



COMMISSIONER OF  
POLITICAL PRACTICES

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STATE OF MONTANA

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May 26, 2016

Chris Justice  
Montanans for Trap Free Public Lands  
P.O. Box 8754  
Missoula, MT 59807

**Re: COPP-2016-AO-011**  
Ballot Issue Endorsement by a Corporation

Dear Montanans for Trap Free Public Lands,

We write in response to your request for an Advisory Opinion from the Commissioner of Political Practices on the following matter.

**FACTS PRESENTED BY MTFPL**

"Jason Maxwell for Montana Trappers Association is writing to all supporters of I-177 telling them that endorsing MTFPL is illegal and that he is getting the State and IRS involved. It is a major disruption to our democratic process. The office of Political Practice[s] has told us many times that as long as correct protocol is followed, organizations can endorse us. [MTFPL] is receiving no financial support from [the supporters], just their endorsement of [our] cause." Letter requesting Advisory Opinion from MTFPL (April 8, 2016).

**QUESTION PRESENTED BY MTFPL**

- 1) Can 501(c)(3) Tax Exempt Organizations legally endorse ballot issue initiatives?

**ADVISORY OPINION**

The Commissioner is limited to issuing advisory opinions that address a campaign practice issue within the Commissioner of Political Practices' (COPP) jurisdiction, Mont. Admin. R. 44.11.102. The consideration of the questions and facts in this matter are limited to the information which was provided to the COPP by Montanans for Trap Free Public Lands (MTFPL) and information which is publically available and specifically referenced herein. Based upon the foregoing scope of information, the Commissioner issues the following Advisory Opinion:

## **SHORT ANSWER**

Based on the facts provided by the request of the MTFPL, the COPP makes the following determination:

- 1) There is nothing in Montana campaign practice law (Title 13, Chapters 35 and 37) prohibiting any corporation, not for profit or for profit, from participating in, including the endorsement of, a ballot issue measure.

## **DISCUSSION**

In August of 2015, Timothy Provow sponsored a ballot issue proposal to the Montana Secretary of State (SOS) which proposes to change Montana's law to "prohibit the use of traps and snares for animals by the public on any public lands within Montana, with certain exceptions." On October 6, 2015 the SOS approved the initiative for the gathering of signatures required for placement on the general election ballot. Once approved for signature gathering, the SOS assigned the ballot issue the identifier "I-177."

MTFPL supports the passage of I-177. The Montana Trappers Association opposes the passage of I-177. Even though tensions are high on both sides of the issue, the overriding consideration is each individual or entity's to the freedom of speech and association, as guaranteed by the United States Constitution.

We return to the principle established in *Buckley* and *Bellotti* that the Government may not suppress political speech on the basis of the speaker's corporate identity. No sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations.

*Citizens United v. FEC*, 558 U.S. 310, 365 (2010).

Montana's Campaign Practice and Finance laws found in the Montana Code at Title 13, Chapters 35 and 37, do not prohibit a corporation or other organization from participating in a ballot issue measure. The endorsement of MTFPL's ballot issue by a corporation or other organization quite simply is not an "illegal" act within the meaning of the statutes administered by the COPP.

## **CONCLUSION**

To the extent that Mr. Maxwell is making assertions that corporations are not legally allowed to endorse ballot issues, those assertions are without authority or basis in Montana's campaign practices law.

## **LIMITATIONS ON ADVISORY OPINION**

This letter is an advisory opinion based on the specific written facts and questions as presented above. This advisory opinion may be superseded, amended, or overruled by subsequent opinions or decisions of the Commissioner of Political Practices or changes in applicable statutes or rules. This advisory opinion is not a waiver of any power or authority

the Commissioner of Political Practices has to investigate and prosecute alleged violations of the Montana laws and rules over which the Commissioner has jurisdiction, including alleged violations involving all or some of the matters discussed above.

Sincerely,



Jaime MacNaughton  
Attorney for the  
Commissioner of Political Practices

I agree with this Advisory Opinion and afford it the full weight of the Commissioner's authority.

DATED 27<sup>th</sup> day of May, 2016.



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Jonathan R. Motl  
Commissioner of Political Practices

