

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES

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In the Matter of the Complaint Against )  
Montana Shrugged Tea Party Patriots, )  
Eric Olsen, and Jennifer Olsen )  
)  
)

**COMPLAINANT'S  
ALLEGED VIOLATIONS  
AND  
STATEMENT OF FACTS**

Joseph M. Raffiani, Attorney at Law (Complainant), files this Complaint with the Commissioner of Political Practices alleging Montana Shrugged Tea Party Patriots, Eric Olsen, and Jennifer Olsen (Respondents) have and are violating Montana campaign finance and practices law:

1. Complainant brings this action under §13-37-111 of the 2009 Montana Code Annotated (MCA), requests that the Commissioner investigate: whether the Respondents' apparent corporate campaign expenditures and in-kind contributions are illegal, if they failed to file necessary statements pursuant to Title 13, Chapters 35 and 37, MCA, and whether other violations of election law outlined in this Complaint occurred by inspecting the records, accounts, and books of the Respondents. Complainant further requests that the Commissioner consider issuing an order of noncompliance pursuant to MCA §13-37-121, and/or pursue a cause of action against the Respondents in District Court under MCA §13-37-128, in cooperation with the appropriate County Attorney, as appropriate.

**JURISDICTION**

2. The Commissioner has subject matter jurisdiction over this matter under MCA §13-37-111, because Complainant alleges violations of Title 13, Chapters 35 and

37, MCA, including §§13-35-225, 13-35-227, 13-1-101, 13-37-201, 13-37-205, 13-37-208, 13-37-216, 13-37-225, 13-37-229, and 13-37-230.

### **THE PARTIES**

3. Complainant, Joseph M. Raffiani, is a qualified elector of the state of Montana and attorney at law maintaining a principal place of business at 2602 1<sup>st</sup> Avenue North, Suite 316, P.O. Box 3394, Billings, Montana, 59103.

4. Respondent Montana Shrugged Tea Party Patriots (Montana Shrugged) is a non-profit public benefit corporation *without members* that organized under the laws of Montana on June 22, 2010, and holds the Secretary of State Identification #D205902. *See Exhibit A.* It appears to maintain a principal place of business at 208 North 29<sup>th</sup> Street, Suite 230, in Billings, Montana. *See Exhibit A.* Complainant further believes it regularly broadcasts programming on Community Seven Television in Billings, Montana, maintains a website at [www.montanashrugged.com](http://www.montanashrugged.com), maintains an official organizational YouTube page at [www.youtube.com/user/oilpatchkid8/](http://www.youtube.com/user/oilpatchkid8/), maintains an official organizational blog, Facebook page, Twitter feed, and an e-mail alert distribution system.

5. Respondent Eric Olsen is a co-founder of Montana Shrugged, and is the legal agent for the corporation. He appears to maintain a principal residence at 839 South 64<sup>th</sup> Street West in Billings, Montana. Complainant believes Eric Olsen is the father of Jennifer Olsen.

6. Respondent Jennifer Olsen is also a co-founder of Montana Shrugged. Complainant believes she maintains a principal residence at 3612 Marathon Drive, in Billings, Montana. Together with Eric Olson, complainant reasonably believes she exercises day-to-day control over the activities of the corporation. On Montana

Shrugged's YouTube page, Jennifer Olson lists "Community Organizer. TEA Party co-organizer & founder of Montana Shrugged," as her professional occupation and "Non-Profit. TEA Party Group, Montana Shrugged," as the company for which she works. *See Exhibit E.*

### **RESPONDENTS' COURSE OF CONDUCT**

7. Respondents Eric and Jennifer Olsen formed Montana Shrugged in April 2009. According to their official YouTube page, they began distributing information via the site on April 17, 2009. Shortly thereafter, it appears they made expenditures to register the domain name [www.montanashrugged.com](http://www.montanashrugged.com) and pay to host the site on the Internet.

8. Montana Shrugged's organizational website contains an archive page of videos as early as 2009. One of the videos is entitled, "Rally to Show Support for Congressman Denny Rehberg 10.24.09." Others include but are not limited to, "GOP Kickoff Event, Great Falls, Montana, February 12&13" and "Carbon County Womens' Republicans Mtg. Eric Olson Guest Speaker." Most, if not all, of the videos on the site seem to Complainant to be of a partisan nature. *See Exhibit D.*

9. Montana Shrugged's website contains a page called "YC Candidates," that lists candidates for public office in the 2010 elections in two columns. One column is entitled, "REPUBLICANS (higher wages, lower taxes, limited government)." The other is entitled, "DEMOCRATS (the party of spending and increased deficits)" in a seemingly unambiguous encouragement for visitors to the site to support the Republican Party candidates listed and not the Democratic ones. *See Exhibit B.*

10. Montana Shrugged's website contains a page called "The Patriot Chronicles," which is an archive of broadcasts of the organization's regular Community Seven Television program which airs in Billings, Montana. According to the site, the Patriot Chronicles began broadcasting on January 21, 2010, and continues broadcasting to this day. *See Exhibit D.*

11. Community Seven Television is owned by Billings Community Cable Corporation. Community Seven is not a free service. As a prerequisite to being able to utilize the facilities and equipment of Community Seven, Montana Shrugged must make an expenditure to become a "member" of the station and pay a dues fee to Billings Community Cable Corporation. *See Exhibit C.*

12. The Patriot Chronicles Community Seven television program and accompanying posting to the web consist of "interviews" with local candidates for office which appear to be aired for the purpose of promoting the candidate being interviewed. To date, the candidates "interviewed" include:

January 21, 2010: Cary Smith, a candidate for HD 55

January 28, 2010: Roy Brown, a candidate for SD 25

February 4, 2010: Krayton Kerns, a candidate for HD 58

March 4, 2010: Ed Walker, a candidate for SD 29

March 11, 2010: Joel Boniek, a candidate for HD 61 in the June primary

March 18, 2010: Jerry Prouse, a candidate for Yellowstone County

Commissioner

March 25, 2010: Jeff Essman, a candidate for SD 28

April 8, 2010: James Knox a candidate for HD 47

April 15, 2010: Congressman Denny Rehberg

April 22, 2010: Marv McCann, a candidate for Yellowstone County

Attorney

April 29, 2010: Mark French, a candidate for Congress

May 6, 2010: David Howard, a candidate for HD 60

May 20, 2010: Wes Prouse, a candidate for SD 23 in the June primary

June 24, 2010: Jon Greespon, Republican presidential candidate 2012

July 22, 2010: Roy Brown, a candidate for SD 25

July 29, 2010: James Knox, a candidate for HD 47

August 5, 2010: Dennis Lenz, a candidate for HD 54

August 26, 2010: James Reno, a candidate for Yellowstone County

Commissioner

September 2, 2010: Corey Stapleton, a candidate for Governor in 2012

September 23, 2010: Scott Twito, a candidate for Yellowstone County

Attorney

September 30, 2010: Doug Kary, a candidate for HD 48

13. Montana Shrugged seems to have selected only a particular group of candidates to interview and give airtime. It appears that the only candidates interviewed for the Patriot Chronicles were Republican candidates standing for election in either the June 8, 2010, primary or the November 2, 2010, general election. With the exception of Dennis Rehberg and Mark French, it appears that Montana Shrugged did not interview any opponent of the candidates interviewed in the June GOP primary.

14. As of the date of the filing of this complaint, on Montana Shrugged's official YouTube page, the website upon which all of the above-mentioned videos reside, the organization has posted promotional text for some of the candidates it interviewed, including Roy Brown (<http://www.youtube.com/watch?v=G2Dt5aAEEF4>) and James Knox (<http://www.youtube.com/watch?v=-teTN0DLdtw>).

15. Montana Shrugged may own or rent video equipment of its own to produce videos "on the scene," at various political rallies, or it may be receiving the use of a personal video camera as an in-kind donation to its cause.

16. Montana Shrugged appears to maintain an e-mail distribution list to which any member of the public may subscribe. Subscription is free and available on the organization's website. The computer software service used by Montana Shrugged to communicate to this e-mail list is a paid service called ConstantContact. ConstantContact charges a monthly fee based on usage. Therefore, it appears Montana Shrugged makes regular expenditures to ConstantContact. *See Exhibit F.*

17. On or about October 1, 2010, it appears Montana Shrugged distributed email to its email list with the subject line, "Fire Pelosi Bus Tour." Amongst other statements in favor of or opposed to candidates for public office, the email announces that, "So for a final push before the November election we [Montana Shrugged] will hold a rally in support of the conservative candidate, Roy Brown." Roy Brown is a candidate for State Senate District 25 in the November 2, 2010, general election. This is clear and unambiguous language in support of a candidate for public office. *See Exhibit G.*

18. Eric and Jennifer Olsen appear to have made repeated public statements on the Internet about how Montana Shrugged would be supporting and opposing candidates for public office. These statements include but are not limited to:

- “[W]e will hit van dyke hard with teaparty before election.....” – Eric Olsen post on Roy Brown’s Facebook page.

- “So for a final push before the November election we will hold a rally in support of the conservative candidate, Roy Brown.”–Jennifer Olsen on her Facebook page.

- “A rally. Supporting Conservative Candidates in the Heights Districts,” is an event created and sponsored by Montana Shrugged and advertised on Facebook. The rally advertisement includes statements like, “Let's help these candidates gain momentum in the Heights districts and show our support for the obviously more conservative candidates that are running!”

If from the Respondents, these statements are clear and unambiguous speech indicating that a main purpose of the Montana Shrugged organization is to support conservative candidates for public office. *See Exhibit H.*

19. Montana Shrugged may have made expenditures to create rally signs, including but not limited to poster board, stakes/handles, and markers and/or paint for their rally to be held October 6, 2010, for Roy Brown, a candidate for SD 25. In the alternative, Respondent Jennifer Olsen may have donated these materials in-kind to Montana Shrugged.

20. Montana Shrugged appears to maintain a principal place of business at 208 North 29th Street, Suite 230, in Billings, Montana. This address appears to be an

office building with many tenants that presumably requires the payment of rent or a lease, and perhaps also utilities such as electricity or heat. It is highly likely that the office contains regular office equipment and/or supplies. Therefore, in order to hold and maintain its open office, Montana Shrugged most likely makes regular expenditures, a portion of which is apparently used for the purpose of supporting and opposing candidates for public office. In the alternative, Eric Olsen, Jennifer Olsen, some other individuals or a corporation has donated equipment and facilities to Montana Shrugged in-kind.

21. Montana Shrugged appears to receive revenue from the sale of t-shirts, decals, buttons, flags, and the like on its website. Montana Shrugged also appears to receive and accept donations and contributions from individuals, corporations, and other organizations, both via the web, through the mail, and in person. It appears likely that Montana Shrugged has put these contributions into its general treasury. *See Exhibit B.*

22. Montana Shrugged incorporated with the Montana Secretary of State on June 22, 2010. It did not incorporate as a membership organization, but as a non-profit corporation *without* members. *See Exhibit A.*

23. As of the date of the filing of this Complaint, Montana Shrugged does not appear to have filed a Form C-2, Statement of Organization, and does not appear to be registered as a political committee with the Commissioner of Political Practices. It also does not appear to have formed a separate, segregated fund political action committee.

24. As of the date of the filing of this Complaint, Montana Shrugged appears to have not filed any Form C-4 or Form C-6 with the Commissioner of Political Practices detailing any receipts or expenditures related to campaign finance for the 2010 elections.

## ALLEGED VIOLATIONS

25. **Montana Shrugged and Eric and Jennifer Olsen may have failed to register as a political committee and name a treasurer.** MCA §13-1-101(22) provides that a Political Committee is “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.” MCA §13-37-201 requires political committees to register with the Commissioner of Political Practices and designate a Treasurer within 5 days of making any contribution or expense. It appears as though Montana Shrugged and/or Eric and Jennifer Olsen, as of the filing of this complaint, have not yet registered with the Commissioner, and that they should have registered with the Commissioner before the June 8, 2010 primary election, if not sooner.

26. **Montana Shrugged may have made corporate in-kind contributions and expenditures, which, if true, may have been illegal.** MCA §13-35-227, prohibits corporations from making “a contribution or an expenditure in connection with a candidate or a political committee that supports or opposes a candidate or a political party” from their general treasury funds. Montana Shrugged incorporated on June 22, 2010. It appears to Complainant, that any in-kind campaign contributions to candidates and campaign expenditures made by Montana Shrugged on or after its date of incorporation would be illegal if they did not come from a separate, segregated fund political action committee. Similar contributions may be ongoing and would also be illegal.

27. **Montana Shrugged and Eric and Jennifer Olson may have produced anonymous election materials.** MCA §13-35-225 requires that “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." None of Montana Shrugged or Eric or Jennifer Olsen's communications, including but not limited to their website, their Patriot Chronicles videos, their e-mail alerts, and their protest signs appear to contain any such disclaimer.

28. **Montana Shrugged and/or Eric and Jennifer Olsen may have failed to designate a campaign depository and therefore make their account available to the Commissioner for inspection.** MCA §13-37-205 requires political committees to designate "one primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made...[.]" Montana Shrugged and/or Eric and Jennifer Olsen appear to have failed to designate such a depository for campaign-related funds.

29. **Eric or Jennifer Olsen may have failed to keep campaign records.** MCA §13-37-208 requires that, "the campaign treasurer of each candidate and each political committee shall keep detailed accounts of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a report filed under this chapter. The accounts must be current within not more than 10 days after the date of receiving a contribution or making an expenditure." It appears that either Eric or Jennifer Olsen functions as the *de facto* treasurer for Montana Shrugged. If true, he or she appears to have maintained no current campaign records of contributions and expenditures.

30. **Montana Shrugged and/or Eric and Jennifer Olsen may have failed to report their contributions and expenditures for the primary and general elections.**

MCA §13-37-225 requires that each political committee “shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee.” Eric and Jennifer Olsen appear to have made and/or continue to make regular, in-kind contributions of equipment, supplies, and facilities to Montana Shrugged, a portion of which may have been used to support or oppose candidates for public office in the June primary and/or may continue to be used to support or oppose candidates for public office for the November general election. These in-kind contributions appear not to have been reported on any form required by the Commissioner under MCA §13-37-225.

31. Montana Shrugged and/or Eric and Jennifer Olsen appear to have made in-kind contributions to the candidates listed in Paragraph 12 of this Complaint in the form of electronic mail communications, website advertising, promotional videos, rally signs, and the like. **These in-kind contributions may not have been reported on any form required by the Commissioner under MCA §13-37-225.**

33. To the extent those in-kind contributions exceed the aggregate value of \$160 per candidate, **Montana Shrugged and/or Eric or Jennifer Olsen may have violated the contribution limits established by MCA §13-37-216, and amended by rule,** especially if Eric or Jennifer Olsen have also made cash contributions to any of the candidates listed in Paragraph 12 of this complaint.

32. Montana Shrugged and/or Eric and Jennifer Olsen may have made expenditures in support or opposition of candidates for public office, including but not limited to: salary/compensation or reimbursement of expenses to Eric and Jennifer Olsen,

a portion of all rent/lease payments, utilities, and overhead for equipment and facilities at Montana Shrugged's main office, website domain name registration, website hosting fees, monthly electronic mail distribution system fees, Community Seven Television dues, supplies for rallies, and the like. **These expenditures, if made, appear not to have been reported on any form required by the Commissioner under MCA §13-37-225.**

33. Montana Shrugged and/or Eric and Jennifer Olsen may have received contributions in the form of revenue for the sale of merchandise or cash contributions that may or may not have been earmarked for work in, or at least actually applied to, specific candidate races. **These contributions, if made to Montana Shrugged and/or Eric and Jennifer Olsen, appear not to have been reported on any form required by the Commissioner under MCA §13-37-225.**

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**EXHIBITS**

- Exhibit A: Secretary of State information page on Montana Shrugged's corporate status.
- Exhibit B: Selected pages of Montana Shrugged's website.
- Exhibit C: Community Seven TV Producer's Handbook, indicating dues must be paid before producing video using Community Seven equipment and facilities.
- Exhibit D: Website archive page of Montana Shrugged's Patriot Chronicles candidate promotional videos.
- Exhibit E: Montana Shrugged's official organizational YouTube homepage.
- Exhibit F: ConstantContact e-mail distribution system pricing structure
- Exhibit G: October 1, 2010, e-mail using ConstantContact promoting the candidacy of Roy Brown for SD 25.
- Exhibit H: Internet postings from Eric and Jennifer Olsen indicating Montana Shrugged's intentions to make in-kind contributions and expenditures in the general elections.
- Exhibit I: Pictures of rally signs created for Montana Shrugged using materials that have been purchased.
- Exhibit J: Montana Shrugged's "donate" page on its website.