

THE STATE OF MONTANA

Commissioner of Political Practices
1205 Eighth Avenue
Post Office Box 202401
Helena, MT 59620-2401
Phone: 406-444-2942
Fax : 406-444-1643
www.politicalpractices.mt.gov

Campaign Finance and Practices

Complaint Form (10/09)

FOR OFFICE USE ONLY

HAND DELIVERED

CERTIFIED MAIL

SIGNED/NOTARIZED

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name

Bernard J. Harrington

Complete Mailing Address

4033 Palisades Park Dr.
Billings, MT 59106

Phone Numbers:

Work

(406) 651-9199

Home

(406) 654-1556

Person or organization against whom complaint is brought (Respondent):

Complete Name

400% Interest is too High - Cap the Rate

Complete Mailing Address

PO Box 335
Helena, MT 59624

Phone Numbers:

Work

(406) 443-8313

Home

(406) 442-2543

Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation

State of Montana, County of Lewis & Clark County

I, Bernard J. Harrington, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.

(SEAL)

Bernard J. Harrington
Signature of Complainant

Subscribed and sworn to before me this 27th day of May, 2010.

Monica Bergeron
Notary Public

My Commission Expires:

Attachment to the Complaint Against the “400% Interest is Too High – Cap The Rate” primary ballot committee in support of I-164.

As identified thus far, the proponents of this ballot measure are several nonprofit organizations and a large out-of-state union. With the State facing a deficit of \$400 to \$600 million next biennium, it is questionable conduct for the nonprofit community to put several tax-paying entities out of business. The stated goal by the proponents is the industry’s elimination, which will result in the elimination of between 600 and 800 Montana jobs at a time when unemployment is over 7% across the State and nearly double that in certain Montana communities. This will cause increases in unemployment insurance benefits paid by the state and an inevitable increase in the use of and administration costs of public welfare programs. What type of message does this send to other Montana businesses and workers?

Further, the proponents of this initiative are being intellectually dishonest in their campaign materials regarding the actual effects of this ballot measure. While touted as an interest rate cap, the measure is really a ban on the deferred deposit and title lending industries. Even the fiscal note assumes that all licensees will surrender their licenses due to the measure. As such, the ballot measure is really a ban on the title lending and deferred deposit lending industries and this industry ban should be reflected in campaign materials, especially since this is the publicly stated goal¹ of the initiative proponents.

The stated goal of industry elimination by the initiative proponents through license forfeiture on its face demonstrates that this ballot measure is a regulatory taking, depriving individuals of all economic use of their property without just compensation. Not only is this unconstitutional, but proponents should be held to a minimum standard regarding honesty in campaign materials.

Complainant further alleges that the primary ballot committee’s name violates Mont. Code Ann. § 13-37-210 and the Opinion of the Commissioner of Political Practices titled Interpretation and Enforcement of Naming and Labeling Statute. Statute requires the name of a political committee to “clearly identify[y] the economic or other special interest, if identifiable, of a majority of its contributors.” Mont. Code Ann. § 13-37-210(1)(a)(i). The Commissioner’s Opinion interpreted this statute to look at the employers and occupations of the contributors to determine whether an economic or special interest is shared. The only *reported* contributions (both monetary and in-kind) to the “400% Interest is Too High – Cap The Rate” ballot committee are Montana nonprofit organizations: Montana Community Foundation/Women’s Foundation; Montana Women Vote; homeWORD; AARP; Center for Responsible Lending; Rural Dynamics; Montana Catholic Conference; and the Montana Human Rights Network. This information was gleaned from the C-6 forms filed by the committee on May 10, 2010 and May 24, 2010. Clearly all of correctly reported the contributors share a common special interest in that they are nonprofit organizations. The name of the primary committee in no way reflects this common economic and special interest.

Also in violation of Montana’s campaign finance laws, the 400% Interest is Too High – Cap The Rate (hereinafter “400% Ballot Committee”) failed to report earmarked contributions from the

¹ Linda Reed, Comments, *Montana Attorney General Consumer Protection Forum* pp 33–40 (Helena, Mont., Mar. 9, 2010) (copy of Transcript available from Office of Montana Attorney General). See specifically p 37:22–25.

Service Employees Industrial Union (“SEIU”). SEIU filed a C-2 designating itself as an incidental committee in support of I-164 on April 27, 2010. SEIU then reported an expenditure of \$5,000 with a purpose of “Contribution to I-164 ballot committee” in March 2010 on its May 6, 2010 C-4 form. The 400% Ballot Committee is clearly in violation of Mont. Code Ann. §§ 13-37-229; 13-37-230 and ARM 44.10.411, which require reporting of all contributions to a ballot issue and all expenditures made on behalf of a ballot issue.

Another reporting violation by the 400% Ballot Committee is the failure to report the earmarked in-kind contribution made by NeighborWorks Montana as reported on its C-4 Incidental Committee Finance Report filed on May 7, 2010, in the amount of \$5,000. Further NeighborWorks Montana dated the contribution February 1, 2010, which additionally supports the contention that the 400% Ballot Committee failed to timely and adequately report this contribution.

Further the amounts reported by the Montana Community Foundation/Montana Women’s Foundation on its C-4 Incidental Committee Finance Reports filed to date do not match the contributions reported by the 400% Interest is Too High – Cap the Rate ballot committee—a discrepancy of nearly \$20,000.00! This in and of itself is a clear campaign finance law violation.

Given the significant irregularities in the reporting of the proponents and the 400% Ballot Committee to date, complainant believes and therefore alleges that the ballot committee and its contributors have engaged in multiple, pervasive campaign finance violations dating back at least to February 1, 2010, but likely dating back six to twelve months.