy of nearly \$20,000. A comparison of C-4 reports filed by the Foundation and C-6 reports filed by Cap the Rate reveals five discrepancies in the reports. The Foundation initially reported the same amounts as Cap the Rate, but the Foundation then filed amended C-4 reports correcting certain amounts reported. Cap the Rate, however, did not subsequently amend its reports. The five reporting discrepancies resulted in Cap the Rate over-reporting \$1,142.48.

20. Based on the reporting dates specified on the 2009-2010 Statewide Ballot Issue Committee calendar issued to political committees by CPP, Cap the Rate filed two of its C-6 reports after the filing deadline. Cap the Rate filed a C-6

due on July 10, 2010, two days late, on July 12, 2010. Cap the Rate filed a C-6 report due on October 28, 2010, one day late, on October 29, 2010.

Facts Related to Claims Against Women Vote

21. The complaint alleges that Women Vote failed to include the required “paid for by” disclaimer language on its website and Facebook page when referencing the I-164 campaign. In addition, the complaint alleges that Women Vote distributed a flyer “urging individuals to ‘help protect other Montana families from the payday lending trap,’” and that the flyer does not contain the disclaimer language required by Montana law.

22. In 2010 Women Vote maintained a website that included content related to the I-164 campaign. The complainant provided printouts of Women Vote’s March 18 and May 5, 2010, website pages, which included the following statements:

News & Events: Montana Women Vote is excited to announce that we are working on the 400 Percent is Too High – Cap the Rate Campaign! Find out more [Payday lending information here](#).

Another section on Women Vote’s website was entitled: “THE TRUTH ABOUT PAYDAY AND TITLE LOANS IN MONTANA.” The page states: “Get the facts . . . ,” “Alternative loans . . . ,” “More information,” and “How you can get involved.” Under “More information” it states “MWV is working to cap the rate at 36% APR.”

23. Facebook is a social networking service provided to individuals or organizations with internet access. There is no charge for users to register and use

the service. Facebook enables individuals or organizations to create a personal profile, accept and post commentary, add users as “friends,” exchange messages, and provide links to external articles or websites.

24. The Women Vote Facebook page included three entries regarding capping interest rates on loans. One of the entries was a notice that Women Vote was working with 11 other groups to pass a state-wide initiative to cap the interest on payday and title loans, and the other two entries asked for help in gathering signatures or sharing a personal story.

25. Women Vote created a flyer asking people for stories regarding personal experiences involving payday loans:

Have you ever taken a payday loan when in financial crisis only to end up further in debt? We want your story! You can help protect other Montana families from the payday lending trap. We offer a \$10 gas or grocery stipend for your time.

The flyer does not directly reference I-164.

26. Neither the Women Vote website nor its Facebook page contained “paid for by” disclaimer language. However, the Women Vote website has contact information including its name, physical address, telephone number, and email address. The Women Vote Facebook page did not include the same contact information, but provided a contact name and email address if someone wanted to help gather signatures for I-164.

27. Women Vote filed a number of C-4 incidental political committee financial disclosure reports disclosing the value of staff time, including benefits, and a percentage of office overhead costs related to its efforts supporting I-164.

28. Women Vote pays \$8.95 per month for its internet access, with an additional \$10 annual fee for website hosting costs. According to its attorney Women Vote reported all I-164 website content and maintenance costs on its campaign finance reports under "staff and overhead costs."

29. Women Vote reported that it made its first expenditure during the period from February 1 to March 31, 2010, reflecting the value of staff time and office overhead related to its efforts in support of I-164.

30. Women Vote filed a C-2 statement of organization with CPP on April 27, 2010.

31. Based on the reporting dates specified on the 2009-2010 Statewide Incidental Committee calendar issued by CPP to incidental political committees who contribute to statewide ballot issue committees, Women Vote filed two of its C-4 reports after the filing deadline. Women Vote filed a C-4 report due on May 22, 2010, two days late, on May 24, 2010. Women Vote filed a C-4 report due on June 26, 2010, 23 days late, on July 19, 2010.

Facts Related to Claims Against NeighborWorks

32. The complaint alleges that NeighborWorks failed to include the required "paid for by" disclaimer language on its website when referencing the I-164 campaign.

33. In 2010 NeighborWorks maintained a website that included content related to the I-164 campaign. The complainant provided printouts of NeighborWorks' March 18 and May 5, 2010, website pages, which included a link entitled "02/24/10 – Montana Initiative Against Payday Usury," under the heading "In the News." The link directed the reader to "Blog for Our Future," a separate website. The "Blog for Our Future" website included a news article regarding I-164, containing comments on both sides of the issue (including comments from the complainant in opposition to the initiative).

34. The NeighborWorks website did not contain "paid for by" disclaimer language. However, the website had contact information including the organization's name, physical address, and telephone number.

35. The complaint alleges that NeighborWorks failed to report resources utilized in support of I-164. NeighborWorks filed C-4 incidental political committee financial disclosure reports disclosing a \$5,000 earmarked contribution to Cap the Rate, in care of the Foundation.

36. NeighborWorks reported that it made an expenditure related to I-164 on February 1, 2010 (the \$5,000 contribution described in Fact 35). The report did not disclose the value of staff time or office overhead. According to the organization's attorney, NeighborWorks staff did not engage in any activities related to the initiative. No evidence has been disclosed establishing that NeighborWorks staff members or members of the board of directors worked in support of the initiative.

37. The complaint alleges that the employers of persons who serve on the NeighborWorks board of directors must file as incidental political committees and report the time for which the employer compensates its employee for his or her participation on the board. NeighborWorks did not report the value of any staff time or board member time supporting I-164, and no evidence was disclosed establishing that either staff members or board members engaged in activities that would be required to be reported.

38. NeighborWorks filed a C-2 statement of organization with CPP on April 29, 2010.

39. Based on the reporting dates specified on the 2009-2010 Statewide Incidental Committee calendar issued by CPP to incidental political committees who contribute to statewide ballot issue committees, NeighborWorks filed two of its C-4 reports after the filing deadline. NeighborWorks filed a C-4 due on June 28, 2010, covering two reporting periods: May 24 to June 3, 2010, and June 4 to June 18, 2010. The report for the first reporting period was 20 days late, and the report for the second reporting period was two days late.

Facts Related to Claims Against Rural Dynamics

40. The complaint alleges that Rural Dynamics failed to include the required "paid for by" disclaimer language on its website when referencing the I-164 campaign.

41. In 2010 Rural Dynamics maintained a website that included content related to the I-164 campaign. The complainant provided printouts of Rural

Dynamics' March 19 and May 5, 2010, website home page and related website pages. The website contained the following statements:

Anti-Predatory Lending Ballot Initiative. We are part of the coalition of organizations pushing for the passage of the anti-predatory lending initiative that will cap payday lending interest rates at 36%.

The Rural Dynamics home page also included a link to "NPI." The link led the reader to the "Northern Plains Initiative," which included a discussion of "predatory lending" and payday loans. However, there was no direct reference to I-164. The statements on the website appear to be informational, and there is no advocacy for I-164.

42. The Rural Dynamics website did not contain "paid for by" disclaimer language. However, the website had contact information including the organization's name, physical address, and telephone number.

43. The complaint alleges that Rural Dynamics failed to report resources utilized in support of I-164. Rural Dynamics filed a number of C-4 incidental political committee financial disclosure reports disclosing its expenditures related to its efforts in support of I-164. The reports describe in-kind expenditures in detail, including portions of salaries and expenses of staff members, a percentage of office overhead expenses, vehicle expenses, signature gathering expenses, and administrative costs related to the organization's efforts in support of the initiative.

44. Rural Dynamics reported that it made its first expenditure related to I-164 on February 22, 2010, a \$5,000 earmarked contribution to Cap the Rate, in care of the Foundation.

45. Rural Dynamics filed a C-2 statement of organization with CPP on April 27, 2010.

46. Based on the reporting dates specified on the 2009-2010 Statewide Incidental Committee calendar issued by CPP to incidental political committees who contribute to statewide ballot issue committees, Rural Dynamics filed two of its C-4 reports after the filing deadline. Rural Dynamics filed a C-4 due on October 16, 2010, two days late, on October 18, 2010. Rural Dynamics filed a C-4 due on November 20, 2010, three days late, on November 23, 2010.

Facts Related to Claims Against MHRN

47. The complaint alleges that MHRN failed to include the required "paid for by" disclaimer language on its Facebook page when referencing the I-164 campaign.

48. In 2010 MHRN maintained a website with a link to its Facebook page. The Facebook page included some content related to the I-164 campaign. The complainant provided printouts of eight pages of MHRN's Facebook entries during that time period. Several entries noted that MHRN supported I-164, urged the reader to sign the petition to qualify the initiative for the ballot, and asked for volunteers who wanted to help support reducing the interest rate on payday loans.

49. The MHRN website did not contain “paid for by” disclaimer language. However, the website had contact information including the organization’s name, mailing address, telephone number, fax number, and email address. The organization’s Facebook page may be accessed through a link on its website, and the Facebook page provides contact information including a telephone number and email address.

50. The complaint alleges that MHRN failed to report resources utilized in support of I-164. MHRN filed a number of C-4 incidental political committee financial disclosure reports disclosing its expenditures related to its efforts in support of I-164. The reports describe expenditures in detail, including the value of time spent by persons working on behalf of MHRN to support the initiative, cost of office supplies, the value of in-kind office space provided, and the value of copying, fax, printing, and mailing expenses related to the organization’s efforts in support of the initiative.

51. The complaint alleges that MHRN’s C-4 reports do not “match” the reports filed by Cap the Rate. A comparison of C-4 reports filed by MHRN and C-6 reports filed by Cap the Rate reveals only one discrepancy. On June 7, 2010, MHRN filed a C-4 listing \$275 as an in-kind expenditure to Cap the Rate. Cap the Rate reported the same amount as an in-kind contribution on its June 10, 2010, C-6. MHRN then filed an amended C-4 for the same reporting period, changing the \$275 to \$104. Cap the Rate never filed an amended report to reflect the change, and therefore over-reported an in-kind contribution from MHRN by \$171.

52. MHRN reported that it made its first expenditure related to I-164 between January 1 and March 3, 2010, reflecting the value of staff time to support I-164.

53. MHRN filed a C-2 statement of organization with CPP on March 25, 2010.

54. Based on the reporting dates specified on the 2009-2010 Statewide Incidental Committee calendar issued by CPP to incidental political committees who contribute to statewide ballot issue committees, MHRN filed two of its C-4 reports after the filing deadline. MHRN filed a C-4 due on May 22, 2010, three days late, on May 25, 2010. MHRN filed a C-4 due on July 8, 2010, one day late, on July 9, 2010.

Facts Related to Claims Against the Foundation

55. The complaint alleges that the Foundation failed to include the required "paid for by" disclaimer language on its website when referencing the I-164 campaign.

56. In 2010 the Foundation maintained a website that included some content related to the I-164 campaign. The complainant provided printouts of the Foundation's March 18 and May 5, 2010, website pages. The web pages include what appears to be an article entitled "Cap the Rate," and stating that 400% interest is "too high." The article explains that the Foundation is one of several organizations that "filed language with the Montana Secretary of State for an initiative to limit the amount of annual interest on payday and title loans." The

article includes a list of facts and negative quotes about payday lending. Although the statements on the Foundation's website inform the reader of the Foundation's position on I-164, there are no statements urging the reader to support the initiative.

57. The Foundation website did not contain "paid for by" disclaimer language. However, the website had contact information including the organization's name, mailing address, telephone number, fax number, and email address.

58. The complaint alleges that the Foundation failed to report resources utilized in support of I-164. The Foundation filed a number of C-4 incidental political committee financial disclosure reports disclosing its expenditures related to its efforts in support of I-164. The reports list expenditures including employee staff time and administrative overhead expenses related to the organization's efforts in support of the initiative.

59. According to its attorney, the Foundation's maintenance and related expenses for its website in 2010 were \$1,003.25. By volume, that year less than 1% of the website's content pertained to I-164. The amount spent on the website, including website maintenance and staff time, was reported by the Foundation in its C-4 reports.

60. The complaint alleges that the Foundation's C-4 reports do not "match" the C-6 reports filed by Cap the Rate. As set forth in Fact 19, there were five discrepancies between the reports filed by the Foundation and Cap the Rate;

however the five reporting discrepancies resulted in Cap the Rate over-reporting \$1,142.48.

61. The Foundation reported that it made its first expenditure related to I-164 in February, 2010, reflecting the value of in-kind staff time and administrative overhead to support I-164.

62. The Foundation filed a C-2 statement of organization with CPP on April 27, 2010.

63. Based on the reporting dates specified on the 2009-2010 Statewide Incidental Committee calendar issued by CPP to incidental political committees who contribute to statewide ballot issue committees, the Foundation filed four of its C-4 reports after the filing deadline. The Foundation filed a C-4 due on May 8, 2010, two days late, on May 10, 2010. The Foundation filed a C-4 due on May 22, 2010, two days late, on May 24, 2010. The Foundation filed a C-4 due on June 26, 2010, two days late, on June 28, 2010. The Foundation filed a C-4 due on October 16, 2010, three days late, on October 19, 2010.

64. The complaint alleges that the employers of persons who serve on the Foundation board of directors must file as incidental political committees and report the time for which the employer compensates its employee for his or her participation on the board. The Foundation reported the value of any staff time for employees who did work supporting I-164. The Foundation's C-4's report staff time using the references "employee 1," "employee 2," or by the employee's initials. None of the employee initials reported by the Foundation match the

initials of Foundation board members. The attorney for the Foundation stated that the Foundation's board members were not paid by their respective employers to serve as board members.

Facts Related to Claims Against AARP

65. The complaint alleges that AARP failed to include the required "paid for by" disclaimer language on its website when referencing the I-164 campaign.

66. In 2010 AARP maintained a website that included some content related to the I-164 campaign. The complainant provided printouts of AARP's March 18 and May 5, 2010, website pages. The web pages include a statement that AARP is "teaming up with a coalition of organizations called '400% Interest is Too High – Cap the Rate' to launch an initiative to limit the interest rate on payday loans to an APR of 36 percent." The statement includes a link to an article on the initiative entitled "Initiative Proposed to Cap Interest Rates on Payday and Title Loans." The article appears to be authored by AARP. The article quotes Bob Bartholomew, state director of AARP Montana, urging people to sign the I-164 petition so that the initiative would qualify for the ballot.

67. The AARP website did not contain "paid for by" disclaimer language. However, the website had contact information including the organization's name, physical address, telephone number, fax number, and email address.

68. The complaint alleges that AARP failed to report resources utilized in support of I-164. AARP filed a number of C-4 incidental political committee financial disclosure reports disclosing its expenditures related to its efforts in support of I-164. The reports list expenditures including in-kind employee staff time and administrative expenses related to the organization's efforts in support of the initiative. The reports also list several monetary contributions the organization made to Cap the Rate.

69. According to its attorney, AARP Montana pays no expenses for maintenance and use of its website. The website is maintained by the national AARP organization, which permits all state AARP organizations to use it for free. By volume, in 2010 a small fraction of 1% of AARP Montana's website's content related to I-164. The staff time spent by AARP staff to enter I-164 content onto the website was reported by AARP in its C-4 reports.

70. The complaint alleges that AARP's C-4 reports do not "match" the C-6 reports filed by Cap the Rate. A comparison of C-4 reports filed by AARP and C-6 reports filed by Cap the Rate reveals no discrepancies.

71. AARP reported that it made its first expenditures related to I-164 in "April 2010," consisting of in-kind staff time and expenses provided to Cap the Rate.

72. AARP filed a C-2 Statement of Organization with CPP on April 30, 2010.

73. Based on the reporting dates specified on the 2009-2010 Statewide Incidental Committee calendar issued by CPP to incidental political committees who contribute to statewide ballot issue committees, AARP filed two of its C-4 reports after the filing deadline. AARP filed a C-4 due on May 8, 2010, nine days late, on May 17, 2010. AARP filed a C-4 due on March 8, 2011 one day late, on March 9, 2011.

Claims Against All Incidental Political Committees

74. The complaint alleges that each of the incidental political committees “may be acting outside the course and scope of its nonprofit organization status as allowed under the IRS rules and guidelines regarding political activities of nonprofit organizations.” Because CPP has no jurisdiction to determine whether a nonprofit organization is in compliance with IRS rules and guidelines, CPP has not investigated this allegation.

STATEMENT OF FINDINGS

Claims Against Cap the Rate

Cap the Rate Claim 1

The complaint alleges that Cap the Rate’s name violates Mont. Code Ann. § 13-37-210, which provides:

Naming and labeling of political committees. (1) Any political committee filing a certification and organizational statement pursuant to 13-37-201 shall:

(a) name and identify itself in its organizational statement using a name or phrase:

(i) that clearly identifies the economic or other special interest, if identifiable, of a majority of its contributors; and

(ii) if a majority of its contributors share a common employer, that identifies the employer; and

(b) label any media advertisement or other paid public statement it makes or causes to be made in support of or opposition to any candidate or ballot issue by printing or broadcasting its name, as provided under subsection (1)(a), and position in support of or opposition to the candidate or ballot issue as a part of the media advertisement or other paid public statement.

(2) The naming and labeling requirements in subsection (1) are reporting requirements for purposes of enforcement under 13-37-128.

According to the complaint, the contributors to Cap the Rate consisted only of Montana nonprofit organizations, which “share a common special interest in that they are nonprofit organizations.” Cap the Rate’s financial disclosure reports disclose that a number of individuals and organizations contributed to the political committee. According to the information disclosed in the reports, none of the individuals who contributed share a common employer. The list of organizations who contributed to Cap the Rate discloses an assortment of interests, goals, and missions. (Fact 13.) There is not a majority of the organizations that contributed who share an identifiable economic or special interest. Cap the Rate did not violate Mont. Code Ann. § 13-37-210.

Cap the Rate Claim 2

The complaint alleges that Cap the Rate failed to report two \$5,000 earmarked contributions it received from NeighborWorks and SEIU. Cap the Rate reported that it received an \$18,800 contribution from the Foundation, with the description "earmarked contributions as reported on C-4," apparently referring to the Foundation's C-4. The Foundation reported receiving a \$5,000 earmarked contribution from SEIU and a \$5,000 earmarked contribution from NeighborWorks (reported as a contribution from Montana Homeownership Network). It appears that after receiving the two \$5,000 contributions from SEIU and NeighborWorks, the Foundation included that money as part of the \$18,800 contribution it made to Cap the Rate.

ARM 44.10.519(2)(c) provides requirements for reporting of earmarked contributions by the final recipient:

(c) The candidate or political committee ultimately receiving an earmarked contribution shall report it pursuant to the provisions of ARM 44.10.511 and, in addition, shall:

(i) Report it as an "earmarked contribution";

(ii) Report it as a contribution in the name of the original contributor, disclosing the full name, mailing address (occupation and principal place of business, if any) ;

(iii) Report the full name and mailing address of the intermediary candidate or political committee.

Cap the Rate reported the name and address of the intermediary political committee that received the earmarked contributions (the Foundation), but did not

report the contributions in the name of the original contributors (SEIU and NeighborWorks).

Cap the Rate Claim 3

The complaint alleges that amounts reported on Cap the Rate's C-6 campaign financial disclosure reports do not match amounts reported on C-4 reports filed by the Foundation, MHRN, and AARP. There were five discrepancies between the reports filed by the Foundation and those filed by Cap the Rate. However, the discrepancies resulted in Cap the Rate over-reporting by \$1,142.48. (Facts 19 and 60.) There was one discrepancy between the reports filed by MHRN and Cap the Rate, resulting in Cap the Rate over-reporting an in-kind contribution by \$171. (Fact 51.) There were no discrepancies between the reports filed by AARP and Cap the Rate. (Fact 70.) Although there were some minor discrepancies in the reports filed by the Foundation, MHRN, and Cap the Rate, it resulted in Cap the Rate over-reporting its contributions. While Montana law requires accurate and timely reporting of campaign spending, the public was not deprived of full disclosure in this case, therefore any reporting errors by Cap the Rate were harmless.

Reporting Violations Not Alleged in the Complaint

Cap the Rate filed one of its C-6 reports two days late, and one C-6 report one day late. (Fact 20.)

Claims Against Women Vote

Women Vote Claim 1

The complaint alleges that Women Vote violated Mont. Code Ann. § 13-

35-225, which provides in relevant 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.

This is commonly referred to as a “disclaimer” requirement. A website that includes communications advocating for the success of a ballot issue is subject to the disclaimer requirements of the statute. The statute requires “paid for by” language followed by the name and address of the person who paid for the campaign or election material – including the name of the political committee and its treasurer, and the address of the committee or its treasurer.

The Women Vote website and a flyer it produced and distributed included some content related to I-164. However, the communications on the website were primarily informational, advising the reader that Women Vote was involved in the I-164 campaign. The flyer did not specifically mention I-164, but asked the reader

whether they had ever taken a payday loan. Women Vote's Facebook page included two entries asking for help to gather signatures for the initiative, or to share a personal story.

In a previous decision a former Commissioner determined that although particular disclaimer language on campaign materials did not include the name of the committee treasurer, it was not in the best interests of the State of Montana to proceed with a civil penalty action. Commissioner Dennis Unsworth concluded that the language contained on the materials complied in other material respects with the requirements of the statute, and the public was not deprived of information establishing who paid for the campaign materials and how that person could be contacted. *Matter of Complaint Against Yes CI-97, Yes CI-98, and Yes I-154*, April 15, 2008. For similar reasons, in *Coombs v. Bitterrooters for Planning & Citizens for Ravalli County's Future*, (Dismissal Letter) December 17, 2009, Commissioner Unsworth determined that although campaign materials lacked specific "paid for by" language, based on other language the public was fully apprised of who paid for the campaign materials.

The Women Vote website provides contact information including the organization's name, physical address, telephone number, and email address. The Women Vote Facebook page does not include the same contact information, but provides a contact name and email address to whoever might have wished to help gather signatures for I-164. (Fact 26.) The flyer distributed by Women Vote does not directly reference I-164, so it is questionable whether it was subject to the

requirements of Mont. Code Ann. § 13-35-225(1). (Fact 25.) For reasons similar to those explained in the two cases cited above, to the extent that the Women Vote website, Facebook page, and flyer may have failed to comply with the technical requirements of Montana's disclaimer statute, I have determined it would not be in the best interests of the State of Montana to pursue a civil penalty action for any such violations. The public was provided with sufficient information to enable identification of who paid for the communications and how to contact the organization.

Women Vote Claim 2

The complaint alleges that Women Vote failed to report resources it utilized to support I-164. Women Vote filed periodic C-4 reports as an incidental political committee, disclosing the value of staff time, including benefits, and a percentage of office overhead costs related to its efforts to support the initiative. Women Vote's efforts related to creating website content and website maintenance costs were reported under "staff and overhead costs" on Women Vote's C-4 reports. (Facts 27 and 28.) Women Vote properly reported the value of staff time and other resources utilized to support I-164.

Women Vote Claim 3

The complaint alleges that Women Vote filed a C-2 statement of organization after the statutory deadline in Mont. Code Ann. § 13-37-201. That statute requires a political committee to file a Statement of Organization "within 5 days after it makes an expenditure or authorizes another person to make an

expenditure on its behalf, whichever occurs first.” In *Matter of the Complaint Against Montanans for In-Home Care for I-159, et al.*, August 31, 2011 (*MIHC*), Deputy Commissioner of Political Practices Dolores Colburg considered the question of when a committee must file a C-2 when it is involved in a statewide ballot issue:

[I]t is apparent that two things must occur to trigger registration and reporting requirements related to a statewide ballot issue. First, the secretary of state must prepare the form of the petition and transmit it to the person who submitted the proposed issue; second a political committee must make or authorize an expenditure. If a political committee made or authorized an expenditure before an issue becomes a ballot issue under § 13-1-101(17), MCA, the committee must file a statement of organization within five days after the secretary of state prepared the form of the petition and transmitted it to the person who submitted the proposed issue.

Id. at 14-15. The Secretary of State approved the initiative petition for signature gathering on April 23, 2010. (Fact 1.) Women Vote reported making its first expenditure prior to April 23, 2010 (Fact 29), therefore it was required to file a C-2 no later than April 28, 2010. Mont. Code Ann. § 13-37-201; *MIHC*. Women Vote filed a C-2 on April 27, 2010, within the deadline established in Mont. Code Ann. § 13-37-201.

Reporting Violations Not Alleged in the Complaint

Women Vote filed one of its C-4 reports two days late, and one C-4 report 23 day late. (Fact 31.)

Claims Against NeighborWorks

NeighborWorks Claim 1

The complaint alleges that NeighborWorks violated Mont. Code Ann. § 13-35-225 when it failed to include “paid for by” disclaimer language on its website communications related to I-164. (See discussion under *Women Vote Claim 1* above). The communications on the website consisted primarily of news articles containing comments on both sides of the I-164 debate, thus it is questionable whether a disclaimer was required. (Fact 33.) Moreover, although no “paid for by” disclaimer was posted on NeighborWorks’ website, the website included contact information including the organization’s name, physical address, and telephone number. (Fact 34.) To the extent that the NeighborWorks website may have failed to comply with the technical requirements of Montana’s disclaimer statute, I have determined it would not be in the best interests of the State of Montana to pursue a civil penalty action for any such violations. The public was provided with sufficient information to enable identification of who paid for the communications and how to contact the organization.

NeighborWorks Claim 2

The complaint alleges that NeighborWorks failed to report resources it utilized to support I-164. NeighborWorks filed a C-4 incidental political committee financial disclosure report disclosing that it made a \$5,000 earmarked contribution to Cap the Rate. Although NeighborWorks did not report the in-kind value of staff time to support the initiative, no evidence was disclosed establishing

that NeighborWorks staff time was used to support I-164. To the extent that NeighborWorks may have utilized a small amount of staff time to enter I-164 content on its website, the value of any such time would have been negligible to the point where it would have constituted *de minimis* expenditures, which are not reportable. See *Canyon Ferry Road Baptist Church v. Unsworth*, 556 F.2d 1021 (9th Cir. 2009); and *Raffiani v. Montana Shrugged Tea Party Patriots*, (Dismissal Letter), November 19, 2010. NeighborWorks properly reported resources it used to support I-164.

NeighborWorks Claim 3

The complaint alleges NeighborWorks filed a C-2 statement of organization after the statutory deadline in Mont. Code Ann. § 13-37-201. NeighborWorks reported making its first expenditure related to I-164 on February 1, 2010. NeighborWorks filed its C-2 on April 29, 2010, one day late. See discussion pertaining to *Women Vote Claim 3*).

NeighborWorks Claim 4

The complaint alleges that the employers of persons who serve on the NeighborWorks board of directors must file as incidental political committees and report the time for which the employer compensates its employee for his or her participation on the board. If a business, corporation, membership association, organization, or other entity makes an employee, officer, or board member available for campaign-related services, the fair market value of those services

must be reported by the entity as an in-kind contribution. See Matter of the Complaints Against Montanans for Common Sense Water Laws/Against I-122, et al., April 30, 1998, at 76. No evidence was disclosed establishing that

NeighborWorks board members engaged in reportable activities in support of I-164. (Fact 37.) Therefore, there is no basis to this claim.

Reporting Violations Not Alleged in the Complaint

NeighborWorks filed one of its C-4 reports twenty days late, and one C-4 report two days late. (Fact 39.)

Claims Against Rural Dynamics

Rural Dynamics Claim 1

The complaint alleges that Rural Dynamics violated Mont. Code Ann. § 13-35-225 when it failed to include “paid for by” disclaimer language on its website communications related to I-164. (See discussion under *Women Vote Claim 1* above). The communications on the website do not directly reference I-164 and appear to be informational, with no advocacy for the initiative. (Fact 41.) Thus, no disclaimer was required. Moreover, although the website did not include a disclaimer and none was required, sufficient contact information was provided on the website. (Fact 42.) Thus, even if the communications on the website were subject to the requirements of Mont. Code Ann. § 13-35-225, the public was able to identify who paid for the communications and how to contact the organization. See *Matter of Complaint Against Yes CI-97, Yes CI-98, and Yes I-154*, April 15, 2008.

Rural Dynamics Claim 2

The complaint alleges that Rural Dynamics failed to report resources it utilized to support I-164. Rural Dynamics filed C-4 incidental political committee financial disclosure reports disclosing its expenditures in support of the initiative. The reports include detailed descriptions of in-kind expenditures including portions of salaries and expenses of staff members, a percentage of office overhead expenses, vehicle expenses, signature gathering expenses, and administrative costs related to Rural Dynamics' efforts in support of I-164. (Fact 43.) Rural Dynamics properly reported the value of resources it used to support the initiative.

Rural Dynamics Claim 3

The complaint alleges Rural Dynamics filed a C-2 statement of organization after the statutory deadline in Mont. Code Ann. § 13-37-201. Rural Dynamics reported making its first expenditure related to I-164 on February 22, 2010. Rural Dynamics filed its C-2 on April 27, 2010, within the deadline established in Mont. Code Ann. § 13-37-201. See discussion pertaining to *Women Vote Claim 3*.

Reporting Violations Not Alleged in the Complaint

Rural Dynamics filed one of its C-4 reports two days late, and one C-4 report three days late. (Fact 46.)

Claims Against MHRN

MHRN Claim 1

The complaint alleges that MHRN violated Mont. Code Ann. § 13-35-225

when it failed to include “paid for by” disclaimer language on its Facebook communications related to I-164. (See discussion under *Women Vote Claim 1* above).

In 2010 MHRN maintained a website with a link to its Facebook page. Several entries on its Facebook page noted MHRN’s support for I-164, urged readers to sign the initiative petition, and asked for volunteers to help reduce the interest on payday loans. (Fact 48.) The MHRN website provides contact information including the organization’s name, mailing address, telephone number, fax number, and email address. MHRN’s Facebook page has contact information including a telephone number and email address. In addition, MHRN’s Facebook page is accessible through a link on MHRN’s website (Fact 49) which, as noted above, includes detailed contact information.

For reasons similar to those explained in *Matter of Complaint Against Yes CI-97, Yes CI-98, and Yes I-154*, and *Coombs v. Bitterrooters for Planning & Citizens for Ravalli County’s Future*, discussed above, to the extent that MHRN’s Facebook page may have failed to comply with the technical requirements of Montana’s disclaimer statute, I have determined it would not be in the best interests of the State of Montana to pursue a civil penalty action for any such violations. The public was provided with sufficient information to enable

identification of who paid for the communications and how to contact the organization.

MHRN Claim 2

The complaint alleges that MHRN failed to report resources it utilized to support I-164. MHRN filed C-4 incidental political committee financial disclosure reports disclosing its expenditures in support of the initiative. The reports include detailed descriptions of MHRN's in-kind expenditures including the value of time spent by persons working on behalf of MHRN to support the initiative, the cost of office supplies, the value of in-kind office space, and the value of copying, fax, printing, and mailing expenses related to MHRN's efforts in support of I-164. (Fact 50.) MHRN properly reported the value of resources it used to support the initiative.

MHRN Claim 3

The complaint alleges that amounts reported on MHRN's C-4 reports do not "match" the amounts reported on Cap the Rate's C-6 reports. There was one discrepancy between the reports filed by MHRN and Cap the Rate, resulting in Cap the Rate over-reporting an in-kind contribution by \$171. The discrepancy was based on Cap the Rate's failure to file an amended report after MHRN had filed a report correcting the amount of a reported in-kind expenditure. (Fact 51.) Thus, there was no violation by MHRN. Moreover, while Montana law requires accurate and timely reporting of campaign spending, the public was not deprived

of full disclosure in this case, therefore any reporting errors by Cap the Rate were harmless. See discussion under *Cap the Rate Claim 3*, above.

MHRN Claim 4

The complaint alleges MHRN filed a C-2 statement of organization after the statutory deadline in Mont. Code Ann. § 13-37-201. MHRN reported making its first expenditure related to I-164 between January 1 and March 3, 2010. (Fact 52.) MHRN filed its C-2 on March 25, 2010, within the deadline established in Mont. Code Ann. § 13-37-201. See discussion pertaining to *Women Vote Claim 3*.

Reporting Violations Not Alleged in the Complaint

MHRN filed one of its C-4 reports three days late, and one C-4 report one day late. (Fact 54.)

Claims Against the Foundation

Foundation Claim 1

The complaint alleges that the Foundation violated Mont. Code Ann. § 13-35-225 when it failed to include “paid for by” disclaimer language on its website communications related to I-164. (See discussion under *Women Vote Claim 1* above). In 2010 the Foundation maintained a website that included content related to the I-164 campaign. The website posted what appears to be an article entitled “Cap the Rate,” which noted that the Foundation was one of several organizations that supported the initiative. The article also included a list of facts and negative quotes about payday lending in general. However, the website entries do not directly urge the reader to support I-164. (Fact 56.)

Although no “paid for by” disclaimer was posted on the Foundation’s website, the website included contact information including the organization’s name, mailing address, telephone number, fax number, and email address. (Fact 57.) To the extent that the Foundation’s website may have failed to comply with the technical requirements of Montana’s disclaimer statute, I have determined it would not be in the best interests of the State of Montana to pursue a civil penalty action for any such violations. The public was provided with sufficient information to enable identification of who paid for the communications and how to contact the organization. *See Matter of Complaint Against Yes CI-97, Yes CI-98, and Yes I-154, April 15, 2008.*

Foundation Claim 2

The complaint alleges that the Foundation failed to report resources it utilized to support I-164. The Foundation filed C-4 incidental political committee financial disclosure reports disclosing its expenditures in support of the initiative. The reports list expenditures including the value of employee staff time and administrative overhead expenses related to the Foundation’s support of I-164. (Fact 58.) The Foundation properly reported the value of resources it used to support the initiative.

Foundation Claim 3

The complaint alleges that amounts reported on the Foundation’s C-4 reports do not “match” the amounts reported on Cap the Rate’s C-6 reports. There were five discrepancies between the reports filed by the Foundation and Cap the

Rate, resulting in Cap the Rate over-reporting \$1,142.48. The discrepancy resulted because the Foundation amended its reports to correct amounts disclosed, but Cap the Rate did not subsequently amend its reports. (Facts 19 and 60.) Thus, there was no violation by the Foundation. Moreover, while Montana law requires accurate and timely reporting of campaign spending, the public was not deprived of full disclosure in this case, therefore any reporting errors by Cap the Rate were harmless. See discussion under *Cap the Rate Claim 3*, above.

Foundation Claim 4

The complaint alleges the Foundation filed a C-2 statement of organization after the statutory deadline in Mont. Code Ann. § 13-37-201. The Foundation reported making its first expenditure related to I-164 in February, 2010. (Fact 61.) The Foundation filed its C-2 on April 27, 2010, within the deadline established in Mont. Code Ann. § 13-37-201. See discussion pertaining to *Women Vote Claim 3*.

Foundation Claim 5

The complaint alleges that the employers of persons who serve on the Foundation's board of directors must file as incidental political committees and report the time for which the employer compensates its employee for his or her participation on the board. If a business, corporation, membership association, organization, or other entity makes an employee, officer, or board member available for campaign-related services, the fair market value of those services must be reported by the entity as an in-kind contribution. See *Matter of the Complaints Against Montanans for Common Sense Water Laws/Against I-122, et*

al., April 30, 1998, at 76. No evidence was disclosed establishing that the Foundation's board members engaged in reportable activities in support of I-164. Moreover, the Foundation's board members were not paid by their respective employers to serve as board members. (Fact 64.) Therefore, there is no basis to this claim.

Reporting Violations Not Alleged in the Complaint

The Foundation filed three of its C-4 reports two days late, and one of its C-4 reports three days late. (Fact 63.)

Claims Against AARP

AARP Claim 1

The complaint alleges that AARP violated Mont. Code Ann. § 13-35-225 when it failed to include "paid for by" disclaimer language on its website communications related to I-164. (See discussion under *Women Vote Claim 1* above).

In 2010 AARP maintained a website that included content related to the I-164 campaign. The website included a link to an article noting that AARP was one of several organizations that supported the initiative. The article quoted Bob Bartholomew, state director of AARP Montana, urging people to sign the I-164 petition. (Fact 66.)

Although no "paid for by" disclaimer was posted on AARP's website, the website included contact information including the organization's name, physical address, telephone number, fax number, and email address. (Fact 67.) To the

extent that AARP's website may have failed to comply with the technical requirements of Montana's disclaimer statute, I have determined it would not be in the best interests of the State of Montana to pursue a civil penalty action for any such violations. The public was provided with sufficient information to enable identification of who paid for the communications and how to contact the organization. *See Matter of Complaint Against Yes CI-97, Yes CI-98, and Yes I-154*, April 15, 2008.

AARP Claim 2

The complaint alleges that AARP failed to report resources it utilized to support I-164. AARP filed C-4 incidental political committee financial disclosure reports disclosing its expenditures in support of the initiative. The reports list expenditures including the value of in-kind employee staff time and administrative expenses related to AARP's support of I-164. (Fact 68.) AARP properly reported the value of resources it used to support the initiative.

AARP Claim 3

The complaint alleges that amounts reported on AARP's C-4 reports do not "match" the amounts reported on Cap the Rate's C-6 reports. A comparison of the financial disclosure reports filed by AARP and Cap the Rate reveals no discrepancies.

AARP Claim 4

The complaint alleges AARP filed a C-2 statement of organization after the statutory deadline in Mont. Code Ann. § 13-37-201. AARP reported making its

first expenditure related to I-164 in “April 2010.” (Fact 71.) AARP filed its C-2 on April 30, 2010, two days after the deadline established in Mont. Code Ann. § 13-37-201. See discussion pertaining to *Women Vote Claim 3*.

Reporting Violations Not Alleged in the Complaint

AARP filed one of its C-4 reports nine days late, and one C-4 report one day late. (Fact 73.)

CONCLUSION

Following is a summary of the violations found in this case:

Cap the Rate

- Failed to disclose the original contributors of two earmarked contributions it received, in violation of ARM 44.10.519(2)(c).
 - Failed to amend its reports to accurately reflect amounts received from the Foundation and MHRN. However, since it resulted in over-reporting by Cap the Rate, no civil penalty is warranted.
-
- Filed two of its C-6 financial disclosure reports late (two days late and one day late).

Women Vote

- Failed to include “paid for by” disclaimer language on its website and Facebook page in violation of Mont. Code Ann. § 13-35-225. However, because sufficient identifying and contact information was provided, a civil prosecution of this violation is not warranted.

- Filed two of its C-4 financial disclosure reports late (two days late and twenty-three days late).

NeighborWorks

- Failed to include “paid for by” disclaimer language on its website in violation of Mont. Code Ann. § 13-35-225. However, because sufficient identifying and contact information was provided, a civil prosecution of this violation is not warranted.
- Filed its C-2 statement of organization one day late, in violation of Mont. Code Ann. § 13-37-201.
- Filed two of its C-4 financial disclosure reports late (twenty days late and two days late).

Rural Dynamics

- Filed two of its C-4 financial disclosure reports late (two days late and three days late).

MHRN

- Failed to include “paid for by” disclaimer language on its website and Facebook page in violation of Mont. Code Ann. § 13-35-225. However, because sufficient identifying and contact information was provided, a civil prosecution of this violation is not warranted.
- Filed two of its C-4 financial disclosure reports late (three days late and one day late).

Foundation

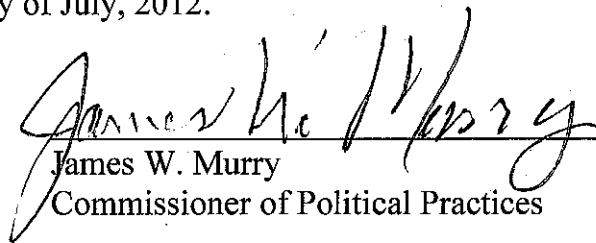
- Failed to include “paid for by” disclaimer language on its website in violation of Mont. Code Ann. § 13-35-225. However, because sufficient identifying and contact information was provided, a civil prosecution of this violation is not warranted.
- Filed four of its C-4 financial disclosure reports late (two days late, two days late, two days late, and three days late).

AARP

- Failed to include “paid for by” disclaimer language on its website in violation of Mont. Code Ann. § 13-35-225. However, because sufficient identifying and contact information was provided, a civil prosecution of this violation is not warranted.
- Filed its C-2 statement of organization two days late, in violation of Mont. Code Ann. § 13-37-201.
- Filed two of its C-4 financial disclosure reports late (nine days late and one day late).

Therefore, based on the preceding summary of facts and statement of findings there is sufficient evidence to conclude that Cap the Rate, Women Vote, NeighborWorks, Rural Dynamics, MHRN, the Foundation, and AARP violated Montana campaign finance and practices laws or rules and that a civil penalty action under Mont. Code Ann. § 13-37-128 is warranted.

Dated this 3rd day of July, 2012.


James W. Murry
Commissioner of Political Practices