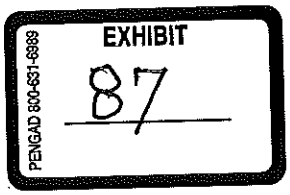
Musgrave, Karen

From: Christian L <christian@christianlefer.com>
Sent: Thursday, January 28, 2010 7:05 PM
To: Andrew O'Neill
Subject: thanks page

Thanks for signing up for the Foley & Lardner, LLP Conference Call: **Citizens United: What the Supreme Court Decision Means for Companies and Nonprofits -- Feb 3 @ 2 pm EST**

Here's your link to Foley & Lardner's excellent 3-page memo on this ground-breaking victory for free speech!

Stay tuned and WTP will keep you abreast of our anticipated legal action against multiple states' campaign finance schemes which are now in violation of 1st Amendment Rights as a result of this decision!



Spaeth, Elyssa

From: Christian LeFer <christian@christianlefer.com>
Sent: Wednesday, February 03, 2010 7:19 PM
To: Art Wittich
Cc: Andrew O'Neill
Subject: Fwd: Foley & Lardner LLP: Access Password

Did you get an email like this?

(I've copied our tech guy here; please rely with him included).

Thank you Art, this is probably my last question.

Begin forwarded message:

From: "Foley & Lardner LLP" <interaction@foley.com>
Date: February 3, 2010 6:11:08 PM MST
To: clouismail@gmail.com
Subject: Foley & Lardner LLP: Access Password

C,

Do not reply to this email.

Your **Foley Registration System** access details are as follows:
E-mail address: clouismail@gmail.com
Password: [redacted]

Please note: ***the password provided above is to complete your online registration only. If you are registering for a Web conference, login details for that event will be sent to you in a separate e-mail once your registration is complete.***

Return to your browser and use the back button to return to the login screen.
Or you may visit the Foley & Lardner LLP events listing at www.foley.com/news/events.aspx to see a listing of current events.

Thank you!

Spaeth, Elyssa

From: clouismail@gmail.com
Sent: Wednesday, February 03, 2010 12:29 PM
To: Andrew O'Neill
Subject: Fw: Fwd: CU Legal Memo From Gallus
Attachments: CU Legal Memorandum.doc

Sent from my Verizon Wireless BlackBerry

From: Art Wittich <artw@law-advisor.com>
Date: Wed, 03 Feb 2010 11:21:39 -0700
To: <clouismail@gmail.com>; Christian LeFer<christian@christianlefer.com>
Cc: <m_barg@yahoo.com>; <barg@law-advisor.com>
Subject: Fwd: CU Legal Memo From Gallus

Christian
Here is Chris' memo I requested re specific MT laws implicated by CU.
We can have the case ready by early next week--but we need party plaintiffs (names, where incorporated or located, why they are aggrieved by MT law)

BY THE WAY-HOW DO I ACCESS FOLEY AND LARDNER WEBINAR? I FILLED OUT THE WTP/TEA PARTY FORM BUT HAVE NOT RECEIVED A RESPONSE--AND IT STARTS IN 40 MINUTES!

DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=gmail.com; s=gamma;
h=domainkey-signature:mime-version:received:date:message-id:subject
:from:to:content-type;
bh=Q/9qawXfXuC9hlpAh743bm/jJ8yT6drlGX8+MkAE/ao=;
b=oY9Am2mXZvWn5w0nuQFcIru3ddj6AiNxyPAX1dnME87bVrVpe5wQUEl5/lc3YJnJnG
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DomainKey-Signature: a=rsa-sha1; c=nofws;
d=gmail.com; s=gamma;
h=mime-version:date:message-id:subject:from:to:content-type;
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tvAmOFFv0F+hx6DQV8NIWMgfr+Uy/E2tmtgOAp9PmvCinUxXAoNNgZ+K7O7FTknOzH96
q1099uW98l+x4wU8+h0a7O9riKoTlDLs+HI3w=
Date: Tue, 2 Feb 2010 21:53:28 -0700
Subject: CU Legal Memo From Gallus
From: Chris Gallus <galluslaw@gmail.com>
To: Art Wittich <artw@law-advisor.com>
X-pstn-neptune: 0/0/0.00/0
X-pstn-levels: (S:99.90000/99.90000 CV:99.9000 FC:93.6803 LC: 0.0000 R:95.9108 P:95.9108 M:97.0282

C:98.6951)
X-pstn-settings: 5 (2.0000:2.0000) s cv gt3 gt2 gt1 r p m c
X-pstn-addresses: from <galluslaw@gmail.com> [db-null]

Art,

I hope this is organized better. If you need I can eliminate the Appendix or you can have someone do that in the office if it is too much for the client to review. I did want you to have all of this in some fashion. You can see I recommend some legal research although if I review the AG amicus brief the research may have already been sufficiently completed.

I am available most of the day tomorrow although I do plan on being part of that CU conference from 12:00 to 1:30 PM with Cleta Mitchell of the Foley firm in DC.

Thanks,

Chris
459.8676
Content-Type: application/msword; name="CU Legal Memorandum.doc"
Content-Disposition: attachment; filename="CU Legal Memorandum.doc"
X-Attachment-Id: f_g57n7k0k0

Sincerely,
Art Wittich
Wittich Law Firm, P.C.
406.585.5598
artw@law-advisor.com
www.law-advisor.com

****

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****

LEGAL MEMORANDUM

This LEGAL MEMORANDUM along with any and all related or associated communications, documents, comments and other information whatsoever is intended for the recipient or authorized legal representative(s) for the express purpose of the subject contained herein in preparation for litigation and or as a matter of attorney/client privilege. As such this document may not be copied, forwarded or in anyway redistributed physically or electronically or by any other means without the express written consent of the recipient and authorized by the attorney sending this communication.

TO: **ART WITTICH, Attorney at Law**
WITTICH LAW OFFICE

FROM: **CHRIS J. GALLUS, Attorney**

DATE: **February 2, 2010**

SUBJECT: **Constitutional Challenge to Montana Campaign Finance and Other Laws Following Citizens United v. Federal Election Commission**

INTRODUCTION

The following is a legal memorandum providing information pertaining to unconstitutional aspects of Montana law following the US Supreme Court's decision in Citizens United v. FEC. This memorandum provides the Montana statutes and rules which are clearly suspect following the decision reached January 20, 2010, other laws and rules important to understanding these provisions (Appendix A), and laws or rules of interest in understanding or enforcing campaign laws (Appendix B). There are other aspects of Montana law that may or may not be implicated by the decision, as well as practical enforcement problems with other statutes which would result from a finding that the Montana law with respect to corporate expenditures is unconstitutional. This memorandum does not endeavor to foresee or analyze all of those of those aspects. This memorandum is simply a straightforward recitation of Montana law with a brief notes pertaining to how the CU decision implicates Montana law.

Public statements by the Montana Attorney General indicate the State of Montana intends continued enforcement of these provisions despite the recent US Supreme Court decision. The Montana Attorney General's office along was chief among the states in presenting issues involving state's rights to the Court via an amicus brief filed in the CU case. That brief as well as other briefs is available on-line along with other legal materials pertaining to the CU decision. The Montana Attorney General is called as the only elected official before the US Senate panel meeting with respect to the CU decision.

SUSPECTED UNCONSTITUTIONAL PROVISIONS OF MONTANA LAW FOLLOWING CU

To the extent that this statute deals with corporate independent expenditures to support or oppose candidates (where coordination between the corporation and a candidate, a candidates committee, or an agent of the candidate has not occurred), the statute is unconstitutional pursuant to the CU decision:

> **13-35-227. Prohibited contributions from corporations.** (1) A corporation may not make a contribution or an expenditure in connection with a candidate or a political committee that supports or opposes a candidate or a political party.
>
> (2) A person, candidate, or political committee may not accept or receive a corporate contribution described in subsection (1).
>
> (3) This section does not prohibit the establishment or administration of a separate, segregated fund to be used for making political contributions or expenditures if the fund consists only of voluntary contributions solicited from an individual who is a shareholder, employee, or member of the corporation.
>
> (4) A person who violates this section is subject to the civil penalty provisions of 13-37-128.

To the extent that these penalty provisions could be applied to corporate independent expenditure not coordinate with a candidate or an agent of the candidate the statute is unconstitutional:

> **13-37-128. Cause of action created.** (1) A person who intentionally or negligently violates any of the reporting provisions of this chapter, a provision of 13-35-225, or a provision of Title 13, chapter 35, part 4, is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contributions or expenditures, whichever is greater.
>
> (2) A person who makes or receives a contribution or expenditure in violation of 13-35-227, 13-35-228, or this chapter or who violates 13-35-226 is liable in a civil action brought by the commissioner or a county attorney pursuant to the provisions outlined in 13-37-124 and 13-37-125 for an amount up to $500 or three times the amount of the unlawful contribution or expenditure, whichever is greater.

None of the Administrative Rules of Montana (ARMs) specifically references 13-35-227, MCA as an authority for adoption of a rule. The rules contained in the Appendix are worthy of review to the extent that the rules apply to corporate political expenditures.

If applied to ban such expenditures the rules are unconstitutional. If applied to require disclosure and reporting by corporations making independent expenditures the rules are constitutional. To the extent rules make coordinated expenditures become direct contributions the rule is perhaps suspect, but in no way clearly problematic under a CU test.

This memorandum does not contain the necessary legal research to determine whether the legislation adopting 13-35-227, MCA contained a severability clause or other instruction regarding adoption of this particular code. Furthermore, this provision was amended by initiative (I-125) during 1996 which extended the corporate prohibitions to include ballot issues as well as candidates. I-125 was struck down in federal court. In following Austin the Commissioner has also relied upon Massachusetts Citizens for Life and Beaumont in applying Montana's corporate contributions ban to allow participation by non-profit corporations organized to support or oppose candidates. People For Responsible Government was reorganized following a complaint and investigation to comply with these cases.

13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply: .....

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(6) "**Candidate**" means:

(a) **an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office** as required by law;

(b) for the purposes of chapter 35, 36, or 37, **an individual who has** solicited or received and retained contributions, made expenditures, or **given consent to an** individual, **organization,** political party, **or committee to** solicit or receive and retain contributions or **make expenditures on the individual's behalf** to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) (a) "**Contribution**" means:

(i) an advance, gift, loan, conveyance, deposit, **payment,** or distribution of money **or anything of value to influence an election;**

(ii) a **transfer of funds between political committees;**

(iii) the **payment by a person** other than a candidate **or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.**

(b) **"Contribution" does not mean:**

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) **the cost of any bona fide news story, commentary, or editorial** distributed through the facilities of any broadcasting station, newspaper,

magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(11) (a) "Expenditure" means 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.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(20) **"Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).**

(22) **"Political committee"** means a **combination of two or more individuals or a person other than an individual who makes a** contribution or **expenditure:**

(a) **to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination;** or

(c) as an earmarked contribution.

44.10.311 ELECTIONEERING - INTERPRETIVE RULE (1) As used in 13-35-211, MCA, **"electioneering" means the solicitation of support or opposition to a candidate or issue to be voted upon at the election or polling place in question, by means of:**

(a) Personal persuasion, electronic amplification of the human voice, or the display or distribution of campaign materials.

(b) Offering or distribution of food, drink, or any other material benefit in a manner calculated to encourage recognition, support, or opposition to a candidate or issue.

(c) "Electioneering" does not include the display of ordinary bumper stickers on automobiles.

44.10.321 CONTRIBUTION-DEFINITION (1) For the purposes of Title 13, chapters 35 and 37, MCA, and these rules, the term "contribution" as defined in 13-1-101, MCA, includes, but is not limited to:

(a) Each contribution as listed in 13-37-229, MCA;

(b) The purchase of **tickets or admissions to, or advertisements in journals or programs for testimonial or fund raising events,** including, but not limited to dinners, luncheons, cocktail parties, and rallies **held to support or oppose a candidate, issue, or political committee;**

(c) A candidate's own money used on behalf of his or her candidacy, except as provided in 13-1-101(6)(b)(iv) and (10)(b)(ii), MCA; and (d) An in-kind contribution, as defined in (2) of this rule.

(2) The term **"in-kind contribution" means the furnishing of services, property, or rights without charge or at a charge which is less than fair market value to a candidate or political committee for the purpose of supporting or opposing any candidate,** ballot issue **or political committee,** except as provided in 13-1-101(6)(a)(iii) and (6)(b)(i), MCA.

(a) An **"in-kind contribution", includes,** but is not limited to:

(i) Forgiveness of any loan to or debt of a candidate or political committee;

(ii) Payment of a loan or other debt by a third person;

(iii) An expenditure made at the behest of a candidate or political committee as specified in ARM 44.10.517;

(iv) A "coordinated expenditure" as defined in ARM 44.10.323(4); and

(v) The cost of distributing, republishing or reproducing campaign material (print or broadcast) produced or prepared by a candidate or political committee unless the distribution, republication or reproduction costs are a communication by a membership organization or corporation under 13-1-101(6)(b)(iii) or (10)(b)(iv), MCA.

(3) The fact that the public office being sought by the individual is not known by the contributor or has not yet been determined by the potential candidate at the time that the contribution is made or the fact that a candidate and/or issue being supported or opposed by a political committee is not known by the contributor or has not yet been determined by a political committee at the time that the contribution is made has no effect on the determination or reporting of that contribution.

44.10.323 EXPENDITURE-DEFINITION (1) For the purposes of Title 13,

chapters 35 and 37, MCA, and these rules, the term "expenditure" as defined in 13-1-101, MCA, includes, but is not limited to:

(a) Each expenditure as listed in 13-37-230, MCA;

(b) Expenses incurred by a candidate or political committee with respect to polls, surveys, and the solicitation of funds;

(c) Expenses incurred in support of or opposition to the drafting, printing, distribution and collection of signatures for any petition for nomination or a statewide ballot issue;

(d) A candidate's own expense, except as provided in 13-1-101(6)(b)(iv) and (10)(b)(ii), MCA;

(e) Payment of interest on a loan or other credit received;

(f) An in-kind expenditure, as defined in (2) of this rule.

(2) The term "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 any person, candidate, ballot issue or political committee, except as provided in 13-1-101(6)(a)(iii) and (6)(b)(i), MCA.

(a) An "in-kind" expenditure" includes, but is not limited to, the forgiveness of any loan or debt owed to a candidate or political committee.

(3) "Independent expenditure" means an expenditure for communications expressly advocating the success or defeat of a candidate or ballot issue which is not made with the cooperation or prior consent of or in consultation with, or at the request or suggestion of, a candidate or political committee or an agent of a candidate or
political committee. An independent expenditure shall be reported as provided in ARM 44.10.531.

(4) "Coordinated expenditure" means an expenditure made in cooperation with, consultation with, at the request or suggestion of, or the prior consent of a candidate or political committee or an agent of a candidate or political committee. A coordinated expenditure shall be reported as an in-kind contribution as provided in ARM 44.10.511 and 44.10.513.

44.10.325 POLITICAL COMMITTEE - DEFINITION (1) "Political committee" is defined in 13-1-101(18), MCA.

(2) A candidate and his or her campaign treasurer do not constitute a political committee. The campaign treasurer, while performing the statutory duties of a campaign treasurer, is the agent of the candidate.

(3) If a political committee has subdivisions within the state, such as county committees, which have authority to receive contributions and make expenditures independent of the parent political committee, each subdivision is considered a separate

political committee for purposes of Title 13, chapters 35 and 37, MCA, and these rules.

44.10.327 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.

(ii) **A particular candidate committee is specifically organized to support or oppose a particular candidate. A particular candidate committee is not the same as a candidate's own campaign organization** which, according to ARM 44.10.325(2) is not a political committee.

(iii) A leadership political committee is defined in ARM 44.10.332(1).

(b) **An independent committee is a political committee that is not specifically organized to support or oppose any particular candidate or issue but one that is organized for the primary purpose of supporting or opposing various candidates and/or issues. There are two types of independent committees:**

(i) **A political action committee ("PAC") is a committee composed of individuals who contribute their money for the purpose of supporting or opposing candidates or issues upon which the committee agrees.**

(ii) A political party committee is a committee formed by a political party organization, as that term is defined in 13-37-216, MCA. Examples of political party committees are listed in ARM 44.10.333(1).

(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.

44.10.329 POLITICAL COMMITTEE, CLASSIFICATION (1) The commissioner shall classify a political committee upon the basis of information provided on the statement of organization which is set forth in

ARM 44.10.405 and which is required to be filed by a political committee pursuant to section 13-37-201, MCA. The commissioner shall notify, in writing, a political committee of its classification.

(2) The political committee shall be classified as one of the types of political committee specified in ARM 44.10.327.

(3) The commissioner may, in writing, reclassify a political committee if the status of that committee should change pursuant to ARM 44.10.403(2), or pursuant to (5) of this rule.

(4) If the commissioner, based upon the information provided on the statement of organization, is unable to classify a political committee, additional information may be requested by the commissioner. If additional information is requested, a political committee shall provide the requested information within 10 days after its receipt of the request. Saturdays, Sundays, and holidays shall be excluded in the calculation of the 10-day period.

(5) A political committee, after it has received notice of its classification, may supply additional information and request to be reclassified.

44.10.405 STATEMENT OF ORGANIZATION - POLITICAL COMMITTEE, INFORMATION REQUIRED (1) A **Statement of Organization required** to be filed pursuant to 13-37-201 and 13-37-205, MCA, shall include, but not be limited to:

(a) The complete name and address of a political committee.

(b) The complete names and address of all related or affiliated political committees, and the nature of the relationship or affiliation.

(c) The complete name and address of its campaign treasurer and campaign depository, and the complete name and address of its deputy campaign treasurer and secondary campaign depository, if any.

(d) The complete names, addresses, and titles of its officers, if any.

(e) A statement of whether a committee is incorporated.

(f) The name, office sought, and party affiliation (if any) of each candidate whom a committee is supporting or opposing; if a committee is supporting the entire ticket of any party, the name of the party.

44.10.411 INCIDENTAL POLITICAL COMMITTEE, FILING SCHEDULE, REPORTS (1) An incidental committee shall file a statement of organization as required by 13-37-201, MCA. After filing a statement of organization, **an incidental political committee shall file periodic reports** as provided in this rule.

(2) Except as provided in (1) and (3), an incidental committee shall file periodic reports two days before the deadlines specified in 13-37-226(2)(a),(b),(c),(e) and (f), MCA, when applicable. The commissioner will

prepare and distribute a schedule of filing deadlines for incidental committees and other committees under this subsection and 13-37-226(2), MCA.

(3) Except as provided in (3)(a), **an incidental committee that makes contributions or expenditures to a state district candidate, to a local candidate** or issue, **or to a political committee that is specifically organized to support or oppose a state district candidate or a local candidate** or issue, **shall file periodic reports** two days before the deadlines specified in 13-37-226(3)(a), and (b), MCA.

(a) **An incidental committee that makes** contributions or **expenditures not exceeding $500 to a local candidate** or issue **or to a political committee that is specifically organized to support or oppose a local candidate** or issue **does not have to file period reports of** contributions and/or **expenditures, but must file a statement of organization.....**

(4) **An incidental committee that makes contributions or expenditures in connection with a statewide issue or a candidate for statewide office or a state district office must file the reports required by this rule even if its contributions or expenditures do not exceed $500.**

(5) **Incidental committees that receive contributions that are earmarked for a specified candidate**, ballot issue, or petition for nomination **must report the contributions** pursuant to 13-37-229, MCA, and ARM 44.10.511 and 44.10.519. A contribution to an incidental committee is earmarked if it meets the criteria set forth in ARM 44.10.519(1), and the exemptions described in ARM 44.10.519(1)(a) do not apply to such contributions received by incidental committees.

(6) If it is determined that an incidental committee has failed to file any of the reports required by these rules or the statutes governing reporting of contributions and expenditures, the commissioner may issue an order of noncompliance pursuant to 13-37-121, MCA, or may take any other action authorized by law.

(7) Nothing in this rule or in the statutes governing reporting of contributions and expenditures relieves any candidate or political committee (including an incidental committee) of the responsibility to timely, accurately, and fully report contributions and/or expenditures.

44.10.413 NONRESIDENT AND FEDERALLY-FILING COMMITTEES, REPORTS (1) As used in this rule, "federally-filing committee" means a state party central committee, a qualified multi-candidate committee under 2 U.S.C. Sec.441(a)(4), or any other committee which files reports with the federal election commission on a monthly or quarterly basis pursuant to the Federal Election Campaign Act of 1971, as amended.

(a) If a federally-filing committee's [file] A copy of a statement of organization (FEC Form 1) shall accompany the first report, and copies of any amendments thereto shall be filed with the commissioner.

(b) This rule does not affect the duty of any such committee under 2 U.S.C. Sec. 439 to file copies of reports with the Montana secretary of state.

(2) Committees headquartered outside the state of Montana which are not federally-filing committees and which expend funds to influence elections in Montana may satisfy the requirements of the Montana Campaign Practices Act in one of two ways:

(a) If the committee files reports with a state officer in its home state, the commissioner may accept copies of such reports in satisfaction of the requirements of the Montana Campaign Finances and Practices Act if those reports fully disclose the source and disposition of all funds used to influence elections in Montana. Such reports need be filed only for periods in which the committee expends funds to influence elections in Montana. A copy of a statement of organization or equivalent statement shall accompany the first such report, and copies of any amendments thereto shall be filed with the commissioner as they occur.

(b) If a nonresident committee cannot satisfy the requirements set forth in the preceding subsection, it shall file reports on Montana forms for the periods in which the committee expends funds to influence elections in Montana. Such reports shall contain the information required by 13-37-229 and 13-37-230, MCA, and these rules.

(3) A copy of a report or statement filed pursuant to this rule need not be filed with a county election administrator in Montana.

Sub-Chapter 5
Campaign Treasurer - Records and Reporting

44.10.501 UNIFORM SYSTEM OF ACCOUNTS (1) **Each person required to file reports** pursuant to Title 13, chapter 37, and these rules, **shall maintain a system of accounts as prescribed and published in manual form by the commissioner.** The manual may be obtained without cost and upon request from the Commissioner of Political Practices, 1205 Eighth Avenue, PO Box 202401, Helena, Montana 59620-2401, telephone (406) 444-2942.

(2) The uniform system of accounts provides, on a current basis, the **detail and summary information necessary for preparing, directly from the accounting records, the reports required** by Title 13, chapter 37, MCA, and these rules.

44.10.503 DEPOSITS AND EXPENDITURES, ONLY BY CAMPAIGN TREASURER, THROUGH DEPOSITORY (1) **No contribution received or expenditure made by a** candidate or **political committee shall be deposited or expended except by the appointed campaign treasurer**

or duly authorized deputy treasurer through the designated primary or secondary depository.

(2) All funds received by the campaign treasurer shall be deposited as specified in section 13-37-207, MCA, except that funds received prior to and on the 5th day before the date of filing of any report shall be deposited and reported on that report.

(3) **All expenditures**, except expenditures from the petty cash fund, **shall be made by check drawn on the designated depository.**

(a) petty cash

(b) petty cash

44.10.517 EXPENDITURE ENCOURAGED TO AVOID CONTRIBUTION, REPORTING (1) **If a candidate or political committee, or member thereof, advises, counsels, or otherwise knowingly encourages any person to make an expenditure for the purpose of avoiding direct contributions, or for any other reason, the expenditure shall be considered a contribution by that person to the candidate or political committee encouraging the expenditure.**

(2) Such contributions shall be reported pursuant to the provisions of ARM 44.10.513.

44.10.519 EARMARKED CONTRIBUTION, REPORTING (1) For the purposes of section 13-37-217, MCA, and these rules, **an "earmarked contribution" is a contribution made with the direction, express or implied, that all or part of it be transferred to or expended on behalf of a specified candidate,** ballot issue, or petition for nomination.

(a) A contribution is not earmarked when the initial recipient is:

(iv) A political committee which supports or opposes more than one candidate and/or issue or petition for nomination and there is no direction, express or implied, that all or part of the contribution will be expended for the benefit of a specified candidate and/or issue or petition for nomination.

(2) An earmarked contribution shall be reported as follows:

44.10.531 EXPENDITURES, REPORTING (1) **An expenditure is made on the date payment is made, or in the case of an in-kind expenditure, on the date the consideration is given.**

(2) An expenditure shall be reported on the date and for the reporting period during which it is made.

(3) petty cash

(4) **Independent expenditures, as defined in ARM 44.10.323, shall be reported in accordance with the procedures for reporting other expenditures. In addition, a person making an independent expenditure shall report the name of the candidate or committee the independent expenditure was intended to benefit, and the fact that**

the expenditure was independent. The candidate or political committee benefiting from the independent expenditure does not have to report the expenditure.

44.10.533 IN-KIND EXPENDITURE, REPORTING (1) For the purposes of Title 13, chapter 37, MCA, and these rules, an in-kind expenditure shall be reported as follows:

(a) A candidate or political committee shall report an in-kind expenditure on the appropriate reporting schedule and, in addition to the reporting requirements specified in ARM 44.10.531, shall identify it as to its nature.

(b) The value of an in-kind expenditure shall be determined as follows:

(i) It shall be reported at its fair market value at the time of the expenditure; or

(ii) It shall be reported at the difference between the fair market value at the time of the expenditure and the amount charged the expendee; or

(iii) It shall be reported at the actual monetary value or worth at the time of the expenditure; or

(iv) If due to extraordinary circumstances none of these provisions would be appropriate or no reasonable fair market value can be established, it shall be sufficient to report a precise description of such in-kind expenditure as made.

(c) Fair market value shall be the retail price of such would have been purchased by the expendee at the time of its expenditure.

APPENDIX B OTHER CAMPAIGN FINANCE LAWS/RULES OF INTEREST