

**MONTANA SENATE  
2007 LEGISLATURE**

**ROLL CALL**

**JUDICIARY**

DATE 4-4-07

NAMES <i>Pres Cronley</i> ✓	PRESENT	ABSENT	EXCUSED
SEN. LYNDA MOSS (D)	✓		
SEN. DAN MCGEE (R)			✓
SEN. CAROL WILLIAMS (D)			✓
SEN. CAROL JUNEAU (D)			✓
SEN. GERALD PEASE (D)	✓		
SEN. JIM SHOCKLEY (R)	✓		
SEN. AUBYN CURTISS (R)	✓		
SEN. JERRY O'NEIL (R)	✓		
SEN. LARRY JENT (D)	✓		
SEN. GARY PERRY (R)	✓		
SEN. DAVID WANZENRIED (D)			✓
SEN. JESSE LASLOVICH (D) CHAIRMAN	✓		
VALENCIA LANE, LSD	✓		
CAROL ANDERSEN, COMMITTEE SECRETARY	✓		



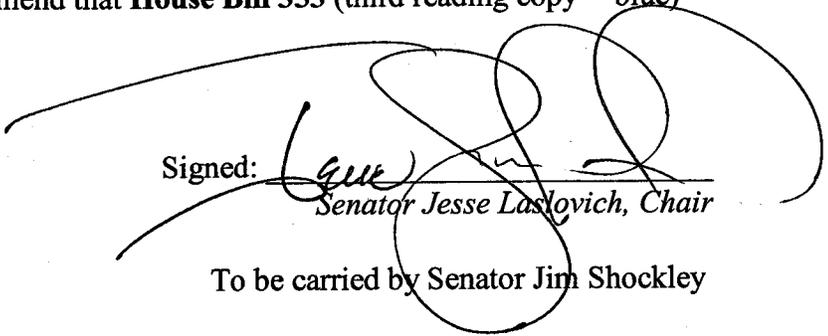
**SENATE STANDING COMMITTEE REPORT**

**April 4, 2007**

**Page 1 of 1**

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 353** (third reading copy -- blue)  
**be concurred in.**

Signed: 

*Senator Jesse Laslovich, Chair*

To be carried by Senator Jim Shockley

- END -

**Committee Vote:**

**Yes 11, No 0**

Fiscal Note Required — 

721220SC.ssc



**SENATE STANDING COMMITTEE REPORT**

**April 4, 2007**

**Page 1 of 1**

Mr. President:

We, your committee on **Judiciary** recommend that **House Joint Resolution 38** (third reading copy -- blue) **be concurred in.**

Signed: *(Signature)*

*Senator Jesse Laslovich, Chair*

To be carried by Senator Aubyn Curtiss

- END -

**Committee Vote:**

**Yes 11, No 0**

Fiscal Note Required *Kf*

721221SC.ssc



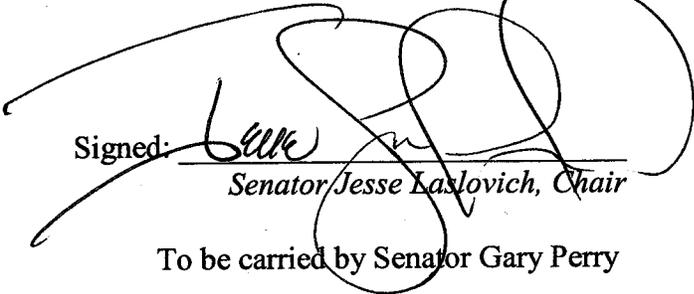
**SENATE STANDING COMMITTEE REPORT**

**April 4, 2007**

**Page 1 of 1**

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 217** (third reading copy -- blue) **be concurred in.**

Signed: 

*Senator Jesse Laslovich, Chair*

To be carried by Senator Gary Perry

- END -

**Committee Vote:**

**Yes 12, No 0**

Fiscal Note Required — *KF*

721222SC.ssc

---

**COMMITTEE FILE COPY**

**TABLED BILL**

The **SENATE JUDICIARY COMMITTEE** TABLED **HB 281, HB 312, HB 597, HJ 43**, by motion, on **Wednesday, April 4, 2007**.

*Carol Andersen*  
\_\_\_\_\_  
(For the Committee)

*KF*  
\_\_\_\_\_  
(Secretary of the Senate)

\_\_\_\_\_, *4-4*  
\_\_\_\_\_  
(Time) (Date)

April 4, 2007

Carol R. Andersen, Secretary

Phone: 444-4697

---

**MONTANA STATE SENATE  
2007 LEGISLATURE**

**JUDICIARY**

**ROLL CALL VOTE**

DATE 4-4-07 BILL NO. HJ 43 NUMBER \_\_\_\_\_

MOTION: Concur

NAME	AYE	NO
SEN. LYNDA MOSS (D)		✓
SEN. DAN McGEE (R) <span style="float:right">P</span>	✓	
SEN. CAROL WILLIAMS (D) <span style="float:right">P</span>		✓
SEN. CAROL JUNEAU (D) <span style="float:right">P</span>		✓
SEN. GERALD PEASE (D)		✓
SEN. JIM SHOCKLEY (R)		✓
SEN. AUBYN CURTISS (R)	✓	
SEN. JERRY O'NEIL (R)	✓	
SEN. LARRY JENT (D)		✓
SEN. GARY PERRY (R)		✓
SEN. DAVID WANZENRIED (D) <span style="float:right">P</span>		✓
SEN. JESSE LASLOVICH (D) CHAIRMAN		✓
	3	9
VALENCIA LANE, LSD		
CAROL ANDERSEN, COMMITTEE SECRETARY		

F - R - T

**MONTANA STATE SENATE  
2007 LEGISLATURE**

**JUDICIARY**

**ROLL CALL VOTE**

DATE 4-4-07 BILL NO. HB 312 NUMBER \_\_\_\_\_

MOTION: Do Concur

NAME	AYE	NO
SEN. LYNDA MOSS (D)		✓
SEN. DAN McGEE (R) <span style="float:right">P</span>	✓	
SEN. CAROL WILLIAMS (D) <span style="float:right">P</span>		✓
SEN. CAROL JUNEAU (D) <span style="float:right">P</span>		✓
SEN. GERALD PEASE (D)		✓
SEN. JIM SHOCKLEY (R)	✓	
SEN. AUBYN CURTISS (R)	✓	
SEN. JERRY O'NEIL (R)	✓	
SEN. LARRY JENT (D)		✓
SEN. GARY PERRY (R)	✓	
SEN. DAVID WANZENRIED (D) <span style="float:right">P</span>		✓
SEN. JESSE LASLOVICH (D) CHAIRMAN		✓
	5	7
VALENCIA LANE, LSD		
CAROL ANDERSEN, COMMITTEE SECRETARY		

F-R-T

**MONTANA STATE SENATE  
2007 LEGISLATURE**

**JUDICIARY**

**ROLL CALL VOTE**

DATE 4-4-07 BILL NO. 281 NUMBER \_\_\_\_\_

MOTION: Do Concur

NAME	AYE	NO
SEN. LYNDA MOSS (D)		✓
SEN. DAN MCGEE (R) <i>P</i>	✓	
SEN. CAROL WILLIAMS (D) <i>P</i>		✓
SEN. CAROL JUNEAU (D)		✓
SEN. GERALD PEASE (D)		✓
SEN. JIM SHOCKLEY (R)	✓	
SEN. AUBYN CURTISS (R)	✓	
SEN. JERRY O'NEIL (R)	✓	
SEN. LARRY JENT (D)		✓
SEN. GARY PERRY (R)	✓	
SEN. DAVID WANZENRIED (D) <i>P</i>		✓
SEN. JESSE LASLOVICH (D) CHAIRMAN		✓
	5	12
VALENCIA LANE, LSD		
CAROL ANDERSEN, COMMITTEE SECRETARY		

*F-R-T*

**MONTANA STATE SENATE  
2007 LEGISLATURE**

**JUDICIARY**

**ROLL CALL VOTE**

DATE 4-4-07 BILL NO. HB 597 NUMBER \_\_\_\_\_

MOTION: To Table

NAME	AYE	NO
SEN. LYNDA MOSS (D)	✓	
SEN. DAN McGEE (R) <i>P.</i>		✓
SEN. CAROL WILLIAMS (D) <i>P.</i>	✓	
SEN. CAROL JUNEAU (D) <i>P.</i>	✓	
SEN. GERALD PEASE (D)	✓	
SEN. JIM SHOCKLEY (R)	✓	
SEN. AUBYN CURTISS (R)		✓
SEN. JERRY O'NEIL (R)		✓
SEN. LARRY JENT (D)	✓	
SEN. GARY PERRY (R)		✓
SEN. DAVID WANZENRIED (D) <i>P.</i>	✓	
SEN. JESSE LASLOVICH (D) CHAIRMAN	✓	
	8	4
VALENCIA LANE, LSD		
CAROL ANDERSEN, COMMITTEE SECRETARY		

## SENATE PROXY FORM

According to Senate Rule 30-70 ( 13) ( f ) , a committee member may vote by proxy using a standard form.

### PROXY VOTE

I, the undersigned, hereby authorize Senator Curtiss

to vote my proxy on any issue before the Senate Judiciary

Committee

held on 4-4, 2007.

Concern on

HB 353

HJ 38

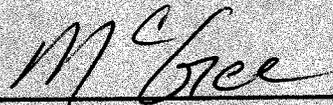
HB 281

HB 219

HB 597

HB 312

HB 43



SENATOR  
STATE OF MONTANA

# SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f), a committee member may vote by proxy using a standard form.

## PROXY VOTE

I, the undersigned, hereby authorize Senator MASS

to vote my proxy on any issue before the Senate Judiciary

\_\_\_\_\_ Committee

held on 4-4-07, 2007.

HB 353 *ye*

HB 312

HB 217 *ye*

HJ 43 *NO*

HB 597 *tebb ye*



SENATOR  
STATE OF MONTANA

# SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f), a committee member may vote by proxy using a standard form.

## PROXY VOTE

I, the undersigned, hereby authorize Senator ROSS

to vote my proxy on any issue before the Senate Judiciary

\_\_\_\_\_ Committee

held on 4-4-07, 2007.

HB 353 yes      HB 312 NO  
HJ 31 yes      HJ 43 NO  
HB 218 NO  
HB 217  
HB 597 table yes

WENZEL  
SENATOR  
STATE OF MONTANA

# SENATE PROXY FORM

According to Senate Rule 30-70 (13) (f), a committee member may vote by proxy using a standard form.

## PROXY VOTE

I, the undersigned, hereby authorize Senator Max

to vote my proxy on any issue before the Senate Judiciary

\_\_\_\_\_ Committee

held on 4-4-07, 2007.

HB 353 - yes

HB HJ 38

HB 218 no

HB 217 yes

HB 577 to be yes

HB 312 no

HJ 43 no

Carmel Williams

SENATOR  
STATE OF MONTANA





Late

**BRESNAN**

OnLine

Logged in as: **oldywedz**

Home | E-mail | Personal Web Pages | Member Services | Help

Get E-Mail | Message List | Compose | Folders | Address Book | Mailboxes | Options | Help | Logout

Folder: **INBOX**

[Mail Retention Policy](#)

**Read Message**

Reply | Reply To All | Forward | Delete | Save Address | Printable View | Previous | Next

**Sender:** "Robynn Gabel" <rgabel@rmisp.com>

[E-mail Source](#)

**Subject:** 06-017 Enrolled SOB ord as amended by committee

**Date:** Sat, 3 Mar 2007 20:13:09 -0700

**To:** "Dan Erving" <oldywedz@bresnan.net>

Dear Dan,

This is the final copy of an ordinance we fought in Riverton. This is the revised copy, originally it prohibited NC-17 rated films, and other stringent wording that would have affected us as a theatre. I am sending this because I like the wording they came up with. It is now clear and concise as to what they are objecting to as far as sexual material. I would suggest that instead of the broad word "obscene" which is up to interpretation, that they use wording similar to the this ordinance. Let me know if there is anything else I can do. Robynn

PROPOSED ORDINANCE NO 06-013

**ENROLLED ORDINANCE NO 06-017**

**AN ORDINANCE AMENDING PORTIONS OF CHAPTER 9.08 PUBLIC PEACE, MORALS, & WELFARE, OF THE RIVERTON MUNICIPAL CODE, REPEALING ALL PROVISIONS OF THE RIVERTON MUNICIPAL CODE IN CONFLICT THEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIVERTON, FREMONT COUNTY, WYOMING:**

## CHAPTER 9.08

### PUBLIC PEACE, MORALS, AND WELFARE

Chapter 9.08 Public Peace, Morals, and Welfare; Offenses Against Public Peace and Decency, is amended to read as follows:

#### Section 1.

§9.08.210 of the Riverton Municipal Code is added to read as follows:

#### **9.08.210 Sex-related activities as special uses or limited uses.**

A. Purpose and intent. It is the purpose of this section to protect the public health, safety, welfare, and morals of the community, to maintain compatible business areas where possible, and to protect individuals and neighborhoods from the adverse effects of having activities and standards involving pandering to gross sexuality imposed on them.

B. Definitions. As used in this section, the following terms will have the following meanings, unless the context clearly indicates a different meaning:

Specified sexual activities: (1) Human genitals in a state of sexual stimulation or arousal; (2) Acts of human masturbation, sexual intercourse or sodomy; (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified anatomical areas: (1) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola; (2) Human male genitals in a discernibly turgid state, whether or not covered.

Sexually Oriented Business: any business that engages or seeks to engage in the above described activities for commercial purposes either directly or indirectly as a significant and substantial part of the business (deriving more than 15% of its revenues from the above described activities).

C. Special uses. None of the following uses shall be permitted in any district unless a special use permit

or limited use permit for such use has been obtained. A special use permit pursuant to this section may only be issued in such portions of the following zones as may be designated by the Planning Commission from time to time, "C-H" Commercial Highway District or "I-1" Light Industrial District. No special use permit shall allow any person under the age of twenty-one (21) to participate in the following uses. The requirement for a special use permit shall be in addition to all other requirements of the zoning ordinance, and shall be in addition to all other requirements of all other applicable ordinances:

1. Book sales, video and magazine sales, where either the advertising or the displays or signs in or out of the location offer written materials showing specified sexual activities or specified anatomical areas. This does not apply to the availability for sale of any material displayed in such a way that only the name of the book, video or magazine appears.
2. Adult movie houses (theaters) offering movies or other displays showing specified sexual activities and specified anatomical areas.
3. Any type of theater or establishment offering any kind of live show emphasizing specified sexual activities or specified anatomical areas.
4. Any coin-operated devices and any place offering coin-operated devices which show specified sexual activities or specified anatomical areas.
5. Any cabaret, club, or tavern offering any entertainment showing specified sexual activities or specified anatomical areas.

D. Procedure. Any person desiring a special use permit for any use specified in this section shall apply in the manner provided by ordinance for a special use.

1. The first ~~-time a business applies for application~~ a business applies for application a sexually orientated business special use permit, ~~that business~~ shall be responsible for sending individual notice to surrounding property owners and their tenants within 140 feet from the business' property lines, excluding streets and alleys, of the proposed business location. The required notice shall be provided by certified mail, return receipt to the City of Riverton. Proof of notice shall be provided to the City at least five (5) days prior to the scheduled hearing date.
2. A hearing ~~upon the application~~ shall be held upon application in accordance with the rules and regulations of the City Council. No hearing shall be held, and no application shall be considered, unless and until the applicant is physically present at such hearing. In the event that no protests, either in writing or orally expressed at the time of the hearing, are received from adjacent property owners or their tenants, or other citizens of the city, such application may be considered to comply with Subsection A. If objections are received and, in the opinion of the quorum of the City Council, the proposed business does comply with the provisions of this section, then an annual permit for the proposed business may be issued by the city clerk for the amount of Two hundred Fifty Dollars (\$250.00). Such permit must be renewed each year only after application, hearing, and approval of the City Council, and payment of the annual permit fee in accordance with rules and regulations of the city. Such permit may include additional requirements or conditions, specifically limitations on signage and outdoor advertising.

E. Inspections. The Chief of Police or his sworn designee(s) may enter the business of any permittee during their normal business hours to determine compliance with this ordinance as it

pertains to commercial activities of the permitted business. Employees and/or owners of any permitted business may be cited for violations of this ordinance. For purposes of this ordinance, the owners, or their lessees or tenants, of the premises are responsible for the actions upon the premises/property.

F. Non Compliance. If any of the following ordinances are violated in the presence of a police officer, or their designee, or if the owner, lessee, tenant, or employees, or any other person are found guilty of violating any of the following ordinances on or in association with the permitted business location, the Chief of Police may order the immediate closure of the permitted business until a hearing is held before the City Council to determine if the permit should be revoked: 9.08.140, 9.08.150, 9.08.150, 9.08.170, or 9.08.180. Violators may be fined up to a maximum of \$750 or sentenced up to six (6) months in jail or both.

G. Background checks. All persons involved with the permitted business, including but not limited to owners, managers, and employees, may be required to submit to a background investigation conducted during the initial permitting process as described in subsection D 1 by the Police Department.

H. Limited use permit. A limited use permit may be issued to holders of valid liquor licenses on the following terms and conditions:

-

1. The limited use permit shall be issued by the City Administrator with the consent of the Chief of Police.

2. The limited use permit may only be issued for a period of not more than one day and no establishment, including those with multiple liquor licenses may obtain more than four (4) limited use permits per year.

3. The limited use permit may only be issued for Adult cabaret which is defined as: Any exhibition, performance or dance of any type conducted where such exhibition, performance, or dance involves a person who is partially unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals. No limited use permit may allow complete nudity of the female breast or genitals or male genitals. The City administrator may put such additional restrictions on each limited use permit as he deems appropriate.

4. A limited use permit may be revoked for violation of any of the conditions of the permit. Violations or revocation of any limited use permit may be grounds for denying future limited use permits.

5. Anyone shall have the right to appeal the denial of a limited use permit or the conditions placed on a limited use permit by the City Administrator to the City Council at the next regularly scheduled meeting.

6. The fee for a limited use permit shall be \$60 or such amount as the council may set from time to time by resolution.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the

extent of such conflict.

Section 3. This ordinance shall take effect from and after its passage, approval, and publication as required by law and ordinances of the City of Riverton.

PASSED ON FIRST READING September 19, 2006

PASSED ON SECOND READING as amended November 21, 2006

PASSED ON THIRD READING as amended December 5, 2006

PASSED, APPROVED, AND ADOPTED this 5<sup>th</sup> day of December, 2006.

CITY OF RIVERTON, WYOMING

By: \_\_\_\_\_

John R. Vincent, Mayor

ATTEST:

\_\_\_\_\_  
Gloria J. Leadbetter, Deputy City Clerk

**CERTIFICATION OF PUBLICATION**

I certify that Enrolled Ordinance No. 06-017 was published on the 8<sup>th</sup> day of December, 2006, in the Riverton Ranger, a newspaper of general circulation within the city of Riverton, Wyoming, at least once according to law, and was posted as by law required.

\_\_\_\_\_  
Gloria J. Leadbetter, Deputy City Clerk

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Proposed Ordinance 06-013

Enrolled Ordinance 06-017

Page 1 of 3

[Reply](#) | [Reply To All](#) | [Forward](#) | [Delete](#) | [Save Address](#) | [Printable View](#) | [Previous](#) | [Next](#)

Move message to: [Draft](#)  [Go](#)

**Mail Retention Policy:** Remember that mail in your INBOX folder is deleted after 30 days from receipt. To retain messages for more than 30 days, the messages must be moved to one of your personal folders, where they are stored indefinitely, as long as the storage threshold is not exceeded.

[Get E-Mail](#) | [Message List](#) | [Compose](#) | [Folders](#) | [Address Book](#) | [Mailboxes](#) | [Options](#)  
[Help](#) | [Logout](#) | [Bresnan OnLine Home](#)

[Terms and Conditions](#) and [Privacy Policy](#).  
Copyright 2004 Bresnan Communications, Inc. All rights reserved.

Late

**BRESNAN**

OnLine

Logged in as: **oldywedz**

Home	E-mail	Personal Web Pages	Member Services	Help
------	--------	--------------------	-----------------	------

Get E-Mail	Message List	Compose	Folders	Address Book	Mailboxes	Options	Help	Logout
------------	--------------	---------	---------	--------------	-----------	---------	------	--------

Folder: **INBOX**[Mail Retention Policy](#)**Read Message**

Reply	Reply To All	Forward	Delete	Save Address	Printable View	Previous	Next
-------	--------------	---------	--------	--------------	----------------	----------	------

**Your message has been sent.****Sender:** Dan Klusmann <dan@imeonline.com>[E-mail Source](#)**Subject:** Re: HB 597**Date:** Mon, 2 Apr 2007 13:27:26 -0600**To:** "Dan Erving" <oldywedz@bresnan.net>

April 2, 2007

Senator Jesse Laslovich  
 Chairman Senate Judiciary Committee  
 Helena MT

Dear Senator Laslovich,

I have been in the movie business in Montana for over 40 years. Today I operate a business out of Bozeman which provides information on film and operating theatres to clients in all 50 states and 33 countries around the world.

Back when I was running theatres in Montana, I testified and helped defeat legislation similar to HB 597. In politics, there is always good intentions. Whether it be our President trying to free oppressed people in Iraq, or a legislator trying to protect constituents and their families from obscenity in Montana, there are all sorts of unforeseen problems that their action creates.

In the movie business, Montana theatres generate less than .2% of a studio's revenue. With the high cost of making and delivering film prints to small theatres in a large state, their profit is even less. If there is the slightest hint that they could be part of a lawsuit for providing one of their movies to a theatre, they would use that as an excuse not to provide any of their films to the theatre(s) in that local.

Years ago, when I testified, a Montana Senator, on a debate on how to define obscenity, said "I do not know how to define it, but I know it when I see it." He had attended the Circus Twin Theatre in Helena that week and had seen the film *Towering Inferno*, rated "PG." (See write-up below.) He declared that it was obscene because it contained a case of adultery. While he meant well, his statement allowed us to defeat that obscenity bill, because it so clearly illustrated how different people are in identifying what is or is not obscene.

Passage of HB 597 will create lawsuits. It may cause undeserved hardship on Montana business people. Today, on any computer, the public has access to more pornography, obscenity, and filth, than at any time in our history. No local ordinance obscenity bill will be able to curb what is available on the Internet. Instead, they will waste the time and money of Montana citizens and, very possibly, create economic hardship on good theatre people who are simply trying to keep their movie theatres

open for the entertainment and enjoyment of their citizenry.

I have faith that our current legislature, like the one back in 1974, will understand the problems that this kind of poor legislation, however well intentioned, can create.

Sincerely,  
Dan Klusmann  
(406-587-1251)

## **Towering Inferno (1974)**



This multiple Oscar winner (Cinematography, Editing, and Song) is still considered one of the best disaster movies of all time—quite an accomplishment considering the film was produced in the pre-computer-driven effects era. Paul Newman led the all-star cast of revelers celebrating the completion of the world's tallest building (138 floors). When a fire breaks out on an upper floor, Newman's architect and Steve McQueen's fire chief scramble to evacuate the guests.

On Apr 2, 2007, at 10:24 AM, Dan Erving wrote:

Dan,

Thanks for your response. You can address your letter to Senator Jesse Laslovich, Chairman Senate Judiciary Committee. Please e-mail your letter to me so I can present it at the hearing.

HB 597 could negatively affect your business if your are dealing with theatre owners.

Thanks, Dan

On Mon, 2 Apr 2007 09:49:42 -0600  
Dan Klusmann <[dan@imeonline.com](mailto:dan@imeonline.com)> wrote:

Dan,

Sorry, but we are not planning on it. As we do not have theatres in Montana, we have far less sway with legislators than those who do. Happy to write a letter if that would help. Good luck.

Dan

On Apr 1, 2007, at 10:15 PM, Dan Erving wrote:

Dan and Verl,

Please let me know if you're planning on testifying at Wednesday's hearing.

# Montana State Legislature

## **Additional Document**

**It became apparent that Dan Shea's documents for HJ R 43 were inadvertently left out – at the 2007 Session.**

**Therefore these documents have been placed into the Minutes at the 2009 Session per request of Representative Scott Sales and Senator Robert Story, approved by Senate Secretary Marilyn Miller.**

**The original exhibits are on file at the Montana Historical Society and may be viewed there.**

**Montana Historical Society  
Archives**

**225 N. Roberts**

**Helena MT 59620-1201**

**Phone (406) 444-4774**

**2009 Legislative Scanner Susie Hamilton**

Daniel J. Shea,  
Appearing Pro Se  
800 Broadway  
Helena, Montana 59601

IN THE SUPREME COURT OF THE STATE OF MONTANA

In the Matter of Daniel J. Shea,

Supreme Court cause No. 05--606

Attorney at Law,

ODC File No. 04--291

Respondent

\*\*\*\*\*

**SHEA'S INTRODUCTORY STATEMENT TO HIS OBJECTIONS  
TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND  
ITS RECOMMENDATION FILED ON NOVEMBER 20, 2006.  
OF THE COP DECISION AND RECOMMENDATION FILED  
ON NOVEMBER 20, 2006.**

from beginning to end COP and the Disciplinary Counsel have conspired to deny  
Shea his rights provided by the disciplinary rules themselves, and his constitutional  
rights as presumably guaranteed by the Montana Constitution, and most assuredly by  
the United States Constitution. Shea has learned that the United States and Montana

*DOC #1 - Submitted to Senate Judiciary  
Committee - April 4, 2007*

Constitution; mean nothing to the Commission on Practice. Constitutional requirements are ignored.

**The corruption of the Commission and Disciplinary Counsel started early.** A conspiracy between COP and the ODC led to the unlawful dismissal of a huge complaint Shea against Joseph C. Engel III on August 9, 2004. Not only was the dismissal unlawful but on top of this, those in control of COP then conspired to deny Shea's rights under the rules by not giving him notice of the dismissal as required by the rules. Engel committed absolutely horrendous violations and Shea's complaint was over 400 pages long, Shea filed at least 35 exhibits with his complaint, and he included as part of the complaint a cover letter approximately 30 pages outlining each of the 23 charges.

The ODC, through D/C/C Strauch filed a **fraudulent ( yes, fraudulent)** investigatory report recommending dismissal of twenty two of the charges. The only charge left was a charge Shea filed against Engel relating to the Kloss estate matter in Great Falls. Shea's complaint on that matter was consolidated in the formal complaint filed against Engel on the Kloss estate matter. A law firm in Great Falls had also filed a complaint against Engel relating to the Kloss estate matter.

**As part of his objections, Shea is objecting to the unlawful dismissal of the complaint which Shea filed against Engel.** Shea contends that his rights under the rules, and his constitutional rights as a complainant were denied to him by the actions of the Disciplinary Counsel and COP, and that this Court should review those actions in

this proceeding. Further, one cannot separate and place into a compartment the illegal conduct of COP and the D/C in relation to their dismissal of Shea's complaint against Engel, and their illegal conduct in relation to the charge filed by district judge Sherlock against Shea. It is all part of one huge conspiracy to violate the law, and of course, to cover up the violations. If Shea has no rights of as a complainant, then it will be firmly established that the new rights of a complainant provided for in the Disciplinary Rules are meaningless, no more than window dressing to give the false appearance that complainants do indeed have rights and that they will be protectde. In fact, Shea has sadly learned that complainants have no rights at all. What rights are provided to Complainants in the rules are purely illusory.

This Court's real attitude toward the rights of complainants was clearly manifested by the language of its order dismissing Shea's Verified Petition seeking extraordinary relief. Order dated Julh 24, 2006. In that order, this Court did not refer to the dismissal of a complaint against a Great Falls lawyer and that the review panel did not give notice to the complainant (Shea ) of the dismissal. Rather, this Court merely stated that the complaint had been dismissed. In other words, this Court did not want anyone reading that order to know that a complalint had been dismissed against a lawyer and that the required notices of dismissal were not given to the complainant. Such an attitude can only encourage COP to continue with its illegal practices whenever it chooses, knowing that the Supreje Court will cover up its rule violations.

In the charges filed against Engel, D/C Strauch also recommended dismissal of a complaint Shea had filed against Engel in relation to the **Wagner** case, arising out of Engel's misconduct against one of his clients in Kalispell. In his investigative report recommending dismissal of that charge, Strauch cited that great legal principal, stare decise. **But Staunch then recommended that all of the 21 charges filed against EEngel in relation to the Dias case leading up to the horrendous misconduct of Engel in his foreclosure action,, be dismissed.** The review panel, consisting of Carey Matovich, Tracy Axel berg, and James Hubble, voted to dismiss. **And of course, to make the dismissal stick, this corrupt panel of commission members decided not to give Shea notice of the dismissal as required by law.**

And how was the complaint of disrtruct judge lsherlock processed against Shea? How was Sherlock's compalint ultilmatelyi converted into a formal complaint filed against Shea by Disciplllinary Counsel Thompson? Well, all of the preliminaries took place befodre Thompson took over as the new D/C on or about August 1, 2005.

On July 29, 2005, D/C Strauch, two days before he left office, met with a review panel in Billing to process the Sherlock complaint filed against Shea. Members on that review panel were: lawyers Carey Matovcih , Tracy Axel berg, and Jon Oldenburg (Oldenburg thad replaced Hubble on the Commission)., and non lawyers Arthur Noonan ( a Butte legislator and civil volunteer), and Patricia DeVries, a Polson accountant. D/C Strauch also committed massive fraud (yes, massive fraud) in his

investigative report. In any event, based on Strauss only recommendatin as to what charge to file, the panel agreed that such charge be filed. Strauch had concluded, without setting out any evidence in his report, that Shea's affidavit appeared to him that Shea was representing the interests of Marcia Dias as well as himself. ie appeared to him that Shea's affidavit looked like Shea's October 13, 2004 affidavit filed before Judge Serlock, appeared to Strauch that Shea was representing the interests of Marcia Dias as well as himself,

A panel member (probably the chairperson ) moved to authorize the recommended charge, the motion was seconded, and the panel unanimously voted to authorize the charge. voted to authorize the charge.

D/C Thompson took over for Strauch, (after the review panel had already authorized a complaint against Shea based only on the affidavit. But then, with the complicity of COP, and perhaps others outside the disciplinary system, he added approximately five more charges to the formal complaint which he filed. Shea was given no right to response to these charges as provided for in the preliminary complaint procedures, and D/C Thompson did not present these additional charges to a review panel. He merely added them to the complaint and included all of them as part of the formal complaint he filed on October 17, 2005. . But matters such as these do not seem to bother either the Commission or the ODC.

The background of the misconduct and fraud of Engel and the misconduct of

district judge Engel in aiding and abetting Egel to commit fraud, as well as aiding and abetting him to unlawfully execute on his judgment so as to decapitate the right of Dias to appeal, is summed up as follows:

\*\*\*\*The district judge unlawfully granted summary judgment to Engel in his foreclosure action. The judge swept the factual and legal issues raised by Dias under his judicial rug in order to justify his summary judgment ruling.

\*\*\*\*The judge directed Engel to prepare the judgment.

\*\*\*\*Engel prepared a fraudulent judgment, whereby he added at least \$15,000 to \$20,1000 to the judgment than to which he was otherwise authorized.

\*\*\*\*Marcia Dais, through counsel had filed a motion for stay of execution. Her affidavit showed that the money was in joint bank accounts in her name and Engel's name, which was the total judgment amount, more than enough of course, to secure a judgment while an appeal was taken.

**So, up to this point the Commission had accomplished the following:** They had made sure that Shea's complaint against Engel would be dismissed, By dismissing this complaint the misconduct of district judge Sherlock would disappear with the dismissal. At least it would no longer appear on the radar screen. And, on the other hand, the Commission and the ODC made Shea made sure that Sherlock's complaint against Shea was converted into a formal complaint.

\*\*\*\*Engel submitted ex parte submissions to the clerk of court and the judge. He submitted a writ of execution to the clerk of court, without telling opposing counsel. He submitted an order for Sherlock to sign denying the motion for a stay, without telling the opposing counsel.

\*\*\*\* As soon as Dias counsel's reply brief in support of the motion for a stay was received by Sherlock, Sherlock immediately signed the order sent to him by Engel, and the clerk of court then immediately issued the writ of execution and sent it to Engel in Great Falls.

\*\*\*\* Engel immediately executed on the judgment by electronic means from Great Falls. The money was deposited at The Wells Fargo Bank in Helena.

\*\*\*\* Sherlock's conduct effectively decapitated the right of Dias to appeal. And this ruling of course, affected Shea, because one of the issues on appeal was the refusal of district judge Sherlock to join Shea as a party to determine the issue of payment to Shea.

\*\*\*\* Engel's execution netted him more than \$125,000. And update he has never forfeited a retirement of execution.

\*\*\*\* The clerk of court and district judge Sherlock have refused to order Engel to file a return on the execution.

\*\*\*\* **Such are the ways of justice in Helena, this Capitol City.**

**The combined misconduct of Engel and the district judge allowed Engel to commit a financial rape of his own client----right in court. Such are the ways of justice now extant in Montana. And it appears, by the judge cover up that has taken place since that time, that such methods and conduct have been approved by our judicial system, the attorney disciplinary system, and our highest Court, the Supreme Court.**

After this happened, Shea filed a motion to intervene before the time expired. Shea informed the Court that Engel had committed fraud. In a brief, Engel, in his

customary, just made a general denial. Shea then filed a 31 page affidavit on October 13, 2004, setting out Engel's fraud and other misconduct, and also setting out Sherlock's complicity in this fraud, his aiding and abetting Engel to commit fraud, etc. Sherlock denied Shea's motion to intervene. The next day Sherlock filed a complaint against Shea by sending it to Betsy Brandborg, counsel for the State Bar of Montana. And thus the Sherlock complaint process started to unfold.

The horrendous unlawful conduct of Engel and Sherlock also adversely affected Shea. One ground of appeal by Dias was that Sherlock had improperly denied her the right to have Shea joined as a party. It was at this point that Shea, before the time expired, filed his motion to intervene. And of course, Sherlock and this Court took immediate action to deny Shea the right to intervene. Sherlock denied Shea's motion, Shea appealed. Engel filed a motion to dismiss. This Court granted Engel's motion to dismiss by dismissing Shea's appeal with prejudice. Thereby this Court assured itself that it would not have to face the misconduct of Sherlock while considering Shea's appeal. This Court's dismissal order was unlawful for several reasons. Shea will deal with two of them here.

First, this Court denied Shea due process because it dismissed on the ground that Shea had no standing to intervene as a matter of right. Engel had not raised that issue in his motion, and Shea had not responded to it. So the Court blindsided Shea in dismissing with prejudice without giving Shea the right to brief the issue. Shea was

denied due process. Second, where a party appeals a lower court order on the ground that a right to intervene existed as a matter of right the appeal must hear the appeal on the merits, with full briefing allowed. However, seeing the horrendous misconduct of district judge Sherlock, and seeking to cover it up, this Court sacrificed Shea's rights on the altar of judicial salvation. And the entire legal-judicial-lawyer disciplinary system has covered up this misconduct ever since. .

**Such are the ways of justice now extant in Montana..**

And now we come to what D/C Thompson did after he took over the duties of Disciplinary Counsel. He unlawfully added several charges to the complaint and then filed it as a formal complaint. To those several charges, Shea was not provided a chance to respond in the preliminary complaint stages and Thompson had never presented the material and charges to a review panel. Shea now stands convicted of these violations by the COP decision. And CCOP, through Warren was very much aware of the motions Shea made in challenging these charges. True to form, Chairman Warren denied them without ever addressing them on the merits. Such are the ways of this Court's Commission on Practice.

And the final result of that referral complaint, based on the action taken by this Court's trusted officers and agents, the Commission on Practice and the Office of Disciplinary Counsel, and with the background stated by Shea in mind, Shea now files his objections to the findings, conclusions, and recommendation of a COP Adjudicatory

panel filed on November 20,2006 with this Court.

Shea quotes of the decision and then provides his objections and comments..

\*\*\*\*\*

I. INTRODUCTION

Pursuant to Complaint filed in this cause against the Respondent on October 17, 2005 and formal hearings held on March 17, 2006 and September 21, 2006, an Adjudicatory Panel of the Commission on Practice, consisting of John Warren, Chairman;; Gary Davis, Vice Chairman; Jo Ridgway; Executive Secretary: Stephen R. Brown; James F. Canan, Jean Faure; James F. Jacobsen, and Michael F. Lamb, makes the following findings of Fact, Conclusions of Law and unanimous Recommendation to the Supreme Court of the State of Montana:

Shea's objections or comments to this paragraph

Shea agrees s that the complaint was filed on October17, 2005, but contends that the procedures used by COP and the D/C up to and including the filing of the formal complaint were unlawful. The proceedings must be vitiated as being initiated and completed in violation of Shea's Due process rights.

\*\*\*1. Before the filing of the charges, with the exception of Shea's affidavit filed on October 31,2004, in which Shea exposed the horrendous fraud of Engel and judicial misconduct of district judge Sherlock (all of which has been covered up by the entire legal establishment, including the judiciary itself, and the COP and D/C entities, Shea was given no opportunity to respond to the charges alleged in that complaint.

\*\*\*2. With the possible exception of Shea's affidavit, D/C former D/C Strauch did not present the charges to a review panel and therefore a review panel did not act on almost all charges which are contained in the complaint.

\*\*\*3. The investigative report prepared by D/C Strauch was voted on by a COP review panel on July 29,2005 at a meeting of COP in Billings. This was just two days before Strauch left office. Also in attendance at that review panel proceeding was the new D/C Thompson, who had not yet officially assumed his new duties.

\*\*\*4. The COP review panel authorized a complaint based only on the affidavit filed by Shea on October 13,2004, in which he exposed the fraud and corruption of attorney Engel and the corruption of district judge Sherlock, all of which has been covered up by

the legal-judicial establishment now extant in the State of Montana.

\*\*\*\*5. D/C Strauch did not present the required documents to the review panel: In this case, the required documents were: Sherlock's one page letter which enclosed Shea's 31-page affidavit filed on October 13, 2004. Shea filed a response: In this response Shea exposed Engel's fraud in the judgment and the judge's misconduct in facilitating that fraud in the judgment, and the judicial capitulation of the appeal rights of Dias by granting ex parte submissions from Engel which allowed Engel to immediately execute on the judgment and virtually destroy the appeal rights of Dias. Sherlock filed some kind of reply, but Shea has never seen this reply. The D/C did not provide these document to the review panel and they were not reviewed by the review panel. Members of the five member review panel , which met in Billings on July 29, 2005 were: **Lawyers** Carey Jovanovich, Tracy Axel berg, Jon Oldenburg, and non lawyers Patricia dearies, and Arthur Noon an..

\*\*\*\*6. Shea does not even know if the review panel read Strauch's investigative report,. Strauch prepared a fraudulent investigative report. Further, his recommendation that a charge be authorized based on Shea's affidavit, was based solely on Strauch's conclusion that he believed the affidavit showed that Shea was reprinting or had attempted to represent Marcia Dias Dias .

\*\*\*\*4. Sometime after July 29, 2005 and before October 17, the new D/C Thompson, came up with the additional charges and filed them without ever presenting them to a review panel. And, of course, Shea was never given an opportunity to respond to these charges as part of the complaint procedures set out in the rules.

\*\*\*\*5.. Shea raised the issues in a Verified Petition filed with this Court on July 21, 2006, but this Court dismissed the petition by an evasive order, thereby avoiding the issues Shea raised. (Shea incorporates and adopts by reference his Verified Petition as part of his objections.

\*\*\*\* 6. Shea raised these issues before the COP adjudicatory tribunal. In its decision filed on November 20,2005 with its findings, conclusions, and recommendation, Shea's motions were denied by a general omnibus order of denial .

\*\*\*\*7. Because of he illegal procedures used by COP and the D/C before the filing of the complaint, there was no basis in law for the COP adjudicatory panel to take control of the case and proceed to move against Shea from that point forward.

\*\*\*\*8. The proceedings must be nullified because all of the proceedings up to and including of the formal complaint, were based on the use of unlawful procedures.

**THE STATEMENT OF COP MEMBERSHIP AT THE  
ADJUDICATORY TRIBUNAL HEARINGS IS MISLEADING.**

\*\*\*\*1 Attorney **Jo Ridgway** was not present at the March 17, 2006 hearing in the Courtroom of the Supreme Court., But **Ridgway** did join the adjudicatory tribunal when it met in Great Falls on September 21, 2006.

\*\*\*\*2. On the other hand, **non lawyer Jan Brown** was present at the March 17, 2006, but for reasons never disclosed, she was not present at the hearing in Great Falls on September 21, 2006.

**CONDERNING THE PROCEEDINGS OF THE COP TRIBUNAL  
THE VOTE WAS TAKEN IMMEDIATELY AFTER THE HEARING,  
AND ONE OF ITS MEMBERS MAGNANIOUSLY VOLUNTEERED TO  
PREPARE THE FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION**

The minute entry of the meeting, provided to Shea as part of his request for a certified copy of the registry actions, the following is disclosed:

On September 21, 2006, a formal hearing was held before the Rankin adjudicatory panel. Respondent appeared and was not represented by counsel. Disciplinary Counsel, Shaun Thompson, was present. Lisa Lewis Devine served as the court reporter and John Warren presided over the hearing. Commission members present were: Jim Canaan, Jean Laure, Mike Lamb, Steve Brown, Gary Davis, Jim Jacobsen and Jo Ridgway. **Redacted material...** approximately one full line. **Redacted name** agreed to prepare the Findings of Fact, Conclusions of Law and Recommendation to be filed with the Court.

The proceedings were short, the vote and action were swift and certain, and the next step was for one to volunteer to prepare the findings, conclusions, and recommendation. This volunteer was most likely COP Chairman and chairperson of the adjudicatory tribunal: **John Warren.**

**SHEA'S COMMENTS ON THE COP ORDER WHICH**

**COMPELLED HIM TO ATTEND THE MARCH 17, 2006  
HEARING IN THE SUPREME COURT COURTROOM**

The order was issued by Vice-Chairman Davis and expressly stated that it was a hearing of COP under **Rule 12C(3)**. This of course was improper, because not only had Shea not been personally served at that time, he had not filed an answer to the form complaint filed by D/C Thompson. So where did Vice-Chairman Davis get the authority to issue an order directing that there would be a Rule 12B(3) hearing? Nonetheless, COP proceeded anyway.

The situation leading to the hearing is that D/C Thompson sent a letter to cop administrator and asked her to set up a hearing because Shea had not filed an answer to the complaint. Thompson was seeking to take Shea's default under Rule 12B.

**SHEA'S COMMENTS ON the ORDER ISSUED BY COP VICE-  
CHAIRMAN DAVIS COMPELLING HIM TO ATTEND A  
HEARING IN GREAT FALLS ON SEPTEMBER 21, 2006.**

The Davis order expressly stated that the hearing was taking place pursuant to the provisions of **Rule 12B**. This rule allows COP to order a hearing on a complaint even if the accused has not filed an answer. Therefore, Shea believed there would be a hearing on the merits in Great Falls **But Shea was caught by surprise and subjected to hearing by ambush.** Charmian Warren immediately announced at the hearing that the allegations of the complaint were deemed admitted. In other words, Charmian Warren and Vice-Chairman Davis ordered Shea to Great Falls by ruse, and then sprang the surprise on Shea. **Without doubt this was an undeniable and egregious example of trial by ambush, COP style.**

\*\*\*\*\*

**A. PROCEDURE:**

Throughout the course of these proceedings various motions were filed by the Respondent, some on the eve of the hearing without opportunity for the Disciplinary Counsel to Respond. Each of these motions was addressed after consideration in the ordinary course. When denied those motions were submitted by the Respondent at various subsequent points throughout these proceedings.

**SHEA'S OBJECTIONS TO AND COMMENTS ON THIS PARAGRAPH:**

**Concerning the first sentence, there is no doubt that Shea filed many motions.** After COP had ensnared Shea into its procedural net by pushing the case forward regardless of the horrendous rule violations by COP and the D/C, Shea did file motions in an attempt to protect his rights. Shea knew that Chairman Warren would completely disregard these motions. Warren and Davis were on a mission. And they were not to be deterred by any due process or equal protection considerations. The COP entity, led by Chairman Warren and Vice-Chairman Davis, was on a mission to get their man. And they got him. Mission accomplished.

Neither COP nor the D/C were caught by surprise by Shea's motions filed three days before the hearing. They had notice that Shea had raised these issues because Shea had already raised them in his Verified Petition seeking relief from the Supreme Court. The Supreme Court evaded all of these issues and the allegations of COP misconduct and fraud, and misconduct and fraud of former C/C Strauch. The Court used its power to dismiss Shea's petition, and in its order, never did state the total relief Shea was seeking. And so here we are again..

The declaration of the COP decision writer that all the issues were ruled on, does not mean much in terms of the consideration given to each of the issues Shea raised. It is a very simple matter for those in positions of power, to deny the relief requested without ever setting forth the relief requested and considering the merits of the issues raised. In this way the public would never know the actual content of those documents seeking the requested relief.

Because COP has no internal operating rules, and if it does, would never pass legal scrutiny if the public knew what they were, COP is free to operate however it likes and no one knows the difference.

In Shea's case, Chairman Warren, operating as a one-man steering committee, guided COP to a victory over Shea. The decision was pre-ordained: Shea's case was placed on a one way track to a predetermined destination.

\*\*\*\*\*

The Montana Rules of Professional conduct set forth the ethical obligations and responsibilities imposed on attorneys privileged to serve Montanans and others before Montana Courts, including Rule 5.5 at issue here, prohibiting the unauthorized practice of law by all persons not privileged to do so via current active licensure. The Respondent's various motions invite the Commission to set aside its general charge of reviewing the pending

Complaint to make the determinations necessary to the ethical inquiry in issue, in favor of dismissing the subject charges based on procedural and and technical bases. The Commission is neither authorized not inclined to take such action. Our obligation, our inquiry, is restricted to determining whether the charged violations ions have been proven by clear rand convincing evidence, and making the appropriate recommendations to the Supreme Court. Accordingly, the motions repeatedly advanced by the Respondent for avoiding the merits of the matter have been and are denied., **subject to Respondent's opportunity to advance those arguments before the Supreme Court. (COP Decision, pages 2-3) (Emphasis added)**

### **SHEA'S OBJECTINS TO OR COMMENTS ON THIS PARAGRAPH**

**As it stands alone, Shea does not necessarily disagree with the first sentence.** But Warren impermissably uses this first sentence as an excuse and a springboard to justify the failure to rule on the good faith motions and arguments which Shea has made. In other words, with Warren at the helm, he was not interested in all that had taken place before and all the violations that took place. He was interested only in getting Shea to a hearing to compel him to answer the charges. Part of the predetermined plan of Warren and Davis.

Shea's motions and briefs were based on extensive briefing, setting forth of the facts and procedures and of the law, In other words, Warren, acting for the adjudicatory panel, ducked the issues Shea raised concerning the horrible misconduct of those who administer the disciplinary machinery, by declaring that Shea could present those arguments to the Supreme Court **at the end of the line.** This means, of course, that once those COP proceedings began, no matter how illegal, that Shea could do nothing about it. Rather, he must just grin and bear it.

Shea was arguing not simply a procedural or technical application of the rules or the law. Shea was arguing fundamental principles of due process of law and equal protection of the law which were denied to Shea in this case, both as a complainant in relation to the unlawful dismissal of his complaint by COP and the ODC, and as an accused based on the referral complaint of district Judge Sherlock. In the process, Shea exposed horrendous misconduct of COP and of the ODC. But of what use is it to expose fraud and corruption? Those in power cover it up anyway. This process continues ad infinitum. **Power does indeed corrupt. And absolute power does indeed corrupt absolutely.**

**And Warren himself participated in this misconduct. He is a major player, if**

**not the major player. His misconduct started at least when he failed and refused to answer Shea's letter to him after Shea learned that his complaint filed against Engel had been unlawfully dismissed. Based on Warren's misconduct, should Warren have sat as chairperson of the adjudicatory panel? Shea thinks not. Should Warren have even sat on the adjudicatory panel at all? Shea thinks not. But Warren did sit and Warren did rule.**

It is fair to assume that from the beginning Warren knew that COP had unlawfully dismissed the complaint Shea had filed against Engel. It is fair to assume that he knew the review panel deliberately failed to give Shea the required notice of dismissal. It is fair to assume that Warren was involved in the decision to dismiss.

Sadly, the Court's own secrecy rules allowed this to happen. All of this plotting and scheming, and most certainly illegal ex parte communications, took place under the blanket of protection allowed by the Supreme Court's secrecy rules concerning COP proceedings. Shea has no doubt that the Court's secrecy rules violate at least two provisions of Montana's Constitution: The right to know and observe proceedings of government as provided for in Article II, section 9; and the right to equal protection of law as provided for in Article II, section 4..

But regardless of what Chairman Warren knew and when he knew it, it is fair to conclude he was a participant in the misconduct of COP when he failed and refused to answer the letter Shea's letter objecting to the dismissal of the complaint Shea had filed against Engel. At that point Warren most surely should have disqualified himself from any disciplinary proceeding involving Shea as an accused.

Warren himself should have removed himself from the case without a motion from Shea. But without doubt, when Shea made the motion, Warren should have stepped down. Warren's failure to step down created a monumental appearance of impropriety which tainted the entire proceedings. Especially, when Warren was not only the Chairman of COP, but appointed himself as the chairperson of the adjudicatory panel in control of Shea's fate.

In the face of what Warren knew and his refusal to answer Shea's letter, Warren should have disqualified himself from sitting on the adjudicatory panel in Shea's case. He should have disqualified himself without Shea making the request. But when Shea made the request, more surely Warren should have stepped down. His failure to do so created a monumental appearance of impropriety which tainted and stained the entire proceedings.

From the very beginning Shea moved that Warren disqualify himself from the case, and Warren refused.

Nor is it an answer to say that COP is not authorized to rule on such motions. If COP cannot rule on these motions does it mean than an accused must wait for his justice until a recommendation for discipline has reached the Supreme Court? This is precisely the effect of the COP decision. What is COP for?

Does it mean that manifest due process violations can take place but COP can do nothing about it because it has a one track mission to disregard all of that and get right to the merits of the charges filed by the D/C? Does it mean that COP can simply ignore all violations?

And precisely what does Chairman Warren mean when he declares that he (COP) would not be inclined to grant such relief in any event?

Is Chairman Warren suggesting that Shea's motions and arguments have no merit? If so, does he not have the duty thoroughly analyze the motions and law Shea presented to COP (Chairman Warren) and then rule on the motions based on careful consideration and analysis.

And isn't it odd that COP (Warren) did not even bother to set forth the motions and arguments which Shea has made? Why not? When COP acts in such a way is this due process of law, is this fundamental fairnesses? A school child with no training in the law would say no.

\*\*\*\*\*

**B. STANDARD OF REVIEW: (COP decision, page 2)**

As we are involved in determination's that relate to the Respondent s professional privileges, violations must be proven by clear and convincing evidence. That standard has been applied in reaching the Findings of Fact and Conclusions of Law set forth herein.

**SHEA'S COMMENTS TO OR OBJECTIONS TO THIS PARAGRAPH.**

Shea agrees that each charge must be prove by clear and convincing evidence.

But Shea denies that the Warren adjudicatory panel applies this standard to all of its findings and to determine whether or not Shea was guilty of each of the charges filed by D/C Thompson.

\*\*\*\*Did the COP decision apply the standard of clear and convincing evidence to each charge based solely on its decision that the charges were deemed admitted? It cannot be determined.

\*\*\*\*Or did the COP decision apply the standard of clear and convincing evidence to each charge in the complaint, based on the evidence. It cannot be determined.

\*\*\*\*In general,, the COP decision totally ignored this standard as part of its mission to convict.

\*\*\*\*\*

#### COP FINDING OF FACT 1

1. A formal complaint was filed against Respondent, Daniel Shea, by the Office of Disciplinary Counsel with the State of Montana on October 17, 2005.

#### **SHEA'S OBJECTIONS TO OR COMMENTS ON FINDING 1.**

Shea agrees that a formal complaint was filed against Shea by D/C Thompson on October 17, 2005. But Shea already set forth his assertion that the separate charges contained in the complaint were never processed by the disciplinary machinery.

\*\*\*\*D/C Strauch did not present these charges to the review panel which authorized the complaint on July 29, 2005. Shea incorporates by reference and adopts here the investigative report prepared by Strauch. (See Appendix I).

\*\*\*\*Shea was not asked nor given an opportunity to respond to the charges which form the basis of the complaint. The procedure is for the D/C to send the complain materials to the accused and the accused must respond. Then the response is sent to the complainant and the complainant may file a reply.

\*\*\*\*With regard to every charge but one ( relating to the charge that Shea's affidavit filed on October 13, 2004) demonstrated that he was representing Marcia Dias as well

as himself. Not only did Shea deny this in his response to Sherlock's complaint, see Appendix I, but neither D/C Strauch nor D/C Thompson ever bothered to contact Dias to determine if Shea was acting for her and whether she had authorized Shea to do so. She would have said no.)

\*\*\*\*Upon assuming office, D/C Thompson filed these charges without ever presenting them to a review panel.

\*\*\*\*What good is a review panel to determine whether or not probable cause exists if the D?C can circumvent this process by filing charges that have never been presented to a review panel? ( See Appendix I, Investigative Report of D/C Strauch, acted on by a COP review panel tribunal on July 29, 2005.

\*\*\*\*\*

**COP FINDING OF FACT 2.**

2: The Complaint states in relevant part that the Respondent was admitted to the practice of law in the State of Montana in 1964 and was later suspended indefinitely from the practice of law by Order of the Montana Supreme Court on August 3, 1989; further Respondent has not petitioned for reinstatement and has at all times relevant to this matter remained suspended from the practice of law.

**SHEA'S OBJECTINOS TO OR COMMENTS ON FINDING 2..**

Shea does not object to this finding as such ,but it is incomplete. The major reason Shea did not seek reinstatement is that he was deeply in debt, and was hoping to repay this debt before seeking reinstatement. Shea was expecting that he would be paid by Engel for all he work Shea did on the case. Shea did virtually all of the work on the case, and certainly all of he heavy lifting. For a detailed account of the work Shea did for Engel see Shea's letter sent to Engel's counsel, Gayle Gustafson, on November 2004. It is 42 pages long. This letter was one of the exhibits Shea provided to the ODC as part of his complaint against Engel. It is now on file with this Court Shea adopts this letter by reference and incorporates it here..

**However, getting paid by Engel was not to be.** The combination fraud and misconduct of Engel and district judge Sherlock, combined with he unlawful order of the Supreme Court dismissing Shea's appeal from Sherlock's order, totally dashed any hopes of Shea obtaining payment from Engel. Such are the ways of Montana's justice system as presently administered.

Shea hereby authorizes anyone interested to see his file relating to his suspension from practice. At that time, through Gene Daly, who was in private practice at the time, Shea voluntarily turned in his license. Shea declares that his file is open to the public.

\*\*\*\*\*

**COP FINDING OF FACT 3.** (page 3)

3. Nonetheless, Respondent prepared the Complaint and Amended Complaints filed in Old Elk v. Health Mothers, Health Babies, Inc., Cause No. BDV-1995-18 in the Montana First Judicial District in Lewis and Clark County, filed on or about January 3, 1995. In addition to the pleadings, Respondent prepared various other documents that were filed on behalf of other Plaintiffs in the referenced matter, entered into or attempted to enter into a fee splitting arrangement with other counsel representing the plaintiffs, actively participated in the jury instruction process in the case and filed various motions therein whereby he acted not only as an advocate for himself, but also for an individual Plaintiff. See Complaint at paragraphs numbered I, II, V, VI, VII, VIII, IX and X.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 3 :**

Shea notes first that this finding of fact actually includes findings for each of the separate counts of the complaint. Therefore, Shea must deal separately with each of these separate findings.

First, COP finds that Shea preparing the original complaint and amended complaint for the plaintiffs (five plaintiffs at the time), Shea objects as follows:

\*\*\*\*In his response to the D/C to Sherlock's complaint. Shea set out his role in helping to prepare both complaints. For whatever reason, D/C Strauch did not mention this in his investigative report. Therefore, this part of the complaint was never presented to a review panel tribunal. And D/C Thompson, upon his ascendancy as the new D/C, did not present this to a review panel. Therefore, it was improper to charge Shea with this count of misconduct. The ODC and COP are stopped.

\*\*\*\*Shea moved COP to dismiss the count as one of those which had not been presented to a review panel tribunal for a probable cause determination.

\*\*\*\*The COP decision, by its general omnibus ruling in finding 3, denied Shea's motion to dismiss. If COP procedures have any meaning at all in relation to due process and fundamental fairness, COP had a duty to dismiss the count.

**COP finds also that that Shea prepared various other documents that were filed on behalf of other Plaintiffs in their case against Healthy Mothers Healthy Babies, Shea objects and comments as follows:**

\*\*\*\*Shea prepared nearly all of he documents that were filed on behalf of four of the five plaintiffs in the case. Shea origiinally did work for Matthew Sisler after the plaintiffs first obtained counsel. Shea participated in the preparatin of many documents, and prepared several of hem from scratch. These were provided to Sisler, he put them out on his computer under his signature.

\*\*\*\*Later, when Rasmussen assumed the representation of four of he five plainiffs (Sisler continued with Palmer), Shea sent his work to Rasmussen for whom he was working, and Rasmussen used Shea's work and put it out over his signature. Shear sent computer disks to Rasmussen and the documents were printed on Rasmusson's equipment, and Rasmussen signed them.

\*\*\*\*Later again, when Engel assumed representation of four of the five plaintiffs, shear did all of the work for Engel. All of the heavy lifting. She sent his work to Engel sometimes in hard copy which Engel copied verbatim and put it out over his computer. Most often, shear sent computer disks to Engel, Engel put it into his own computer and printed the work out on his own equipment.

\*\*\*\*In all of these cases shear certainly had a right to work for these attorneys. Ad he had a right to expect to be paid. But Engel, judge Serlock, and latger the Suprme Sourt itself, put an unlawful end to this expectatioin.

\*\*\*\*The only documents which shear prepared and filed for himself were those which he filed as part of his motion to intervene to protect his rights to payment from Engel. By that time Engel had already committed huge fraud in the judgment, and the district judge had aided and abetted Engel to commit this fraud, and the judicially decapitated the right of Dias by granting the ex prate submissions of Engel.

\*\*\*\*If D/C Thompson asserted that Shea prepared documents for plaintiffs which they filed as pro se filings, then it was certainly incumbent on Thompson to make that allegation in the complaint and to specify the documents with particularity. He did not do so. .

\*\*\*\* This charge was not mentioned in the investigative report of D/C Strauch, Shea was never asked to respond to such charge, and the charge was never

presented to review panel.

\*\*\*The COP decision, as part of its omnibus general ruling in finding of fact 2, denied Shea's motion to dismiss. If there is the right to due process in Montana, the motion should have been granted.

COP further finds that Shea “entered into or attempted to enter into a fee splitting arrangement with other counsel representing the plaintiffs...” Shea objects to and comments on this finding:

\*\*\*\* The investigative report of D/C Strauch expressly dealt with an allegation of fee splitting or attempting to fee split, even though shear had not been asked to respond to this charge as part of his response. The charge was not contained in Sherlock's complaint to which Shea responded.

\*\*\*\*Nonetheless, Strauch elected not to charge Shea with fee splitting or attempted fee splitting. He stated he did not do so because shear did not collect any payment for the work he did.

\*\*\*\*In his investigative report Strauch recommended that shear be charged on one count Without setting out the evidence in his report Strauch concluded that it appeared to him that Shea had attempted to represent the interest of Marcia Dias as well as his own. Noteworthy is the fact that as far as Shea knows, no one ever bothered to contact Dias.

\*\*\*\*The COP register of actions (which Shear incorporates by reference and adopts by reference for all purposes) shows that a COP panel member moved to adopt Strauch's recommendation as to what the charge to lay against shear. Before a three member panel, consisting of Matovich, Axelberg, and Hubble, the motion carried. Therefore, as a result of that meeting Strauch was only authorized to charge shear with attempting to represent Dias through the filing of his affidavit which set forth the horrendous misconduct and fraud of Engel, and the horrendous misconduct of district judge Sherlock in aiding and abetting Engel to commit fraud and then judicialli decapitating Dias' right of appeal by granting the ex parte submissions of Engel.

\*\*\*\*It was unlawful for D/C Thompson to include this charge in the formal complaint he filed. First, if he decided to do so, he had the duty to get Shea's response to the charge. Second, and most important, he had a duty to present the proposed charge together with the supporting evidence to a review panel for a praobable cause

determination. Thompson failed to do either.

**\*\*\*\*COP and the ODC are now estopped from including this charge in the complaint.**

**\*\*\*\*COP had a duty to grant Shea's motion to dismiss the charge. In failing to do so, COP again allowed the D/C to violate the rules and thereby violating sue process rights.**

\*\*\*\*\*

**The next separate finding within finding of fact 3 states that Shea "participated actively in the jury instruction process in the case..."**

**Shea objects to this finding and to the legal basis for the charge.:**

**\*\*\*\*Shea was never asked to respond to any such charge before the charge was filed.**

**\*\*\*\*D/C Strauch did not present this charge to the review panel which cted on July 29,2005, and it was contained in his investigative report.**

**\*\*\*\*D/C Thompson, upon assuming office, had no right to add this charge to the complaint without first giving shear a right to respond, and second, without first presenting it to review panel. He did neither.**

**\*\*\*\*The trial took place in February, 2000. Why did district judge Sherlock wait until 2005, more than five and a half years later, to come up with this charge . Engel was present during the jury instruction process. Judge Sherlock was there. And opposing counsel was there. No one objected to any comments made as to jury instructions. The entire circumstances show that there was complete acquiescence in Shea's participation, and it was limited at that. Therefore, all concerned waived any right to complaint, and they are now estopped to make such complaint. A charge arising five and a half years later for such minor conduct is more than suspect.**

**The last separate finding as part of finding of fact 3 states that Shea "...filed various motions therein whereby he acted not only as an advocagte for himself, but alsof or an individual plaintiff.**

**\*\*\*\*As part of the preliminary complaint processing procedures, no request was made for Shea to respond to such a charge, and it was not part of judge Sherlock's complaint.**

\*\*\*\* This charge was not mentioned in D/C Strauch's investigative report.

\*\*\*\*The review panel action taken on July 29,2005,did not authorize a filing of a complaint based on this charge.

\*\*\*\*D/C Thompson did not later submit this charge to a review panel.

\*\*\*\*Therefore there was no probable cause finding.

\*\*\*\*As in all of the charges, with the possible exception of the affidavit (it was mentioned in D/C Strauch's report), D/C Thompson violate the rules by filing charges which had not been first processed through the required preliminary procedures.

\*\*\*\*COP had a duty to grant Shea's motion to dismiss, and in failing to do so, violated Shea's due process rights..

\*\*\*\*Neither this finding nor the complaint specifies any particular motions which Shea filed in which he claimed to be acting also for an individual plaintiff. The complaint itself specifies that Sea claimed to be acting for Dias. Which motions was D/C Thompson referring to, and what was stated in those motions to justify the conclusion that Shea. Was acting for Dias? Most certainly the complaint is not certain enough to justify such a finding of fact. If a finding of fact cannot be made, how then can there be a conclusion of law made based on the same circumstance?

The last part of COP finding 3, simply refers the reader to the Complaint wherein the allegations were made: The decision writer refers the reader to Complaint at paragraphs numbered I, II, V, VI, VII, VIII, IX and X.

world:

**FALSE STATEMENTS BY D/C IN THE COMPLAINT CONCERNING THE SCOPE OF HIS AUTHORIZATION**

In two paragraphs in the Complaint D/C Thompson falsely declares that a Review Panel authorized him to file the specific complaint. In the first paragraph (page 1) he alleges:

**By request of a Review Panel of the Commission on Practice, the Office of Disciplinary Counsel of the State of Montana (ODC), hereby charges Daniel Shea, a suspended attorney at law admitted to practice before the court of Montana, with professional misconduct as follows:**

And in paragraph IV, he again falsely alleges that Review Panel authorized him to file **“this complaint.”** The D/C alleges:

Pursuant to rule 11(5) of the Rules for Lawyer Disciplinary Enforcement (RLDE 2002) a review Panel of the Commission on Practice has requested Disciplinary Counsel to prepare and file this formal complaint against Respondent.

**A Review Panel did no such thing.** The review panel acted on July 29, 2005, and did so based only on the investigatory report and recommendation of former D/C Strauch. With the exception of one charge (Shea's affidavit), the charges filed had not been authorized by a review panel.. In addition, all but one of the additional charges had not been mentioned in the investigative report. Shea quotes each of these paragraphs:

\*\*\*\***Paragraph V.** On or about January 3, 1995, John Old Elk, June Good Left, Amy Palmer, Marcia Dias and Dans Simmer filed suit against Healthy Mothers, Healthy Babies, Inc., a Montana corporation and others. The case, Old v. Healthy Mothers, Healthy Babies, Inc., was filed in Montana First Judicial District Court in Lewis and Clark County—Cause no. BDV-1995-18. (page 2)

**Shea's comment: A review panel did not authorize this charge.**

\*\*\*\***Paragraph VI.** Respondent prepared the complaint and amended complaint filed by the Plaintiffs in the aforementioned case. (page 2)

**Shea's comment: A review panel did not authorize this charge.**

\*\*\*\***Paragraph VII.** In addition to the pleadings, respondent prepared numerous other documents that were filed on behalf of the Plaintiffs in the aforementioned case. (page 2)

**Shea's comment: A review panel did not authorize this charge.**

\*\*\*\***Paragraph VIII.** During the course of the litigation, Respondent either entered

into, or attempted to enter into, a fee-splitting arrangement with various attorneys who represented the Plaintiffs in the aforementioned case. (page 3)

Shea's comment: A review panel did not authorize this charge. And, in fact, D/C Strauch elected in his report, not to charge shear with any violations of Rule 5.4..

\*\*\*\***Paragraph IX.** During the trial in the aforementioned case, Respondent actively participated in the jury instruction process (page 3).

Shea's comment: a review panel did not authorize this charge, and it was never presented to a review panel.

\*\*\*\***Paragraph X.** In September 2005, respondent filed in the aforementioned case motions for leave to intervene, to vacate the Court's order of March 2, 2004, and to vacate the Court's Judgment of August 3, 2004. Respondent subsequently filed other documents in support of his motions including affidavit dated October 12, 2004. Through said documents Respondent acted as an advocate not only for himself, but also for Plaintiff Dias. (page 3)

Shea's comment: The sole complaint reauthorization was based on D/C Strauch's the Strauch's **conclusion** as to what he believed as contained in the affidavit. Strauch did not present the affidavit to the review panel, and Shea did not provide information in the investigative report itself by which an independent probable cause determination could be made.

\*\*\*\*\*

#### **COP FINDING OF FACT 4**

4. The aforesaid Complaint alleges and concludes In paragraph X therein, that the Respondent's conduct as described above constitutes the 'unauthorized practice of law in violation of Montana Rules of Professional Conduct 5.5.,

#### **SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 4.**

This is a fair summary of the conclusion of D/C Thompson, but the COP adjudicatory panel has ignored all of Shea's motions which directed at the complaint itself. Shea agrees that this is what D/C Thompson alleged in Paragraph X of the

Complaint.,

\*\*\*\*\*

COP FINDING OF FACT 5.

5. A hearing was scheduled on the complaint for March 17, 2006, before an adjudicatory Panel of the Commission on Practice (hereinafter "commission"). On Tuesday, March 14, 2006, three days before the hearing, Respondent filed Motions to Dismiss for lack of personal jurisdiction, to vacate the March 17, 2006 hearing and disqualify specified and unspecified Commission members of the Adjudicatory Panel. Respondent did not file an answer or otherwise respond to the allegations of the complaint.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 5.**

Finding 5 actually makes several several separate findings, and the overall paragraph is in fact inaccurate and certainly misleading. Shea's objections and comment's are:

\*\*\*\*1. At the request of D/C Thompson vice-chairman issued a hearing notice to Shea, declaring that the hearing would take place under Rule 12(c)(3). Since no appearance or answer had been filed, there was no basis to hold a Rule 12C (3) hearing.

\*\*\*\*2. Thompson had made a request for a hearing because he asserted that Shea had not filed an appearance or answer as required by the rules. In requesting the hearing Thompson deliberately omitted the fact that he had caused to be served on Shea a document which allowed Shea to elect to be personally served and had not been personally served.

\*\*\*\*3. As to filing the motions on March 17, 2006, Shea is aware of no law or rules which prohibits the filing of such motions or which sets time deadline within which to rule on such motions.

\*\*\*\*4, As stated, Shea believed he had a right to avoid personal service before his time to appear began to run

\*\*\*\*5. Shea's motions requesting disqualification of COP members were directed at Warren, and at the Helena delegation to COP: Vice-Chairman Davis, Michael Lamb, Jan Brown, and James Jacobsen. Further, Shea had specific reasons for seeking the disqualification of Warren, Davis, and Lamb..

\*\*\*\*\*

**COP FINDING OF FACT 6.. ( Page 4)**

6.. The Resident's Motion to Vacate the March 17, 2006 heiring was denied per order of the Commission on March 15, 2006 without oppotunity for response to the Motion by Disciplinary Counsel and at the behest of Respondent for an expedited ruling. See March 15, 2006 Order of the Commission hereof, at paragraph 1.

**SHEA'S OBJECTINS TO AND COMMENTS ON FINDING 6.**

\*\*\*\*1. In general, this is an accurate statement, but it ignores the fact that COP was trying to push Shea into a hearing on the merits under Rule 12(C), and the fact is that not only had Shea not filed an appearance or answer, shear also never been personally served as was his right based on the documents he received .

\*\*\*\*2. The overall tenor of the order issued on March 15, 2006 shows that COP, from the very beginning had placed Shea's case on a fast track with a predetermination destination.

\*\*\*\*\*

**COP FINDING OF FACT 7.**

7.Respondent's Motion to disqualify specified and unspecified Commissioners was denied with the proviso that Respondent's Motion was disseminated among all Commissioners participating as an adjudicatory panel in the matter before the March 17, 2006 hearing to give them notice of Respondent's contentions of bias and an opportunity recuse themselves, if appropriate.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 7**

\*\*\*\*1. The fact that Warren, Davis, and Lamb would elect to stay on the case shows that they have no sensitivity at all to the requirement that an accused be tried by an unbiased adjudicatory panel. The appearance of impropriety clearly extended to Chairman Warren, and Vice-Chairman Davis, and to Lamb. Each one of them could not could not pass the required smell test.

\*\*\*2. This Court may take judicial notice that Warren immediately established his bias and prejudice when he failed and refused to answer Shea's inquiry about the dismissal of the complaint Shea filed against Engel. The fact that COP failed to give Shea the

required notice of dismissal establish an inherent bias and prejudice against Shea. Chairman Warren was right in the middle of that conspiracy.

\*\*\*3. This Court may take judicial notice that Davis and Lamb have known district Sherlock, for many years, and practice law before him on a regular basis. This factor alone created such an appearance of impropriety that they should have disqualified themselves from the case as a matter of course. basis.

\*\*\*\*\*

**COP FINDING OF FACT 8.**

8. Respondent's Motion to Dismiss for lack of personal jurisdiction was taken under advisement and deemed to that extent to be an affirmative defense to the allegations of the Complaint to be considered during the March 17, 2006 hearing, together with such other evidence as might be offered.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 8.**

\*\*\*1. The fact that COP was trying to force Shea into an immediate adjudicatory hearing shows that bias existed on the panel. The hearing set up by Davis was not authorized by law, but this did not seem to bother those in control at all. Warren and Davis were interested in nailing Shea as soon as possible. They were on a mission.

\*\*\*2. It must also be recognized that the D/C obtained the hearing by withholding information from the COP panel as to what papers he had caused the Clerk of Supreme Court to mail to Shea. He did not tell COP that he had also mailed a copy of a Notice and Acknowledgment of Receipt of Citation and Complaint to Shea in the same mailing as the complaint and the citation.

\*\*\*\*\*

**COP FINDING OF FACT 9.**

9. At the time of hearing on March 17, 2006, Exhibits 1-4 were offered by disciplinary Counsel for the purpose of establishing that service had been obtained over the Respondent. Exhibits 1, 2, and 4(1) the Affidavit of Service of the Complaint filed hereon on February 23, 2006, and the Respondent's signed receipt acknowledging delivery of the Complaint; (2) The Complaint filed hereon on October 17, 2005 (dated October 14, 2005); and (4) the Notice and Acknowledgment of Receipt of Citation and Complaint filed herein on October 17, 2005, were admitted without objection. Exhibit 3, the CITATION TO APPEAR IN ANSWER TO COMPLAINT OF THE OFFICE OF DISCIPLINARY COUNSEL, A Court record signed and attested to by the Clerk of the Supreme Court, filed October 17, 2005 appears, pursuant to the transcript of the hearing, not to have been stipulated to by Respondent. However, it is an

official document filed by the Clerk of Court in Supreme Court Cause No. ODC File . 04-291; accordingly to the extent relevant to these proceedings it is a matter of record of which we do and the Court may take judicial notice. ( Emphasis added)

**SHEA' S OBJECTIONS TO AND COMMENTS ON FINDING 9.**

\*\*\*\*.1. The issue raised concerning failure to obtain personal service, is based on the document in bold print in the above summary of certain proceedings.

\*\*\*\*2. Further, note that the Affidavit of the Deputy Clerk of Supreme Court as to what was contained in the mailing, included the **Notice and Acknowledgment of Receipt of Citation and Complaint**. It is precisely this document which was relied on in choosing not to sign and return this document and then to await personal service, as provided for in this document. This document gives certain rights to one who receive such a document in the mail.

\*\*\*\*\*

**COP FINDING OF FACT 10.**

10. At the time of the hearing the Respondent acknowledged, consistent with Exhibit 1, referenced herein above, i.e. ., the Affidavit of Service, that he received the Complaint in this cause (Exhibit 2) and executed the Certified Mail Return Receipt in the ordinary course. See Transcript of proceedings< March 17, 2006, at 10-11).

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 10**

\*\*\*\*1. There has never been a dispute that the documents were mailed by certified mail and received and signed for.

\*\*\*\*2. The issue is what those documents said and whether a person receiving the document entitled Notice and Acknowledgment Receipt Of Citation and Complaint.

\*\*\*\*\*

**COP FINDING OF FACT 11**

11. At the time of hearing the Respondent asserted that he was confused by the practice of Disciplinary Counsel affective service via Affidavit of Service by Certified Mail and at the same time including in the documents forwarded to Respondent a Notice and Acknowledgment of Receipt of Citation and Complaint. The Respondent did not execute and return the Acknowledgment, thereby giving rise to this contention that personal service had not been effected with the Rules. Id. See Transcript of Proceedings, March 17, 2006, at 17-22.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 11.**

\*\*\*\*1. The fact is that the D/C had a practice of mailing the Notice and Acknowledgment and Receipt of Citation and Complaint as a custom,. Former D/C Strauch used this procedure, and D/C Thompson continued with this practice. The issue is not what the rule says. The issue is whether shear had a right to rely on the documents he received i the mail which were issued by the Clerk of Supreme Court at the request of D/C Thompson. At the March 17, 2006 hearing Thompson declared that in the future he would no longer use this document.

\*\*\*\*2. Confusion did not exist in Shea's mind as to the meaning of the Notice and Acknowledgment of receipt Of Citation and Complaint. It gave Shea certain rights which he did not have if he had only received by certified mail a copy of the complaint and the citation. This document expanded Shea's rights by giving him the right of election. And Shea elected to be personally served.

\*\*\*\*\*

**COP FINDING OF FACT 12**

12. At the time of the hearing on March 17, 2006, Respondent acknowledged that prior to the hearing he "finally got a chance to read the rules" and "read the Rules on Service" and understood that Disciplinary Counsel had the right to effect service "either way" (including service by Certified mail which he acknowledged he received and signed for in the ordinary course, see Transcript of Proceeding, March 17, 2006, at 12, 10-11, and 10, yet still disputed service.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 12.**

\*\*\*\*1. Regardless of how a rule reads, or when a rule is read, when service of process is involved, a fundamental issue is involved. And shear had a right to rely on the documents deliberately prepared by the D//C, deliberately delivered to the Clerk of Supreme Court with a request to issue, and deliberately mailed by the Clerk of Supreme Court at the request of the D/C.

\*\*\*\*2. This was no accident. The ODC office before Thompson and continuing with Thompson, used the Notice and Acknowledgment of Receipt of Citation and Complaint. If the D/C did not intend that Shea had a right to rely on this document, he should not have had it issued by the Clerk of Court. It can hardly be argued that this document was

a surplus document with no meaning, a document which Shea had a duty to ignore as if it had no existence.

\*\*\*\*3 The receipt of that document gave certain rights to Shea, and he availed himself of those rights. He relied on, and had right to rely on what he received. He elected to be personality served. Shea did not cause the problem. The D/C did. But the D/C and COP would make Shea pay the consequences for the problem created by the ODC.

\*\*\*\*3. Once an accused has relied on such document, it is difficult to put the genie back in the bottle. It was certainly too late for the D/C or COP to declare that Shea had no right to rely on this document.

\*\*\*\*\*

### COP FINDING OF FACT 13

13. Respondent acknowledged that he failed to read the Rules applicable to proceedings of the Commission on Practice until some time after he could have failed a timely response, and professed "Confusion" while at the same time acknowledging service by certified mail consistent with the Rules Id.

### SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 13.

\*\*\*\*1. Regardless of when or where a rule is read, it does not alter the fundamental fact of what Shea received in the mail and which the ODC and the Clerk of Supreme Court most certainly intended that Shea rely on what was mailed to him. When shear did read the rule it confirmed what shear already believed: that D/C Thompson had chosen personal service as the ultimate means of service if Shea made the election.

\*\*\*\*2. Rule 18A, contrary to the implied fundings of COP by their evasiveness, expressly allows personal service in addition to service of a complaint and citation by certified mail. It provides:

**Overfills of Complaint.** Service upon the lawyer of a complaint in a formal disciplinary proceeding shall be made by personal service by any person designated by the Office of Disciplinary Counsel or authorized by Law, or by registered or certified mail at the last known address of the lawyer, and proof thereof shall be made a provided in Rule 4, Montana Rules of Civil Procedure:

\*\*\*\*3. Why didn't Chairman and chairperson Warren ever bother quoting this rule in his orders and in the November 20,2006 decision? It is because the Rule confirms the position of Shea. That's why.

\*\*\*\*4. D/C Thompson, by causing the Notice and Acknowledgment of receipt of Citationn to be issued and mailed to Shea,, as a matter of law was clearly aware that he had chosen personal service as the ultimate means by which to serve process.

\*\*\*\*\*

**COP FINDING OF FACT 14**

14. At the conclusion of the hearing the parties were offered the opportunity to submit proposed Findings and Conclusions within ten days on the issue of whether service was effective. Id. At 23.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 14.**

\*\*\*\*1. It was not merely an offer. It was an offer which shear accepted and believed he had a right to make his filing within 10 days. Whether the D/C would have filed something also, who knows.

\*\*\*2. Shea was shocked when he the received the order signed by Chairman Warren, which effectively deprived him of the right to make his filing within 10 days.

\*\*\*3. Shea nonetheless did file a brief within the 10 days, and predictably, COP, chairman Warren presiding and ruling denied Shea's motion and other motions that he made at the same time.

\*\*\*\*4. With Chairman Warren presiding over the adjudicatory panel, in spite of the fact that he deliberately refused to acknowledge Shea's letter complaining about the dismissal of the complaint filed against Engel, Shea knew he was in for rough sledding. The cards were stacked against him, and Warren and Davis did the stacking.

\*\*\*\*\*

**COP FINDING OF FACT 15.**

15. On March 17, 2006, the Commission entered an Order obviating the need for proposed findings, i.e., to the effect that the Respondent was served with process in the manner contemplated by Rule 18A, Montana rules of lawyer Disciplinary Enforcement (MRLDE)(that

the Respondent's misinterpretation of the documents received had caused him to fail to answer the Complaint in the time allowed by the rules, and Ordered that the Consenter's be granted an additional 10 days, until April 6, 2006, within which to file and serve his Answer to the Complaint. See March 17, 2006 order herein at paragraphs 6-8, 10,

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 15.**

\*\*\*\*1. Shea did misinterpret the documents. All three documents, when construed together made very good sense in relation to Rule 18A. And when construed together, as they should be, it abundantly clear that shear had a right to elect and require the ODC to have him personally served. Otherwise, why did D/C cause the document to be mailed to Shea.?

\*\*\*\*2. Rather than obviate the need for Shea to file a brief within 10 days, the order swept the issue under the rug by failing to acknowledge the actual contents of Rule 18A. It was a way of getting D/C Thompson off the hook. And a way of sticking it to Shea at the same time. This is what an accused is up against when facing a COP adjudicatory panel. In Shea's case it was and is a mission directed panel with chairman and chairperson Warren, and Vice-Chairman Davis in control. The outcome was certain.

\*\*\*\*\*

**COP FINDING OF FACT 16.**

16. By motion filed March 30, 2006, Respondent requested the Commission reconsider its March 17, 2006 Order which, while concluding he had been served consistent with the rule, nonetheless gave him precisely the relief he requested an additional 20 days within which to answer the Complaint. See Transcript, Id. At 18, 23-24. At the same time, Respondent again renewed his Motion to Dismiss, motion to Disqualify some Commission members, motion to Reconsider or reverse the Commission's March 15, 2006 Order and for Disclosure of the Review Panel Members in this and another disciplinary proceeding, and further filed his Motion Objecting to both the Commission's March 15 and March 17, 2006 Orders.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 16.**

\*\*\*\*1. Shea repeatedly sought the disqualification of certain COP members from the Adjudicatory Panel. And of course, Chairman and Chairperson Warren just as repeatedly denied the motions.

\*\*\*\*2. Shea repeatedly sought a ruling on why he was not entitled to rely on the exact contents of Rule 18A and the Notice and Acknowledgment of Receipt of Citation and Complaint which D/C Thompson chose as the **ultimate** means of obtaining service if shear elected to be personally served. Not once did Chairman Warren quote the actual contents of Rule 18A. And not once did Chairman quote the actual contents of he document on which shear relied in conending he elected to and had a right to elect to be personally served. But in his rulings, Chairman Warren always evaded the issues by his non-descriptive rulings.

\*\*\*\*3, Concerning the disclosure of review panel members, as already made clear in the record, Shea btained from Shauna Ryan the names of those Review Panel members who sat on and dismissed Shea's complaint against Engel, and then violated the rules by not giving Shea notice of the dismsisal. Those panel members are: Carey Jovanovich, Tracy Axel berg, and James Hubble.

\*\*\*\*4. And the members of the review panel who sat on Sherlock's complaint agiainst Shea are: Carey Matovich, Tracy Axelberg, Jon Oldenburg, Patricia DeVries, and Arthur Noonan.

\*\*\*\*5. See Shea's **Appendix, Volume I**, for copies of the notes from Shaun's Ryan starting the names of of the review panel members on both cases. Also see Shea's appendix Volume I, for the registry entries provided to Shea by Ryan stating tne names of the members on both panels. Ryan also provided copies to the D/C.

\*\*\*\*6. Shea further notes that he moved COP to reinstate the complaint hje filed against Engel. The order did not expressly cover Shea's motion on this issue, but the general oder of denial presumably was intended deny all of Shea's motions.

\*\*\*\*\*

### **COP FNDING OF FACT 17**

17. After consideration , Respondent's motions were denied by Order dated May 5, 2006.

### **SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 17**

\*\*\*\*1. Shea agrees that his motions were denied on the day indicated, but it not at all satisfied that his motions were fairly considered. At least they were not fairly considered, and that is the purpose of adjudicatory proceedings, to fairly consider all issues and to bake decisions based on the law and facts. Rather, they were considered

by a biased Chairman and chairperson who placed Shea's case on a one way track to predetermined destination.

\*\*\*\*2. It is too much to expect Shea to respect Chairman Warren when he was involved in the dismissal of Shea's complaint against Engel and in making sure that the complaint remained buried by not responding to Shea's letter to him. And then, after his involvement in this conspiracy, Chairman Warren assumes the leadership role by making sure he controls the COP adjudicatory panel by acting as the chairperson of that panel.

\*\*\*\*\*

### COP FINDING OF FACT 18

18. Service of the Complaint consistent with the rules was effected on the Respondent herein, and in any event, the Respondent acknowledged receipt of the Complaint by Certified Mail.

### SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 18.

\*\*\*\*1. The issue is not whether shear received the complaint. The issue is not whether Shea received the citation. He received both. **But he also received at the same time the Notice and Acknowledgment of Receipt of Citation and Complaint, and r he relied** relied on this document in determining that he would wait until he was personally served.

\*\*\*\*2. All three documents came in the certified mailing. Was Shea required to ignore both the duties and rights accorded him in the third document? Was shear required to pretend that this document did not exist? Was shear required to determine that this document had no legal meaning?

\*\*\*\*3. It is the documents themselves which are received that define the rights and duties of he recipient. Here, Shea had the right of election provided by this document. He elected to require personal service. Personal service was never accomplished. Therefore, the clock on his time to appear did not start running.

\*\*\*\*\*

### COP FINDING OF FACT 19

19. On May 16, 2006 Respondent filed his objections sand protest against the

Commission's order dated May 5, 2006.

### **SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 19.**

\*\*\*\*1. The objections and protest against CO P's (Warren's) order dated May 5, 2006, was captioned as follows:

Respondent Shea's Objections and Protest Against the Order Issued by the Chairman of the Commission on Practice filed on May 8, 2006 and Shea's Motion Seeking reconsideration of the Arbitrary ad Capricious Order issued by the COP Chairman on May 8, 2006.

\*\*\*\* 2. Significantly, the COP decision by Warren omits some very important information as to filing which occurred before May 5, 2006, and about which, the D/C filed a motion to seal records:

a. On April 25, 2006, Shea filed a Notice of Supplementation of the record Through Filing of Additional Documents (A-F). This is shown by the COP docket. These documents included a copy of Strauch's investigative report in relation to the complaint Sea filed against Engel, and in relation to the complaint filed by judge Sherlock against Shea. This also included a copy of the complaint Shea filed against Engel and supporting documents, a copy of Engel's Response, and a copy of Shea's Reply to Engel's Response. These records are now on file with COP and with the Clerk of Supreme Court.

b. On May 3, 2006 the D/C filed a motion to seal those documents which Shea filed. Shea filed his Response to the D/C's motion. In that response (filed on May 30, 2006) Shea went through the entire complaint he filed against Engel and sowed how former D/C Strauss committed massive fraud in his investigative report. D/C Thompson did not file a Reply brief.

C. On June 26, COP (Warren) issued an order denying the D/C's motion to seal was denied. See COP docket entry for June 26, 2006.

d. On June 9, Shea filed a reply brief in support of various motions. In that brief Shea set out in detail the fraud committed by former D/C Strauch in his investigative report concerning the complaint of district judge Sherlock against Shea.

\*\*\*\*\*

**COP FNDING OF FACT 20**

20. Respondent' May 16, 2006 motion was briefed, considered and denied by order dated June 23, 2006.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 20.**

\*\*\*\*1. The order was dated June 26 rather than June 23.

\*\*\*\*2. Shea's objections to the method of COP Chairman Warren in issuing orders were based on the fact that Warren issued blanket orders which did deal with the substantive issues and supporting arguments raised in Shea's motions and briefs. This is a huge problem in the area of decision making, and contributes nothing to justice or to the development of the law.

\*\*\*\*\*

**COP FINDING OF FACT 21**

21. On July 21, 2006 Respondent filed a Verified Petition for Extraordinary Relief with the Clerk of the Supreme Court of the State of Montana requesting the Court intervene in these ongoing proceedings before the Commission and for an order vacating the July 28,2006 hearing scheduled at that time to be held in Great Falls, That Petition was denied by Order of the Supreme Court dated July 24, 2006.

**SHEA'S OBJECTIONS TO AND COMMENSTS ON FINDING 21**

\*\*\*\*1. The finding, as far as it goes, states accurately a procedural event, but most certainly does not in any way state the contents of Shea's Verified Petition, in which Shea set out in no uncertain terms the huge conspiracy which existed in relation to the complaint Shea filed against Engel and the Sherlock complaint filed agiainst Shea.

\*\*\*\*2. Shea incorporates and adopts by reference the entire Verified Petition and Supporting Appendix . Of special significance is that Shea established the complicity of Chairman Warren himself in this conspiracy and yet ye persisted in sitting on the adjudicatory panel which was to judge Shea. Most clearly, with Warren at the the helm of the adjudicatory tribunal, Shea did not have a fair tribunal. The facts stated in Shea's verified Petition and supporting documents established that a huge appearance of

impropriety was created by Chairman Warren and other members of the adjudicatory tribunal remaining to sit in judgment on Shea.

\*\*\*\*3. Shea also emphasizes that the Supreme Court order was evasive in its language, and reporting the contents of Shea's Verified Petition and the relief he sought. It therefore contributed to a distortion and false reporting of historical record in this case. The misconduct of COP and the D/C which Shea set out in his Verified Petition was horrendous, probably the worse case of misconduct by the disciplinarian machinery of the Supreme Court in the history of this state.

\*\*\*\*\*

### COP FINDING OF FACT 22

22. At the request of the Respondent, a Motion to continue the scheduled July 28, 2006 hearing for personal reasons was granted and a formal hearing in this matter continued until September 21, 2006.

### SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 22.

\*\*\*\*1. This finding is not accurate and distorts the record. Shea moved COP (Warren) to vacate the hearing because of the death of his former wife, the mother of his four children. Shea stated in his motion that if his motion to vacate as not granted, he would not be in attendance at the Great Falls hearing.

\*\*\*\*2. The order vacating the hearing date did not continue the matter until September 21, 2006. Rather, the order stated that a hearing date would be set at a later time. The COP registry of action for July 28, 2006, states: **July 28, 2006, Order Vacating Formal Hearing is filed with the Court..** This order was signed by Shauna Ryan.

\*\*\*\*3. The COP registry of action for August 16, 2006 states: Notice of Hearing is filed with the Court. **the matter is scheduled for hearing on September 21, 2006 at 10:45 am.**

\*\*\*\*4. The order issued on August 16, 2006 was signed by Vice-Chairman Davis. The order declared that the hearing was pursuant to Rule 12B RLDE (2002). It stated:

YOU ARE HEREBY NOTIFIED that pursuant to Rule 12B of the Rules For

Lawyer Disciplinary Enforcement, a formal hearing on the complaint heretofore filed herein will be held before the Commission on Practice on **Thursday, September 21, 2006, at 10:45 am.**, in the Aron son Room of the Holiday Inn, 400 10<sup>th</sup> Avenue South, Great Falls, Montana. Your presence is required.

\*\*\*\*5. Rule 12B has three subsections. In the present case, by directing a hearing, COP would be proceeding under Rule 12B(3), which provides:

1. An adjudicatory panel may elect to hold a hearing notwithstanding the lawyer's failure to answer, after notice of hearing has been given.

2.

\*\*\*\*6. Shea believed that because COP elected to hold a hearing, that there would be a hearing on the merits. But COP Chairman and chairperson Warren caught Shea by surprise when the hearing stated. Warren announced that the purpose of the hearing was only to focus on recommendations, that Shea had admitted the charges by not filing an answer. Shea was completely unprepared to present information confined only to what the discipline should be. He was prepared to meet the charges contained in each count of the complaint, but COP chairman Warren would not permit it. Shea was cut off. **This is trial by ambush. A clear denial of due process.**

\*\*\*\*\*

### **COP FINDING OF FACT 23**

23. At the time of hearing on September 21, 2006 the Respondent stipulated to the admission of the Montana Supreme Court's 1989 Order indefinitely suspending him from the practice of law. Transcript of Proceeding, September 21, 21006, at 5-6.

### **SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 23.**

\*\*\*\*1, Shea did stipulate to the admission of the order described. But he was incompletely unprepared for the limited purpose of the hearing, of which Shea was not given notice.

\*\*\*\*2. Rule 12B(3) does not specify that the hearing is to only for purposes of recommendations. It clearly contemplates a decision by COP to hold a hearing on the merits even though an answer has not been filed. But COP Chairman hijacked this rule and converted it into something entirely different.

\*\*\*\*3. Shea asserts that Rule 132B(3) cannot be used for the limited purpose invoked

by Chairman Warren at the hearing.

\*\*\*\*4 .Shea further asserts that assuming Rule 12B(3) can be used for such purposes, that the notice of hearing must state precisely the limited purpose of the hearing, and that it is confined to recommendations ( the nature and extent of discipline) only.

\*\*\*\*5. Shea further asserts that the order issued by Vice-Chairman Davis and the ruling by Chairman Warren at the hearing, clearly establishes the bias and prejudice of both Davis and Warren. Shea's case was indeed placed on a one way track to a predetermined destination. Shea was set up by Warren and Davis. Davis and Warren denied Shea's rights to due process of law.

\*\*\*\*\*

**COP FINDING OF FACT 24.**

24. At no time prior to, at or subsequent to the September 21, 2006 hearing in this matter has the Respondent filed an Answer responsive to the allegations;s set forth in the Complaint. At the time of hearing, the allegations o of the Complaint, never having been responded to, were deemed admitted pursuant to Rule 12(B). Id. At 3-5.

**SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 24.**

\*\*\*\*1. Shea adopts and incorporates reference his objections and comments made on Finding of Fact 23.

\*\*\*\*2. COP Vice-Charmian Davis and Chairman Warren hijacked Rule 12 B and converted into a purpose not intended. Shea was denied due process when he was not notified in advance that the hearing would be confined to recommendations only.

\*\*\*\*3. The conduct of Davis and Warren establishes that Shea was absolutely right in seeking their disqualification from the case. They control COP and Shea has suffered the adverse consequences of that control. With these two at the helm of COP operations they were out to get Shea and they got him. Shea did not stand a chance against this manifest abuse of power.

\*\*\*\*\*

**COP FINDING OF FACT 25**

25. During the subsequent recommendation stage of the proceedings on September 21, 2006, the Respondent was provided the opportunity to provide comment and to make a recommendation relative to appropriated disciplining, the only remaining issue. Respondent took to opportunity to disparage judge Sherlock and accuse him of misconduct, (id at 7-8), accuse Disciplinary Counsel of fraud and illegal conduct ( id at 7-8), accuse the Review Panel of the Commission of fraud, (Id at 7), accuse the Supreme Court of complicity and failure to fill full its obligations in the matter (Id. At 12); accuse the entire Commission; n of fraud (Id. At 13), accuse his co-counsel in the underlining cause of fraud (Id. At 13), and Judge Sherlock of assisting in that injustice (Id. At 13), and asserted that the defendant in the underlying cause, Healthy Mothers, Healthy Bags was a 'very corrupt organization; n, as was its accounting firm, Galusha Higgins & Galusha' ((Id at 15).

### **SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 25.**

\*\*\*\*1. Shea is not prepared to accept that the transcript is an accurate transcription of all that went on and all that Shea stated at the hearing. Unfortunately, Shea took no witnesses along, Had Shea known how COP operated he would most certainly have tried to obtain an independent court reporter and also sought to have the proceedings recorded by tape recording or other mechanical means. As it is, Shea is at the mercy of a transcript which he believes is not accurate. Much of what Shea stated at that hearing has been deleted.

\*\*\*\*Concerning the allegations by Shea of misconduct of those named in Finding 25, Shea responds generally first, and then specifically.

\*\*\*\*(1) ) **Was Shea justified in accusing district judge Sherlock of misconduct? Most certainly.** Shea adopts and incorporates by reference all filings made in reference to the misconduct of district judge Sherlock, and more specifically, Shea adopts and incorporates reference the affidavit Shea filed on October 13, 2004, Shea's response to the ODC in responding to the Sherlock complaint, Shea's brief filed in the Supreme Court in response to the motion of Engel to dismiss Shea's appeal and all Exhibits filed by Shea in his Four Four Volume Appendix.

\*\*\*\*(2) **Was Shea justified in accusing the Disciplinary Counsel of fraud of misconduct? Most certainly.** Shea adopts and incorporates by reference his Verified Petition filed with this Court seeking extraordinary relief, and all of his Exhibits in his supporting Appendix. This includes Shea's brief filed with cop on May 20, 2006 in which he exposed the unbelievable misconduct and fraud of D/C Strauch in the investigative report he prepared in relation to Shea's complaint against Engel. This includes Shea's Brief filed with cop on June 9, 2006. This brief exposed the unbelievable

misconduct and fraud of Strauch in the investigative report he filed in relation to the complaint filed against Shea by district judge Sherlock.

**\*\*\*\*(3) Was Shea justified in accusing the Review Panel of the Commission of fraud? Most certainly.** Shea adopts and incorporates by reference the Verified Petition seeking extraordinary relief he filed with this Court on July 21, 2006. Shea adopts and incorporates by reference the motion and brief he filed with COP on September 18, 2006, against setting out the misconduct of the review panel. Shea further emphasizes that two review panels were guilty of misconduct in relation to Shea, that panel which dismissed the complaint he had filed against attorney Engel, and that panel which authorized the complaint against Shea. Members of the first panel were Matovich, Axelberg, and Hubble. Members of the second panel were Matovich, Axelberg, Oldenburg, DeVries, and Noonan. The above referenced filing covers the misconduct of both review panels.

**\*\*\*\*(4) Was Shea justified in asserting complicity of the Supreme Court and failure to fulfill its obligations in the matter? Most certainly.** In two separate proceedings the Court deliberately chose the wrong path. In the first proceeding, the Court's decision was unlawful. In the second proceeding the Court's proceeding was not unlawful, but was made in total disregard of Shea's rights not to be subjected to the unlawful conduct of COP and the ODC.

First.. The Supreme Court had a duty to hear Shea's appeal from Sherlock's denial of Shea's Petition to intervene? Instead, this Court dismissed Shea's appeal without full hearing on the merits, and all that is entailed in hearing a case on the merits. The Supreme Court did not want Sherlock's misconduct spread even more on the record,. By dismissing Shea's appeal with prejudice, the Court evaded and avoided its duty of facing Sherlock's horrendous misconduct in the process of hearing Shea's appeal on the merits. Translation: it is within the power of the Court to sacrifice the rights of a litigant to a higher priority. Here, Shea's rights were deemed inferior to those of Sherlock, and therefore Shea's rights were sacrificed on the altar of judicial salvation.

Second, the Supreme Court's order dismissing Shea's Verified Petition seeking extraordinary relief from the unlawful and continuing unlawfulness of COP, evaded and avoided the issues raised concerning the corruption of COP and the ODC. Second, the Supreme Court's order dismissing Shea's Verified Petition seeking extraordinary relief from the unlawful and continuing unlawfulness's of

COP, evaded and avoided the issues raised concerning the corruption of COP and the ODC..By doing so, the Court subjected sea for further unlawful proceedings by COP against Shea Shea had made out in his Petition and supporting documents an overwhelming primal facile case against COP and the ODC..

\*\*\*\*(5). **Wes Shea justified in accusing Engel of fraud in the underlying case? Most certainly.** The decision cites page 13. Shea makes several pons about this COP accusation against Shea.

Concerning Engels fraud, aided and abetted by district judge Sherlock, Shea stated:

I tried to help these people, and I did. And now, ah-ha, Sherlock files a complaint against Shea. But notice, he didn't do it until after I filed that affidiavt in court, right? Ad in there I set out Engel's fraud he committed right in the judgment, right in the judgment. and who helped him out? Sherlock.

Wat did Sherlock do? All the way through beam-beam-beam, rule for Engel, Granted summary judgment, swept all he issues –factual issues under the— under the rug. and then on top of that, he grants an Ex parte order to Engel denying a motion of these [ the word should be Dias” rather than these] counsel, Alterowitz , for a stay of execution.

They didn't know, and Engel had already submitted the writ of execution to the clerk of court and the order for Sherlock to sign. Sherlock signs it: whamo, Engel grants the money, so this lady couldn't take an appeal. Why? The money's gone.

Beautiful system we haver here in Montana, beautiful.(Tr. 13-14)

t

First, Shea notes that the COP decision writer deliberately omitted the name of the person which he writer designated as co-counsel. This person was Engel. And Shea was not acting as counsel in the case. He was working for Engel. And Shea did virtually all of he work on the case and is now forever closed from recovering against Engel because of the decision of Sherlock, because of the decision of the Supreme Court in dismissing Shea's appeal.

Second, Engel was guilty of enormous fraud but the entire judicial-legal-disciplinary system has covered it up. Shea adopts and incorporates by reference his affidavit he filed on October 13,2004, in which he sets out the fraud committed by

Engel, facilitated district judge Sherlock, and in fact, made final by judge Sherlock by allowing Engel to immediately execute on the bank accounts, thereby effectively destroying the rights of his former client to appeal. **The result is that Engel, aided and abetted by district judge Sherlock, committed a financial rape against his own client.**

Third, Shea filed a huge complaint against Engel, and the Commission on Practice unlawfully dismissed that complaint. Not only were proper procedures not followed in dismissing the complaint, but after the dismissal, COP, with Warren's knowledge, deliberately failed to inform Shea as required by Rule 14, that the complaint had been dismissed. It is now more than a little disingenuous for the decision writer to imply that Engel was not guilty of fraud when COP illegally dismissed the complaint Shea filed which established Engel's fraud. This in fact is a sure sign of the complicity in and corruption of the decision writer, ostensibly in by all members of the adjudicatory tribunal. Further, as the fraud of D/C Strauch, Shea again adopts and incorporates by reference the brief he filed on May 30, 2006 in opposition to the motion of the ODC to seal certain records. A COP order denied the D/C's motion.

**\*\*\*\*(6) The COP decision asserts that Shea accused the entire Commission of fraud. The decision writer cites page 13 of the transcript.**

During all other occasions Shea did work for Sister and expected to get paid. Shea wasn't paid. Shea did virtually all the work for Rasmussen and expected to get paid. Shea wasn't paid because Rasmussen withdrew from the case. It was after Rasmussen withdrew that Engel took over the case for Dias, after a meeting between Engel, Dias, and Shea, at Jorgensen's in December, 1998. Shea then did not expect to get paid by Rasmussen. Engel then took over the case as a result of Shea and Dias meeting with Engel. Shea worked for Engel. Shea did all of the heavy lifting on the case, all the way through. Shea of course expected to get paid. Shea wasn't paid. And now, because of all the favorable and unlawful judicial decisions for Engel, there is no possibility of Shea to recover from Engel for all the work he did on the case. Such are the prevailing ways of justice in Montana.

What Shea said, and the context in which Shea made the statements, is set out at pages 12-13 of the transcript. Shea is talking about helping the plaintiffs with preparation of the complaint and amended complaint. After that, various attorneys were on the case and Shea worked for all of them.

At pages 12 and 13 of the transcript Shea is referring only to the help he gave to

the plaintiffs in helping to prepare the complaint and amended complaint. Shea is not talking solely about the Commission, and Shea is not talking solely about specific members of the organization. But Shea is talking about the fraud committed by COP and the ODC. The ODC committed fraud in two investigative reports, two resew panels committed fraud by not doing their duties of review, and acting on the fraudulent investigative reports of Strauch. Shea adopts her and again incorporates by reference all of his filing pointing out the fraud and misconduct of the organization. And most certainly, Shea does include Warren. And even the new D/C, Thompson is guilty of misconduct by charging Shea with charges without ever giving Shea a chance to respond as required by the rules, and then proceeding to charge Shea with several counts which have never been part of an investigative report by the ODC, and have never been presented to a review panel..

**\*\*\*\*(7) Was Shea justified in accusing judge Sherlock in assisting Engel in committing fraud against his own client? The decisiojn cites page 13 as the place where Shea declared Engel Committed fraud. The answer to the quetion of whether Engel Committed fraud, is yes, beyond a reasonable doubt.**

(a) First, Shea's affidavit shows that Engel committed fraud against his client the judgment, and that Sherlock assisted him in doing this. Sherlock's misconduct started early in the proceedings filed against Engel for foreclose on an attorney's lien claim. But they escalated after the summary judgment hearing. The judge illegally granted summary judgment to Engel by sweeping all the legal and factual issues under h is judicial rug. Then the judge told Engel to prepare the judgment, and in this process Engel committed fraud, increasing his take by close to \$20,000. Then Engel submitted ex parte submissions to the Clerk of Court and judge, the judge acted on these ex parte submissions in denying a Dias motion to stay execution on the judgment (an order submitted ex parte by Engel), and this allowed Engel to illegally execute.

(b) Shea set forth this fraud in his response to the ODC as to Sherlock's complaint against Shea. Further, Shea's 31-page affidavit showed the fraud committed by Engel, and showed the illegal, immoral, and total corruption of district judge Sherlock in aiding and abetting Engel to immediately collect on the fraudulent that was entered.

(c) An honest judge would have stopped the proceedings, ordered Engel back

into Court, and conducted a hearing on these allegations. An honest judge would have required Engel to account for his conduct. But district judge Sherlock turned out to be a dishonest judge, corrupt judge. Shea's affidavit set out Engel's fraud, and of course, the corruption of district judge Sherlock in aiding and abetting Engel to commit the fraud and then in granting the ex parte submission of Engel allowing Engel to immediately collect on his judgment, thereby effectively an end to the case. The judge effectively decapitated the right of Marcia Dias to appeal. Such are the ways of justice now existing in parts of Montana, and especially in this Capitol City of Helena.

(d) In summary, a corrupt judge granted an unlawful summary judgment to Engel, allowed Engel to increase his take by preparing and filing a fraudulent judgment, and then acted on and granted Engel's ex parte submissions of Engel which allowed Engel to immediately execute on his fraudulent judgments fraudulently obtained, and thereby to effectively decapitated the right of Engel's former client to appeal. And this is called justice in Montana. And then, when Shea pointed out this fraud and corruption, the district judge looked the other way, refused to anything, and instead, through Shea out of court by his unlawful order declaring that Shea had no right to intervene as a matter of right. Such are the winning ways of justice now now prevailing.

(e) And to top it off, Engel has never filed a satisfaction of judgment. He used an illegal collection procedure to execute on the judgment, he may have increased the judgment take by his writ of execution, a writ of execution has never been returned to the district, and neither judge Sherlock or the clerk of court would require Engel to file a return on the execution. This is fraud. This is corruption on the part of district judge Sherlock. This is also misconduct on the part of Clerk of District Court.

**This Court can be assured that Shea has never known nor heard of worse judicial misconduct in the entire history of the state of Montana.** But all of it has been covered up. And of course, life has made made more than a little difficult for Shea as the messenger seeking to expose this massive attorney and judicial corruption. Shea has incurred the wrath of the prevailing officials whose job it seems, is not to expose and prosecute corruption, but to cover it up.

\*\*\*\*(8) Was Shea justified in asserting that Defendant Healthy Mothers Healthy Babies was a “very corrupt organization;” as was its accounting firm, Galusha, Higgins and Galusha? Most certainly.

(a) Shea prepared the Respondent's Brief (the brief of Marcia Dias) when Health Mothers, Healthy Babies, appealed from the judgment. Shea wrote the brief, sent it to Engel on computer disk, and Engel entered it into his own computer, and printed it out. Shea was working for Engel. The appeal brief is on file with the Supreme Court, in the district court, and in the files of the ODC. Shea set out certain fraud of HMHB in that brief.

(b) It is a matter of public record that Healthy Mothers, Healthy babies, settled a false claims action filed by the Federal Government against HMHB in relation to obtaining illegal medicaid matches. Suit was also filed against the State of Montana because the federal funds were administered by the State of Montana. The settlement compelled the State of Montana to pay \$150,000 to the federal government, and also compelled the insurer of HMHB to pay \$150,000 to the federal government. This kind of fraud does not occur without the active involvement of the accounting firm---which was Galusha, Higgins, and Galusha.

(c) Shea files with **Appendix Volume II: II** an audit report prepared by **Galusha, Higgins, and Galusha** (Margret Woo), and a 990 Return for the same year prepared by **Galusha, Higgins, and Galusha** (Margaret Woo). For anyone who knows what to look for, there is a huge disparity between the audit return and 990 Return. These disparities exist with relation to Total Revenue; Management Revenue. and Program Revenue. And they also exist with relation to Management Expenses; Total Program Expenses, and Individual Program Expenses. .

(d). Further, the accounting report filed by an accountant is filed with the district court file. This report shows now only undue influence on the part of consultants working on behalf of HMHB, but that just before the end of the fiscal year funds would be transferred from the Baby Your Baby account in Western Federal, to the general account at Mountain West. The Audit report and 990 returns would be prepared on the basis of those funds existing in the Mountain West account Bank at the end of the fiscal year. Then, at the beginning of the next fiscal year, the funds would be immediately transferred back to the Baby Your Baby account.

(e). It was the money in the Baby Your Baby account at the Western Federal

Bank, which, among other uses, was sent by HIMHB the State Department of Health to obtain Medicaid matches.

\*\*\*\*\*

### **COP FINDING OF FACT 26.**

26 Further at the time of the hearing, Respondent repeatedly admitted to engaging in the practice of law, to drafting pleadings (Id. At 9-12), to doing 'all the work all the way through' the underlying litigation;n, (id). . At 12), and went so far as to declare that he he 'expected to get paid,' (Id at 12-13), despite the fact that he was suspended from the practice and not working under any lawyer's supervision. ( Id at 9-11)

### **SHEA'S OBJECTIONS TO AND COMMENTS ON FINDING 26. ( Finding 26 is the last of the findings.)**

\*\*\*\*1. Shea did not repeatedly admit to engaging in the practice of law. This statement is a total distortion of and falsification of the record.

\*\*\*\*2. Shea's statements as to helping to draft the complaint and amended complaint for the platinizes in Cause NO. BDV 95-018, was confined solely to those two documents. Further, Shea told the ODC in his response to Sherlock's complaint that he helped to draft these complains. D/C Distraught did not include this in his investigative report to the Rankin Reviw Panel-Tribunal. The D/C not only waived his right to charge Shea by not including his as part of a recommended charge. And the later charge of D/C D/Ct Thompson which included these activities of Shea as a charge, was not presented to a review panel as required by he rules.

\*\*\*\*3. Shea did work for Sisler on the case, with the expectation of getting paid. Sisler accepted Shea's work, put it out on his computer sand printer, and filed it. What Shea did for Sisler does not constitute the practice of law.

\*\*\*\*4. Shea later worked for Rasmussen on the case, and in fact drafted virtually all olf the the documents filed in Court, as well as other work, such as photocopying at the offices of HMHB for several days as part of the discovery Rasmussen and his secretary were also there for most of that work . Shea did the work on the case, sent it to Rasmussen ona computer disk, Rasmussen printed it out, rarely changed anything, and signed it and filed it. Shea worked for Rasmussen with the expectation of getting paid. Rasmussen later withdrew from the case. What Shea did does not constitute the practice

of law.

\*\*\*\*5. Finally, Shea worked for Engel on the case, and with the full expectation of getting paid. Shea was not acting as counsel with Engel as the COP decision writer sneakily suggests or at least implies. From late 1999 through 2002, and through part of 2003, Shea did virtually all of the work on the case. Shea did the work, sent it as hard copy at times, and Engel put it into his own computer and then put it out as his own. For the most part, Shea sent computer disks to Engel, Engel put it into his own computer, usually made no changes or very small changes, and then printed it out on his own printer, signed it and filed it. The work Shea did for Engel does not constitute the practice of law. (Shea adopts and incorporges by reference a 4 2 page letter he sent toGayle Gustafson, who was actig for Egelata the time. In that letter Shea set out in detail the work he did for Engel as well as a great deal of Engel's misconduct against his own client. Shea filed this letter as part of the huge complaint he filed against letter. This letter is now a public record in the files of this case.

\*\*\*\*\*6. Let Shea ask this question of all those lawyers on COP? If you did the work on the case for the lawyers, and in this case, it was virtually all of the work, the real grunt work, the heavy lifting, wouldn't you expect to be paid? Sadly enough, Shea has never received as much as a dime, thanks to the misconduct of district judge Sherlock who paved the way, all he way, for Engel. The COP decision writer has taken great liberties with the record with this finding, liberties which reflect bias and prejudice against Shea.

\*\*\*\*\*7. AS to not working under any lawyer's supervision, this situation applied only to the activities of Shea in helping to the draft the complaint and amended complaint. The plaintiffs cold not find a lawyer, the statute of limitations threate3ned to run, and Shea decided to help them. As to the statement of not working under any lawyer's supervision it had to do only with the fact that in helping to draft the complaint and amended complaint Shea was not being supervised by attorneys Jackson and Rice. The COP decision writer has taken great liberties with the record in making this finding.

\*\*\*\*8. **In short, the so-called findings in Finding 26, constitute evidence demonstrating a manifest prejudice against Shea.** The decision writer, most likely Chairman and chair-person Warren, should not have sat on this case, but obviously determined that it was his manifest destiny to lead COP to victory by getting their man. And Warren accomplished his goal.

\*\*\*\*\*

**CONCLUSIONS OF LAW OF THE ADJUDICATORY PANEL  
PRESIDED OVER BY CHAIRMAN WARREN AND SHEA'S  
OBJECTIONS TO AND COMMENTS ON THE CONCLUSIONS  
OF LAW.**

Preliminary summary of subject matter covered by conclusions of law:  
The COP decision entered twelve conclusions of law. The Conclusions of Law covered the following subject matter: Supreme Court jurisdiction; Shea's status, a suspended lawyer (COL 1); Shea's status, that of being suspended from practice (COL 3) the constitutional requirements established by the **Goldstein** case (COL 6); the standard of proof required: clear and convincing evidence (COL 11); the standards of conduct which must be followed by lawyers which the decision writer declared were violated (COL 2 and 4); that Shea was properly served with process (COL 5,7, and 8) a recitation of Shea's misconduct, attitude toward his conduct, and his admissions (COL 9, 10, and 11).

Shea next sets forth his objections and comments on the conclusions of law of the Adjudicatory Panel chaired by Chairman Warren. Warren appointed himself as chairperson of this panel. He did this based on a tyrannical hijacking of **Rule 4A**, so that he always ends up as the chairperson of each adjudicatory panel. **Rule 4** deals with the composition, powers and duties and required quorum for adjudicatory panels. **Rule 4A provides:**

A. Composition. The Chairperson of the Commission shall appoint one or more Adjudicatory Panels of nine members each, at least three of whom shall be non lawyers; **shall designate a Chairperson for each Adjudicatory Panel**; and shall realign the membership of Adjudicatory Panels from time to time.

The spirit of this Rule clearly intends the appointment of different COP members as the chairperson of adjudicatory panels. Another rule provides that the chairperson must be a lawyer. But Chairman Warren has hijacked this rule by simply appointing himself as the chairperson of each adjudicatory panel. This is a huge power grab, most certainly agreed to by Vice-Chairman Davis. And the other members just go along. This hijacking of Rule 4A is a huge and impermissible power grab on the part of Chairman Warren.

The chart of the review panels and adjudicatory panels provided to Shea by COP administrator Shauna Ryan, shows how Warren has asserted his control over the real

operations of COP—controlling all adjudicatory panels. (See Shea's Appendix, Volume I.) Warren has appointed himself as chairperson of both adjudicatory panels. . this chart also shows that he has appointed Jean Faure as a member of each adjudicatory panel.

\*\*\*\*\*

### **COP COCLUSION OF LAW 1—SUPREME COURT JURISDICTION**

1. The Montana Supreme Court has singular jurisdiction under Article VII, Section 2 (3) , of the Montana Constitution on matters pertaining to lawyer discipline and claimed violations of the Montana rules of Professional Conduct, including Rule 5.5.

### **SHEA'S OBJECTIONS TO AND COMMENTS ON CONCLUSION OF LAW 1.**

\*\*\*\*\*

### **COP COCLUSION OF LAW 2 —CONDUCT REQUIREMENTS**

2. Daniel Shea, was admitted to the practice of law in the State of Montana in 1964, at which time he took the oath acquired for admission and swore to abide by the rules of Professional conduct, the Disciplinary rules adopted by the Supreme Court and the highest standards of honesty, justice and morality, including but not limited to, those outlined in parts 3 and 4 of chapter 61, Title 27, Montana Code Annotated.

### **SHEA'S OBJECTIONS TO AND COMMENTS ON CONCLUSION OF LAW 2.**

Shea agrees that this is the present status of the law. But, through sad experience in this case, Shea is also convinced this should not be the status of the law. Through his sad personal experience as a complainant and and as an accused,, Shea is convinced that the Article VII section 2(3) of the Montana Constitution should be amended. Exclusive jurisdiction is contrary to the public interest.

A Supreme Court does have inherent authority to disciplilne attorneys. But it need not be occlusive. The legislature can get involved to enact those lows and require the promulgation of rules which give protections all down the line both to the accused

and to the complainant. Article VII Section 2(3) should be amended.. The Supreme Court should no longer have exclusive jurisdiction. The public interest requires that the legislature have a say in the process.

The manifest corruption;on that has occurred in this case is irrefutable evidence that one profession alone is incapable of regulating itself. Shea is firmly convinced that the public interest requires and d3emands that Article VII Section 2(3)be amended so that the legislature must set forth the makeup of and the procedural rules for the enforcement of disciplinary provisions against attorneys.

What happened to Shea would n not have happened if the procedures allowed both the accused lawyer and the complainant to attend a probable cause determination.

\*\*\*\*1.For example, **if Shea as a complainant** were authorized to attend the probable cause determination, the violatiokns of the rules and procedures by the disciplinary counsel and the review panel would not have occurred. And if something unlawful or unethical took place, Shea would hive known immediately. And of course, attorney Engel should hive been allowed to attend also.

\*\*\*\*2.The same is true with **with Shea as an accused**. If he had been allowed the attend the probable cause determination, the violations of the rules and procedure by the disciplinary counsel and the review panel would not have taken place. And the complainant, district judge Sherlock, sh old have been allowed to attend also.

In either of the above situations, if Shea had been present and unlawful or unethical conduct took place, Shea would have known immediately. Therefore, the unlawful and unethical conduct would not have taken place, at least not at the probable cause hearing.

In either of the above situations the disciplinary counsel would not have praepared a fraudulent investigative report and would have complied with the review panel rules. And each of the review panels also would not have relied on the fraudulent investigative reports. And each h of the review panels would not have violated the rules relating to complaint procedures before review panels. And most surely, if a review

panel voted to dismiss a complaint, the complainant would have been notified of his rights as required by Rule 14.

Further, if Shea were allowed to attend the probable cause proceeding relating to the complaint filed by Sherlock against Shea, the disciplinary counsel would not have prepared and relied on a fraudulent investigative report to secure an unlawful dismissal of f Shea's 's complaint filed against Joseph C. Engel III. And the review panel tribunal would not have relied on a fraudulent investigative report. And the review panel would not have violated the complaint review requirements of the rules,. And if it dismissed the complaint, the review panel would have given the required Rule 14 written notice of dismissal to Shea.

Because these rights were not in place for Shea as as complainant, and fdor Shea as an accused, horrible misconduct took place in both of these proceedings, by both the disciplliaryu counsel and the review panels. The Court's secrecy provisions have become breeding grounds for corruption. In both cases the procedures have resulted in amanifest miscarriage of justice.

To allow the complainant and the accused to attend a probable cause determination does not mean the proceeding must be open to the public. Both the complainant and the accused might have privacy rights which trey might choose to invoke. And unless both of them waived their right of privacy, then the hearing would be closed to the public but not to the complainant and the accused.

Failure to allow this to the accused and to the complanant or complanants, violates Shea's constitutional rights:

**THE DISCIPLIARY RULES WHICH DID NOT ALLOW SHEA TO ATTEND THE PROBABLE CAUSE HEARING AS A COMPLAINANT, AND WHICH ALSO DID NOW ALLOW SHEA TOATTEND THE PROBABLE**

**CAUSE HEARING AS AN ACCUSED, HAVE VIOLATED SHEA'S  
CONSTITUTIONAL RIGHTS.**

Up to the time a formal complaint is filed, all proceedings of COP operating with the Office of Disciplinary Counsel, are confidential. They are enshrouded in a blanket and cloud of secrecy. These are secret governmental operations, expressly authorized and mandated by the Montana Supreme Court. Rule 20A LRDE (2002). This is apparently the way it has always been in Montana. The Supreme court provides great secrecy protection to proceedings against lawyers. But at the same time enforces other provisions of the Constitution, to require more openness of governmental operations in the executive branch and in the legislative branch of government.

Applied to lawyers disciplinary proceedings, it means that a review panel may act unlawfully against the complainant or act unlawfully against an accused lawyer. It also means that a Disciplinary Counsel attorney may act unlawfully against a complainant or against an accused lawyer. And, because of the secrecy provisions, they will never know what happened, let alone how it happened.

If a formal complaint is filed against an attorney, it is possible through discovery, that he may obtain certain documents, etc, but he or she will never know what happened and how it happened at the probable cause hearing. Before the review panel.

And yet proceedings filed against other professionals or license holder in Montana, expressly allow a complainant to attend a probable cause (or reasonable cause hearing), and the accused person also has that right.

In other words, their rights are fully protected, or at least protected much more than in proceedings filed against a lawyer. The lawyer may never find out what happened during the probable cause hearing. And a complainant has even fewer rights.

And cannot find out what happened during the review panel proceedings. And a complainant has even fewer rights.

If a review panel acts to dismiss the complaint filed by a complainant, the complainant may never know why and most certainly the complainant will never know whether or not the review acted lawfully, or if the disciplinary counsel acted lawfully.

To determine whether or not the review panel acted lawfully in the probable cause determination, the complainant would be required to have access to the records of the review panel. But the complainant does not. Shear asserts that a complainant and an accused attorney, before the filing of a formal complaint, have a constitutional right to attend the probable cause hearing of a review panel. Failure to allow this violates several constitutional principles.

\*\*\*The right to due process of law is denied.

\*\*\*The right to Equal Protection of the Law is Denied

\*\*\*The right to know is denied.

Proceedings prior intime to the filing of a formal complaint include the meeting of review panels with the ODC, at which time the review panels determinewetgher or not proble dause exisgts to authorize thefiling of a formal complaint. At tis probable cause hearing the complainant isnot allowed to attend and gthe qaccused lawer is not allowed toattend. Not only are the proceedings nogt oen tgo

The disciplinary rules, as presently written, declare that proceedings are only open to the pulic after the filing of a formal complaint. **Rule 20 LRDE** . The rules

\*\*\*1. Shea's right to equal protection of the law as guaranteed by Article II, Section 4, was violated. State law allows a complainant and accused to attend probable cause determinations, But the Supreme Court's disciplinary rules do not provide such rights.

The Supreme Court ha violated Article II section 4.

\*\*\*2. Shea's right to know as guaranteed by Article II Section 9, was violated. As a complainant and as an accused, Shea had a right to attend the probable cause hearings of both review panels. The Commission on Practice is a public body and the Supreme Court was required tori allow attend both proceedings.

\*\*\*3. Shea's right to due process of law as guaranteed by article II, section 17, as violated. Because he was now allowed to attend each probable cause hearing, Shea was deprived of his due process rights as a complainant and was likewise deprived of his due process rights a a complainant. Shea had a right to know that his rights as a complainant were being protected. He could only protect those rights by having the right to attend

the probable cause hearing. Shea had a right to know that his rights as an accused were being protected. He could only protect those rights by having the right to attend the probable cause hearing. The Supreme Court violated Shea's rights by promulgating rules which prohibited Shea or anyone else similarly situated from attending.

\*\*\*\*\*

**COP COCLUSION OF LAW 3—SUSPENSION ORDER**

3. By Order dated August 3, 1989, the Montana Supreme Court indefinitely suspended Respondent from the practice of law. Th3 Respondent has not petitioned for reinstatement and was suspended from the practice of law at all times relevant hereto through to the present.

**SHEA'S OBJECTIONS TO AND COMMENTSS  
ON CONCLUSION OF LAW 3.**

\*\*\*\*\*

\*\*\*\*\* COP  
**COP CONCLUSION OF LAW 4. --CONTENTS OF RULE 5.5**

5. Rule 5.5 of the Montana rules of Professional conduct, approved and adopted by the Montana Supreme Court, was in effect at all times relevant hereto and provides as follows:

A lawyer shall not:

- (a) Practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or
- (b) Assist a person who is not a member o the Bar in the performance of activity that constitutes the unauthorized practice of law.

**SHEA'S OBJECTIONS TO AND COMMENTS ON  
CONCLUSION OF LAW 4**

\*\*\*\*\*

**COP CONCLUSION OF LAW 5—SERVICE OF PROCESS**

5. The Respondent was served with the Complaint in this matter consistent with the rules and further acknowledged the actual receipt of of the Complaint against him in this matter.

**SHEA'S OBJECTIONS TO AND COMMENTS ON  
CONCLUSIONS OF LAW 5.**

Shea adopts ad incorporates by reference all of his objections to the findings of fact which deal with the service of process issue. There is no basis in the facts for COP to conclude that Shea was properly served.

The papers which Shea received from the Supreme Court Clerk, which were issued at the request of the Disciplinary Counsel, allowed Shea to make an election which allowed him to wait until he was personally served before his time to make an appearance would start to run. Shea was never personally served. The fact that Shea acknowledge receipt of the complaint does not defeat his right to rely on the very papers that were mailed to him along with the complaint. Shea had a right to rely on the Notice and Acknowledgment of Receipt of Citation and Complaint and the rights which were provided to him within the four corners of that document. This document expressly gave him the right to elect to be personally served. Shea made that election.

\*\*\*\*\*

**COP CONCLUSION OF LAW 6.--REQUIREMENTS OF DUE PROCSS**

6. Due process requires notice and an opportunity to be heard—both of which have been provided to Respondent here. The Respondent has not been denied due process of the law, the right to an impartial tribunal or equal protection of the law. See **Goldstein v., Commission on Practice**, 297 Mont. 493, 504, 995 P1.2d 923 (930 (2000)); citing **Goldberg v. Kelly**, 397 U.S. 254 (1970).

**SHEA'S OBJECTIONS TO AND COMMENTS ON  
CONCLUSION OF LAW 7.**

Shea was denied many, many rights in violation of his right to due process. The COP decision ignored all of Shea's contentions as to his contention that he Was denied due process. Further, the notices provided to Shea here were issued in violation of his due process rights. It is not an issue of whether Shea received noices. It is, rather, an issue of what rights were provided to Shea and what the notice provided.

The notice provided to Shea commanding him to attend a hearing on March 17, 2006, was issued on the basis of false information provided by the Disciplinary Counsel to the administrator of COP. D/C Thompson failed to inform her that in the papers mailed to Shea there was a **Notice and Acknowledgment of Receipt Of Citation And Complaint**, which notice gave Shea certain rights of election.

The notice of hearing issued by Vice-Chairman was illegal. The notice commanded Shea to attend a hearing which would take place pursuant to **Rule 12C(3)**. A Rule 12C hearing can take place only after the accused has filed an answer to the formal complaint. Shea had not yet appeared in the case, let alone filed an answer. Therefore, the hearing was illegal. Vice-Chairman Davis, in the circumstance, had no authority to issue rule 12C (3) order.

Further, as covered thoroughly already, Shea had a right not to appear because he had elected to be personally served, and he had not been personally served

The next two notices were issued to Shea by commanding Shea to attend a hearing to be conducted pursuant to the authority of Rule 12 B. Rule 12B provides:

B. Answer.

\*\*\* (1) The lawyer shall serve a copy of the answer in the Commission and on Disciplinary counsel.

\*\*\* (2). If the lawyer fails to answer within the prescribed time, the charges shall be deemed admitted. An adjudicatory Panel to which the case has been assigned may make findings and impose on the lawyer such discipline and sanctions as these rules authorize.

\*\*\* (3). An adjudicatory Panel may elect to hold a hearing notwithstanding the lawyer's failure to answer, after notice of hearing has been given.

The COP adjudicatory panel, acting through attorney and vice chairman Gary Davis, elected to have a hearing based on Rule 12B. Since Shea had not filed an answer to the complaint, and the COPL adjudicatory panel elected to have a hearing, the only hearing it could conduct was under Rule 12B(3). It provides: “ (3) An Adjudicatory Panel may Elect to hold a hearing, notwithstanding the lawyer's failure to answer, after notice of hearing has been given.” Therefore, unless the notice specified otherwise, it must be assumed that the hearing would be an adjudicatory hearing on the merits.

Shea assumed it would be an adjudicatory hearing but was caught by surprise at the opening of the hearing when chairman and Chair person Warren announced that the

charges specified in the complaint would be deemed admitted and that the hearing would proceed to the recommendation stage. She was ambushed by the chairman.

The rule itself does not provide for a recommendation or mitigation hearing. Therefore, if authority did exist under Rule 12 to hold such a hearing, the purpose of the hearing would have to be specified in the notice of hearing. If not the accused lawyer would not know the purpose of the hearing, and would have a right to believe that it would be a hearing on the merits.

COP issued two orders for a hearing at Great Falls, Both orders were issued by COP Vice-Chairman Davis, who along with Chairman Warren, truly controls the operations of COP. Both orders declared that the hearings would be pursuant to Rule 12B, and did not specify a purpose beyond which one would determine by reading the rule. The first hearing was vacated at Shea's request because of the death of Shea's former wife,

Later, on August 16, 2006, Davis issued another Rule 12B notice of hearing commanding Shea to appear in Great Falls on September 21, 2006 for the hearing.

On the same date Davis issued a Rule 12C hearing for Engel, whose hearing was to be on July 22, 2006, the day following Shea's hearing. Another serendipity coincidence manipulated by COP.

Shea believed that when he went to Great Falls there would be a hearing on the merits. Shea was shocked, surprised, and hijacked into appear in Great Falls, only to learn that COP Chairman Warren and chairpersons of the adjudicatory tribunal, announced that the allegations of the complaint were deemed admitted and that the hearing would only concern the so-called mitigation or recommendation stage. Shea was caught by surprise. It was a hearing by ambush. The hearing notice violated Shea's due process rights by not informing him of the purpose of the hearing.

Rule 12B does not authorize a mitigation or recommendation hearing only. Further if such authority is implied, then due process of law requires that the notice itself notify the accused of the express purpose of the hearing. Shea has no doubt that Chairman Warren and Vice-Chairman Davis intended to catch Shea by surprise, and therefore, conduct a hearing by ambush. Shea was shocked when Chairman Warren announced at the hearing that the charges would be deemed admitted and that the hearing would be confined to the recommendation stage.

**The entire hearing must be nullified. It was conducted in violation of Shea's**

due process rights.

\*\*\*\*\*

**COP CONCLUSION OF LAW 8 ---SERVICE OF PROCESS**

1. The Respondent's contention that this proceeding should be dismissed for alleged confusion in the procedural steps adopted to obtain service pursuant to Procedural Rule 18A is without merit. . The Commission concludes that no good faith argument can be asserted that the Respondent has not been provided appropriate notice of the Complaint against him, as well as the time and opportunity to respond fully and completely. Id. Respondent acknowledged on the record of the Complaint herein, see Transcript 9 of Proceeding, March 17, 2006, and was directed thereafter to file his answer and was provided ample time to do so. See order of March 17, 2006.

**SHEA'S OBJECTIONS TO AND COMMENTS ON CONCLUSION OF LAW 8.**

Shea adopts and incorporates by reference all of his objections and comments on the findings of fact made with regard to the service of process issue.

The COP decision totally evades the issue by declaring that all it was required to do is to provide Shea with notice of the complaint as well as the time to respond to that complaint. The issue is whether Shea had the right to rely in good faith on the Notice and Acknowledgment of Receipt of Citation and Complaint which he received at the same time he received the complaint. And citation. The express provisions of this document require a conclusion that Shea had a right to rely on it. Shea did. Shea elected not to sign and return this document, and instead, to wait until he was personally served. And Shea was not personally served.

The COP orders relating to these at no time set out the actual contents of this document, and for good reason. The contents prove Shea to be right. And the same is true of the COP decision entered on November 20, 2006. At no time did the decision writer quote from the very document on which Shea relied. And again, for good reason. To do so, would establish that Shea was right. This is intellectual dishonesty at its lowest level. It hardly befits those who are appointed by the supreme Court to act as its trusted agents and officers to fairly administer the disciplinary rules. Rather, the COP decision; clearly shows the decision; writer to be acting as an adversarial advocate rather than a fair minded decision maker with truth and justice as the ultimate goal.

\*\*\*\*\*

**COP CONCLUSION OF LAW 9—RECITATION OF SHEA'S MISCONDUCT**

11. The Respondent prepared the Complaint and other pleadings in Old Elk v. Healthy Mothers, Healthy Babies, Inc., filed in the Montana First Judicial District Court in Lewis and Clark County, cause No. BDV-1995-18, prepared numerous other documents filed on behalf of the plaintiffs in that matter, actively participated in the jury instruction process of the case, and filed motions in the case whereby he was acting not only as an advocate for himself, but also as counsel for a plaintiff therein while suspended from practice . (see Complaint therein at paragraphs V—X.

**SHEA'S OBJECTIONS TO AND COMMENTS ON CONCLUSIN OF LAW 9.**

Shea adopts and incorporates by reference his objections to and comments on the findings of fact made in the decision in relation to the same matters.

Concerning helping to prepare the complaint and amended complaint, Shea informed the ODC in his response to the complaint of district judge Sherlock that he did that work. The ODC did not even mention these facts in his investigative report to the Rankin Review Panel consisting of Matovich, Axel berg, Oldenburg, DeVries, and Noonan. **Because he did not do so, the ODC waived the right to charge Shea with this activity and is now estopped to argue otherwise.**

Further, assuming there was a decision to pursue this matter further, the ODC was obligated first to inform Shea and give Shea a chance to file a response to any allegations made concerning his activity by helping to papre the complaint and amended complaint.

D/C Thompson, upon assuming office, had no authority to charge Shea with this offense without first taking it to a probable cause determination at the review panel level. He failed to do so.

D/C Thompson violated the rules in charging Shea without going through the required complaint procedures. By necessary implication, because the ODC is the

repository of all documents, Rule 11A RLDE, requires the ODC to present the following to a review panel: the complaint alleging the violations; the response of the accused lawyer; and the reply of the complainant, if the complainant chooses to reply. Further, all documents submitted by the complainant and the accused lawyer must also be considered the review panel. D/C Thompson illegally short circuited this entire process by simply charging Shea without complying with these procedures.

\*\*\*\*\*

### **COP CONCLUSION OF LAW 9—SHEA'S MENTAL STATE- IN RELATION TO THE ALLEGED VIOLATIONS**

9. There is no suggestion by the Respondent that any of the actions the subject of the Complaint herein i.e., the unauthorized practice of law beginning in Cause No. BDV-1995-18, were taken through negligence, inadvertence or mistake. Respondent affirmatively repeatedly has declared that all such actions were taken knowingly and intentionally. See Transcript of Hearing, September 21, 2006, at 9-13.

### **SHEA'S OBJECTIONS TO AND COMMENTS ON CONCLUSION OF LAW 10.**

In typical style, the COP decision writer has taken great liberties with the record, liberties which are absolutely not justified. Chairman Warren would not allow Shea to comment on any of the charges other than Shea's comments on his assistance to the plaintiffs in drafting the complaint and amended complaint. Shea's comments as to what he did, were confined exclusively to that charge. With regard to helping the plaintiffs in their efforts to get a complaint filed, most certainly Shea's actions were not due to negligence, inadvertence or mistake. The record shows why Shea did it. They were in desperate need of getting a complaint filed, they could not find a lawyer, and the statute of limitations would soon expire.

The conclusion of law is not justified by the facts. In his response to the complaint of Sherlock to the ODC and Commission on Unauthorized Practice of Law, Shea directly stated that he helped the plaintiffs to draft the complaint and the amended complaint. Therefore, D/C Strauch had this information when he prepared his investigative report and submitted it. He did not even mention in his report that Shea had helped to draft these documents. Therefore, he made no recommendation in his report, and it was not part of what as presented to the review panel.

Therefore, the ODC waived the right to charge Shea with helping to prepare these

documents and is now estoppel to declare otherwise. Further, if D/C Th Thompson believed Shea should be charged, it was his duty to prepare another investigative report, and take it before a review panel. He failed to do it. Instead, he just unilaterally added this as one of the charges when he filed the formal complaint. Is this not misconduct on the part of D/C Thompson? Did he not violate the required complaint procedures and thereby illegally file a charge against Shea? But who is concerned with the misconduct of COP or the ODC? Most surely, along with the immunity granted them by the Supreme Court, they do whatever they want to do with impunity. They know no one will ever challenge them.

d

\*\*\*\*\*

**COP'S CONCLUSION OF LAW 10—SHEA'S ALLEGED  
ACKNOWLEDGMENT OF ENGAGING IN THE UNAUTHORIZED  
PRACTICE OF LAW.**

1. Respondent acknowledged at the time of hearing herein that he engaged in the unauthorized practice of law. Transcript of Hearing, September 3212, 2006, at 9-13.

**SHEA'S OBJECTIONS TO ASND COMMENTS ON  
CONCLUSION OF LAW 10**

Contrary to the sweeping conclusion of the COP decision writer, Shea's remarks were confined to his helping the plaintiffs with preparing the complaint and amended complaint. The COP conclusion cannot be broadened to cover the remaining allegations in the complaint. But this is the way the COP leadership conducts the business of the Commission. When COP does this, an enormous burden is then placed on the accused to challenge COP for its improper procedures and decision making. Yet the Supreme Court does nothing to require that its agents and officers conduct themselves with the highest fidelity to the facts and to the law.

\*\*\*\*\*

**COP CONCLUSION OF LAW 11—REQUIRED STANDARD OF PROOF**

11. It had been established by clear and convincing evidence that the Respondent's conduct constitutes the unauthorized practice of law in violation of Montana Rule of Professional Conduct 5.5.

**SHEA'S OBJECTIONS TO AND COMMENTS ON**

## CONCLUSION OF LAW 11

If this conclusion were concerned only to Shea's agreeing that he helped to prepare the complainant and amended complaint, Shea could agree with this conclusion. But the COP decision writer expands this conclusion to include all of the charges. This was clearly improper, but for the COP leadership, anything seems to go.

COP had no right to find Shea guilty of this charge because the ODC had this information straight from Shea, failed to include it in his investigative report, and therefore did not recommend a charge. As a result, when new D/C Thompson had no authority to unilaterally insert this into the formal complaint as part of the other unauthorized additions he added to the complaint without taking it to a review panel. **Isn't this misconduct on the part of D/C Thompson?**

Further, COP was not entitled to make this conclusion of law because Shea was caught by surprise and ambushed at the hearing. Shea believed would be a hearing on the merits based on the notice issued to him by Vice-Chairman Davis. Shea was notified otherwise. Therefore, Shea was denied due process when Chairman Warren confined the hearing to what he called the recommendation stage after he impermissibly declared that all allegations in the complaint would be deemed admitted.

\*\*\*\*\*

### **SHEA'S OBJECTIONS TO AND COMMENTS ON THE COP RECOMMENDATION THAT SHEA BE DISBARRED(pages 11-12)**

**The declarations of the decision in the first paragraph of the Recommendation, vary from being misleading to being absolutely false. Shea was not engaged in the unauthorized Practice of law since 1995. This statement is absolutely false. But will the Supreme Court reprimand its officers and agents for making false statements in reaching out to recommend disbarment? Shea doubts it. On the underlying case Shea did work for Sister, Shea did work for Rasmussen, and Shea did work for Engel. This does not constitute the Unauthorized practice of law.**

Shea did not assert he was not served because he did not read immediately the rule on service of process. The rule on service, Rule 18A, clearly justifies Shea's position that based on the documents he received, he fully had the right to elect to be personally served. The fact that Shea had not read the rule on service immediately, did not change the contents of the rule and did not change the contents of the documents

which Shea received. The decision writer has made another false statement.

Whatever motions and briefs Shea has filed were required in order for Shea to defend himself. This is especially so because Shea knew by that time, that he was dealing with a corrupt Commission on Practice, who had already conspired with a corrupt disciplinary Counsel in relation to the complaint filed by Shea against Engel, and with relation to the complaint filed by district judge Sherlock against Shea. Shea knew the cards were stacked and he was fighting an uphill battle against a corrupt governmental organization. The orders issued by Chairman during the course of the proceedings show that Warren, except for one order, completely evaded the issues Shea raised.

Contrary to the statement of the decision writer, Shea did not make broad, repeated acts as to engaging in the unauthorized practice of law. Shea's statements at the hearing as to what he did, were confined solely to that of helping to prepare the complaint and amended complaint for the plaintiffs so they could make a pro se filing of a complaint to avoid the running of the statute of limitations.

**The concluding paragraph of the COP decision provided an assessment of Shea's conduct, and ends with a recommendation that Shea be disbarred. It states:**

The Respondent has previously been indefinitely suspended from his rights, responsibilities and privileges which attend being a practicing member of the Bar. Through his procedural machinations, histrionics and unsolicited declarations of disdain for the legal process—including the highest Court in the state—he has demonstrated he lacks the fundamental prerequisites necessary to fulfill the obligations incumbent of any member of the practicing Bar. Accordingly, it is the recommendation of the Montana Supreme Court's Commission on Practice that Respondent, Daniel Shea, be disbarred. (page 12)

**Shea has engaged in no procedural machinations. Everything** he has done is to protect his rights. And this is the rub. It COP proceeds against lawyers as if they have no rights. It appears that the decision writer would have Shea roll over and play dead. In fact, it is COP itself which has violated rule after rule, and when confronted with these rule violations, proceedings if nothing happened. The COP Adjudicatory Panel, controlled by Warren (and by Davis) simply rolls on as if nothing ever happened and the issues were never raised. Shea did not violate the disciplinary rules. But COP has proceeded to violate them with complete impunity. Obviously, COP would prefer that

Shea did not raise the issues and he rule violations.

If Shea has engaged in histrionics the COP decision writer has not pointed specifically to any, Shea has not engaged in histrionics. But Shea has engaged in setting forth the truth as it is and not as the COP decision writer would like it to appear. And be reported. All the way through this case, cop as an the disciplinary of the Supreme Court has engaged in corruption. And the two investigative reports by former D?C Strauch, are probable two of he most corrupt and fraudulent documents ever penned by a person in two documents. Does COP does the Disciplinary Counsel think that Shea has no right to expose that corruption;n? What is more, Strauch, before he became Disciplinary Counsel for the Supreme Court, was the personal employee of Justice Cotter and her lawyer husband while they were i practice together in Great Falls.

Does COP believe that Shea has no right to expose this corruption? Is not Shea entitled to raise these issues, exposing corruption in the judicial branch of government? Obviously COP does not think so, and no doubt the judiciary would not think so either.

Isn't the public entitled to know that the entire legal-judicial establishment has engaged in a massive cover up of he absolutely horrendous misconduct of district judge Sherlock? Sherlock aided and abetted attorney Engel to commit in court a financial rape of h is own client. Shouldn't this corruption be exposed? As far as Shea is aware, this is the worst case of judicial corruption in the history of this state. Not just Sherlock's corruption, bet the massive cover up that has taken place after Sherlock had used his awesome judicial power to allow Engel to financially rape his own client.

Isn't the public entitled to know this? .

If Shea has demonstrated a disdain for the system, it is only because the system deserves nothing but disdain. any person in his right mind who has been compelled to go through the disciplinary system, system, could only have disdain for the system. The system is corrupt. Shea can think of no governmental entity which is more deserving of criticism that the Commission on Practice.

The corruption manifested by the Commission on Practice, has been allowed to take place because the Supreme Court has allowed a huge amount of kits conduct to take place in secrecy. In fact the Supreme Court has not only permitted this secrecy, through its rule making power, the Supreme Court has mandated this secrecy. In the long run not only individuals, complainants and end lawyer , but also the public, suffers hugely by these secrecy retirements. There can be no doubt that in government secrecy is the

devil's workshop..

In this case Shea's rights as a complainant and as an accused, have been trampled on and stomped on, and he has incurred irremediable damage because of what COP, the disciplinary Counsel, and specifically unnamed outside interests have done. In wholesale fashion, Shea was denied his constitutional rights.

Now, let's look at the statement of the COP decision writer that Shea " lacks the fundamental prerequisites necessary to fulfill the obligations incumbent of any member of the practicing Bar." If this is the standard by which COP is judging Shea, then certainly no lawyer on the Commission; should be practicing law. Several of them, including Chairman Warren, have directly engaged in corruption in carrying out their duties as agents and officers of the Supreme Court. They should not be practicing law. But would the system take action against these lawyers? I think we all know the answer to that question. Absolutely not? And of course, this is one of the fundamental problems with the system.

What Engel did to his former client with the willing assistance of district judge Sherlock, is one of the most shocking stances of combined lawyer-judge misconduct that has ever occurred in Montana. But would anyone ever expect the lawyer disciplinary system to go after Engel? No. And why not. Because to go after Engel you would have to go after Sherlock. And everyone is afraid to do that. And not only is the system afraid to go after Engel and Sherlock together, the system has actively engaged in covering up this massive corruption. And Shea must add, that the Supreme Court itself has already done its part in covering up this misconduct. So if COP wants to go after Shea because he exposed this corruption, so be it. Shea will just have to abide by the consequences of challenging lawyer and judicial corruption in Montana.

So if COP wants Shea disbarred, and if the Supreme Court agrees with this recommendation, so be it. Shea will hold his head high, knowing that he was disbarred based on a recommendation of a manifestly corrupt Commission on Practice, and that Shea tried to expose the corruption but the system, run by the powers that be, shut him down.

CONCLUSION

Shea asks the Supreme Court to totally reject the findings and conclusions of the COP Adjudicatory Panel. But if it does not, and agrees that Shea must be disbarred, so be it. Shea tried and Shea failed. But at least he tried. And if we are going to preserve democracy everyone must try:

Dated this 12 day of January, 2006.

Daniel J. Shea  
Daniel J. Shea

*Daniel J. Shea*  
*original*

CERTIFICATE OF SERVICE

I certify that on January 12, I personally served a copy of this document on the Office of Disciplinary Counsel, together with Shea's brief and a two-volume appendix.

Daniel J. Shea  
Daniel J. Shea

*Daniel J. Shea*  
*original*

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. 05-606

IN THE MATTER OF )  
DANIEL SHEA, )  
 )  
An Attorney at Law, )  
 )  
Respondent. )

ORDER

MAR 21 2007

FILED  
J. S. Smith  
CLERK OF SUPREME COURT  
STATE OF MONTANA

The Commission on Practice of the Supreme Court of the State of Montana (the Commission) entered its Findings of Fact, Conclusions of Law, and Recommendations on November 20, 2006, regarding a complaint filed against Daniel Shea (Shea), an attorney licensed to practice law in the State of Montana.

This Court suspended Shea indefinitely from the practice of law by Order dated August 3, 1989. Shea has not petitioned for reinstatement and remains suspended as of the time of the disciplinary proceeding.

The Office of Disciplinary Counsel (ODC) filed the complaint against Shea on October 17, 2005, alleging that Shea had engaged in the unauthorized practice of law in violation of Rule 5.5, Montana Rules of Professional Conduct, in connection with the case of *Old Elk v. Healthy Mothers, Healthy Babies, Inc.*, Cause No. BDV-1995-18 (First Judicial District Court, Lewis and Clark County).

Shea initially challenged the adequacy of the service of ODC's Complaint. The Commission held a hearing on the matter on March 17, 2006, and on that same date issued an order denying Shea's motion to dismiss for lack of proper service of process.

The Complaint finally proceeded to a hearing before the Commission on September 21, 2006. Shea never filed an answer to the allegations set forth in the Complaint, beyond attacking the adequacy of the service of process, and thus the Commission deemed the allegations admitted pursuant to Rule 12(b), Montana Rules for Lawyer Disciplinary Enforcement (MRLDE).

Doc # 2 - Submitted to Senate Judiciary  
Committee - April 4, 2007

The Commission proceeded to the discipline phase of the proceeding and provided Shea an opportunity to provide comment and make a recommendation regarding the appropriate discipline. Shea instead elected to attack the integrity of ODC, the review panel of the Commission, the Commission, the district court judge who referred the complaint to ODC, and this Court.

The Commission issued its Findings of Fact, Conclusions of Law, and Recommendation on November 20, 2006. The Commission determined that Shea had violated Rule 5.5, Montana Rules of Professional Conduct, in that he engaged in the unauthorized practice of law. The Commission recommended that Shea be disbarred.

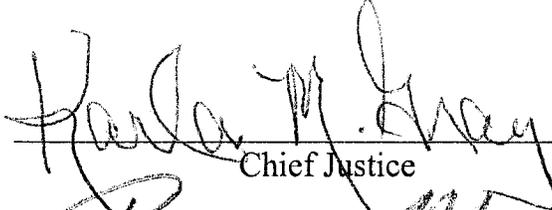
Shea filed objections to the Commission's Recommendation and ODC filed a response to Shea's objection. Shea once again chose largely to forego any attempt to address the merits of the Commission's Findings of Fact and Conclusions of Law. Shea once again opted to launch *ad hominem* attacks on the Commission, on ODC, on the district court judge who referred Shea to ODC, and on this Court.

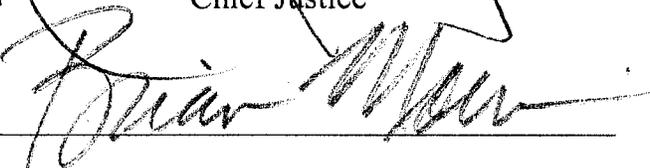
Pursuant to Rule 16, MRLDE, this Court has reviewed the Findings of Fact and Conclusions of Law of the Commission and its Recommendation to disbar Shea. It appears that Shea indeed violated Rule 5.5, Montana Rules of Professional Conduct. This Court has duly considered the Recommendation of the Commission and the criteria set forth in Rule 9(B), MRLDE. The Court finds that the Recommendation of the Commission should be accepted.

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. Respondent Daniel Shea shall be DISBARRED.
2. The Clerk of Court is directed to mail a true copy of this Order to Respondent Daniel Shea by certified mail, return receipt requested, by ordinary mail to the Chairman and the Secretary of the Commission on Practice, the Clerk of the Federal District Court for the District of Montana, and the Clerk of the Circuit Court for the Court of Appeals for the Ninth Circuit, the Office of Disciplinary Counsel, the Executive Director of the State Bar of Montana, and by email to all Clerks of the District Courts of the State of Montana and to all district judges.

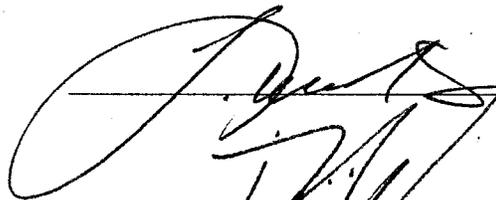
DATED this 21<sup>st</sup> day of March 2007.

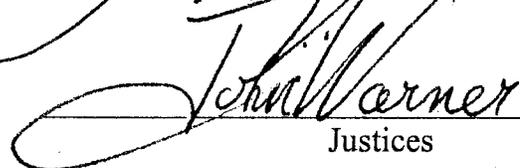
  
\_\_\_\_\_  
Chief Justice

  
\_\_\_\_\_

  
\_\_\_\_\_

  
\_\_\_\_\_

  
\_\_\_\_\_

  
\_\_\_\_\_

Justices

ATTEST: A TRUE COPY

  
\_\_\_\_\_

ED SMITH  
CLERK OF SUPREME COURT  
STATE OF MONTANA

FINANCIAL STATEMENTS AND REPORT OF  
INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION

JUNE 30, 1995 and 1994

Doc # 3 - Submitted to Senate Judiciary  
Committee - April 4, 2007

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 JUNE 30, 1995 and 1994

CONTENTS

	Page
REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS	1-2
FINANCIAL STATEMENTS:	
Statements of Assets and Liabilities Arising from the Modified Accrual Basis of Accounting.....	3
Statements of Revenue and Expenses.....	4
Statements of Changes in Fund Balances.....	5
Notes to the Financial Statements.....	6-10
SUPPLEMENTAL INFORMATION:	
Expense Detail.....	11-14
Furniture and Equipment.....	15
INDEPENDENT AUDITORS' REPORT ON SCHEDULE OF FEDERAL AWARDS.....	16
Schedule of Federal Awards.....	17
INDEPENDENT AUDITORS' REPORT ON THE INTERNAL CONTROL STRUCTURE BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENTAL AUDITING STANDARDS.....	18-19
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH THE GENERAL REQUIREMENTS APPLICABLE TO FEDERAL PROGRAMS.....	20
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH SPECIFIC REQUIREMENTS APPLICABLE TO MAJOR PROGRAMS.....	21-22
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH SPECIFIC REQUIREMENTS APPLICABLE TO NONMAJOR PROGRAMS.....	23
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH LAWS, REGULATIONS, CONTRACTS AND GRANTS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS.....	24
INDEPENDENT AUDITORS' REPORT ON THE INTERNAL CONTROL STRUCTURE USED IN ADMINISTERING FEDERAL AWARDS.....	25-26

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies -  
The Montana Coalition  
Helena, Montana

We have audited the statements of assets and liabilities arising from the modified accrual basis of accounting of Healthy Mothers, Healthy Babies - The Montana Coalition as of June 30, 1995 and 1994, and the related statement of revenue and expenses and statement of changes in fund balance for the years then ended. These financial statements are the responsibility of the organization's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States, and the provisions of the Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations". Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audits provide a reasonable basis for our opinion.

As described in Note A1, the organization's policy is to prepare its financial statements using a modified accrual basis of accounting. Accordingly, the accompanying financial statements are not intended to present financial position and results of operations in accordance with generally accepted accounting principles, except as described in Note A1.

Board of Directors  
Healthy Mothers, Healthy Babies -  
The Montana Coalition  
August 11, 1995

In our opinion, the aforementioned financial statements present fairly, in all material respects, the assets and liabilities arising from the modified accrual basis of accounting of Healthy Mothers, Healthy Babies - The Montana Coalition at June 30, 1995 and 1994 and the statements of revenue and expenses and changes in fund balance for the years then ended on the modified accrual basis of accounting as described in Note A1.

Our audit was made primarily to enable us to express an overall opinion on the basic financial statements of Healthy Mothers, Healthy Babies - The Montana Coalition for the years ended June 30, 1995 and 1994. The supplemental information presented, although not considered essential for a fair presentation of financial position, results of operations and changes in financial position, has been subjected to the audit procedures applied in the examination of the basic financial statements. In our opinion, the supplemental information is fairly presented in all material respects in relation to the basic financial statements taken as a whole.

*Galusha, Higgins & Galusha*  
GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 STATEMENTS OF ASSETS AND LIABILITIES  
 ARISING FROM THE MODIFIED ACCRUAL BASIS OF ACCOUNTING  
 JUNE 30,

	1995	1994
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>	19,526	
Cash in bank - checking	19,168	18,488
Cash in bank - savings		44,887
Accounts receivable	38,694	63,375
Total current assets		
<b>PROPERTY, PLANT AND EQUIPMENT (Note A2)</b>	63,056	66,692
Furniture and equipment	41,543	34,639
Allowance for depreciation	21,513	32,053
 <b>RESTRICTED ASSETS</b>	 233	
PATH - Teen day funds	6,068	56,666
Baby your Baby project (Notes B and L)		6,484
Families Count project (Note C)	157,239	109,877
Cherish our Indian Children project (Note D)	19,684	22,881
Kids Count project (Note E)		
Immunization - Montana Every Child by Two project (Note F)	183,224	7,221 203,129
 <b>OTHER ASSETS</b>	 576	 362
Prepaid expenses	307	307
Deposits	883	669
	244,314	299,226
<b>TOTAL ASSETS</b>		
 <b>LIABILITIES AND FUND BALANCE</b>		
<b>CURRENT LIABILITIES</b>		48,450
Accounts payable - Baby Your Baby project	6,000	1,000
Deferred support - Baby Your Baby project	538	958
Payroll taxes withheld		18,187
General funds (overdraft)	6,538	68,595
 <b>FUND BALANCE</b>		
General Funds	30,741	45,176
Operating fund	6,286	6,286
Board designated (Note G)	37,027	51,462
 <b>RESTRICTED FUNDS</b>	 233	
PATH - Teen Day funds	7,966	9,845
Baby your Baby project funds (Note B)		8,502
Families Count project funds (Note C)	163,234	117,871
Cherish our Indian Children project funds (Note D)	29,316	35,730
Kids Count project fund (Note E)		
Immunization - Montana Every Child by Two fund (Note F)	237,776	7,221 230,631
<b>TOTAL FUND BALANCES</b>	244,314	299,226
<b>TOTAL LIABILITIES AND FUND BALANCES</b>		

The accompanying notes are an integral part of these financial statements.

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 STATEMENTS OF REVENUE AND EXPENSES  
 YEARS ENDED JUNE 30,

	<u>1995</u>	<u>1994</u>
REVENUE AND SUPPORT		
Membership dues	1,090	3,260
Contributions	128,640	126,644
Project grants	431,798	684,228
Conference registration	320	5,580
Other receipts and fundraising	9,319	1,996
Total support from the public	<u>571,167</u>	<u>821,708</u>
Other Revenue:		
Interest	7,243	4,815
Management fees (Note H)	19,331	50,133
	<u>597,741</u>	<u>876,656</u>
EXPENSES		
General expenses	21,618	96,827
PATH expenses	2,567	
Baby your Baby expenses	223,894	298,429
Families Count expenses	11,495	77,946
Cherish our Indian Children expenses (Note D)	205,819	406,812
Kids Count expenses	109,737	102,925
Immunization - Montana Every Child by Two expenses	15,466	35,080
Total expenses	<u>590,596</u>	<u>1,018,019</u>
Excess revenue over expenses (expenses over revenues)	<u>7,145</u>	<u>(141,363)</u>

The accompanying notes are an integral part of these financial statements.

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION  
JUNE 30, 1995 and 1994

NOTES TO THE FINANCIAL STATEMENTS

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1. These financial statements have been prepared on the modified accrual basis of accounting described as follows:

The accrual method of accounting is used for programs that are funded with government monies (Baby Your Baby program and Immunization - Montana Every Child by Two program). Accordingly, the financial position, results of operations and changes in fund balance of the Baby Your Baby programs and Immunization - Montana Every Child by Two programs are presented in conformity with generally accepted accounting principles.

The cash basis method of accounting is used for all other programs. Consequently, those programs reporting on the cash basis method of accounting result in certain revenue and the related assets being recognized when received rather than when earned, and certain expenses being recognized when paid rather than when the obligation is incurred. Accordingly, those programs reporting on the cash basis method of accounting are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

2. Fixed assets have been recorded at their original cost. Depreciation expense on equipment is computed using the straight-line method over a five year life. Depreciation expense for the year ending June 30, 1995 was \$9,873 and for the year ending June 30, 1994 was \$10,520.
3. Healthy Mothers, Healthy Babies - The Montana Coalition (HMHB) is a non-profit organization and is exempt from income taxes under Internal Revenue Section 501(c)(3).

NOTE B - BABY YOUR BABY

The Baby Your Baby (BYB) program is a statewide multi-media community outreach campaign which encourages women of childbearing age to seek early and continuous prenatal care and parents of infants and children under three years of age to seek preventative health and well child services for their children.

These goals are achieved through the cooperative efforts of Healthy Mothers, Healthy Babies, various state and local agencies, professional organizations, health organizations and corporate sponsors. Additionally, the BYB program provides and staffs a toll free telephone number for use by pregnant women and parents of infants and young children to receive information and appropriate referral for identified health concerns.

The program is funded through private donations and Medicaid funds under an agreement with the Montana Department of Health and Environmental Sciences.

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION  
JUNE 30, 1995 and 1994

NOTES TO THE FINANCIAL STATEMENTS  
(Continued)

NOTE C - FAMILIES COUNT PROJECT

In June, 1991, U.S. West Foundation notified Healthy Mothers, Healthy Babies that they would award a grant totaling \$223,030 for a project called Families Count, to establish Parent Centers at three demonstration sites.

The final payment was received in October, 1993. The project was completed in November, 1994.

NOTE D - CHERISH OUR INDIAN CHILDREN PROJECT (COIC)

In November, 1991, the W. K. Kellogg Foundation awarded HMHB a grant totaling \$1,052,995 to develop comprehensive community health and education programs to improve the health of children in Native American communities. The project is scheduled to run from November 1, 1991 through October 31, 1994.

In January, 1995, the W. K. Kellogg Foundation awarded a supplemental grant of \$272,874 to HMHB to institutionalize the project at both the State and local level. The funds allow COIC, Inc. to complete its efforts to be a free-standing organization and provide for the continuity of services to pregnant and parenting American Indian families in eleven Montana communities.

Total expenses paid from the supplemental grant are \$117,416.

NOTE E - KIDS COUNT PROJECT

The Kids Count Project is a four year project funded by the Annie Casey Foundation. The purpose of this project is to build a data base on the condition of children in Montana. The grant is payable over five years as follows:

6/30/93	\$ 75,000
6/30/94	125,000
6/30/95	100,000
6/30/96	75,000
6/30/97	<u>25,000</u>
	<u>\$400,000</u>

NOTE F - IMMUNIZATION - MONTANA EVERY CHILD BY TWO PROJECT

The Immunization project was started to provide education to parents and the public about the need to immunize children under two year of age. The program also provides immunization information, direction and support for Montana communities and business organizations. The project is federally funded under a contract with the Montana Department of Social and Rehabilitation Services - Developmental Disabilities Planning and Advisory Council (DDPAC) and the Montana Department of Health and Environmental Sciences (DHES). The program was completed on December 31, 1994.

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION  
JUNE 30, 1995 and 1994

NOTES TO THE FINANCIAL STATEMENTS  
(Continued)

NOTE G - FUND BALANCE - BOARD DESIGNATED

In August, 1988, the Board recommended that a percentage of program grant funds be transferred to general operations to establish a Board designated reserve fund for Healthy Mothers, Healthy Babies. As of June 30, 1995 the designated reserve was \$6,286.

NOTE H - FUND TRANSFERS AND MANAGEMENT FEES

Most of the grants awarded to Healthy Mothers, Healthy Babies specific projects may be used for general operations if other funding is obtained and maintained for the specific projects. Accordingly, certain amounts have been transferred from project funds to the general funds. Funds needed to complete projects are transferred from general funds as needed.

HMHB may also designate 10% of certain project grant revenue, if available, to general funds as a management fee. During the current year, HMHB recognized the following management fees from specific funds as follows:

Baby Your Baby project	\$14,331
Kids Count project	<u>5,000</u>
Total	<u>\$19,331</u>

During fiscal year ended June 30, 1995, HMHB transferred \$44,887 of previously accrued but unpaid management fees to the Baby Your Baby Project.

NOTE I - RELATED PARTY TRANSACTIONS

HMHB has paid the law firm of Jackson, Murdo, Grant and McFarland, P.C. \$678 for legal services during the year ended June 30, 1995. David Jackson, treasurer of Healthy Mothers, Healthy Babies, is an owner in this law firm. During the year ended June 30, 1994, HMHB paid the same firm \$1,767 for legal services.

NOTE J - VACATION PAY AND SICK LEAVE

Full time employees earn 15 days of vacation and up to 12 days of sick leave annually. Part-time employees earn vacation and sick leave based on their pro-rated hours. Vacation may be accumulated for up to two years. Unused sick leave is paid at the rate of 25% of the unused accumulated amount when an employee terminates. In addition, salaried employees earn compensatory time for hours worked in excess of 40 hours per week.

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION  
JUNE 30, 1995 and 1994

NOTES TO THE FINANCIAL STATEMENTS  
(Continued)

NOTE J - VACATION PAY AND SICK LEAVE (Continued)

As noted in Note A1, these financial statements are prepared on the modified accrual basis. Therefore these balances are not reflected as liabilities. Healthy Mothers, Healthy Babies keeps detailed records of each employee's accrued vacation and sick time. The balances of these compensated absences payable at June 30, 1995 and 1994 is as follows:

	1995	1994
Vacation	\$3,864	\$2,944
Comp time	180	390
Sick leave	5,509	4,846
	<u>\$9,553</u>	<u>\$8,180</u>

NOTE K - EMPLOYEE BENEFITS

Healthy Mothers, Healthy Babies has an employee benefits plan for eligible employees. To be eligible, an employee must have completed six months of service. Total benefits available to each employee is computed at the rate of 22.5% of gross salaries, less the amounts required to be paid for FICA, unemployment tax and Worker's Compensation insurance. The employee may chose to have the remaining benefits in the form of retirement or additional compensation.

The retirement plan contributions are paid through a salary reduction plan.

NOTE L - BABY YOUR BABY PROJECT RESTRICTED ASSETS

The Baby Your Baby project restricted assets include the following:

	1995	1994
Cash (overdraft)	\$ (7,285)	\$ 9,135
Accounts receivable - Department of Health and Environmental Sciences	13,353	47,531
	<u>\$ 6,068</u>	<u>\$ 56,666</u>

NOTE M - CONCENTRATION OF CREDIT RISK

Healthy Mothers, Healthy Babies maintains its cash balances in the following financial institutions:

	June 30, 1995			June 30, 1994		
	Mountain West Bank Helena, MT	Western Federal Helena, MT	Total Checking	Mountain West Bank Helena, MT	Western Federal Helena, MT	Total Checking
Checking accounts:						
General account, Healthy Mothers, Healthy Babies	19,526		19,526	(18,187)		(18,187)

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION  
JUNE 30, 1995 and 1994

NOTES TO THE FINANCIAL STATEMENTS  
(Continued)

NOTE M - CONCENTRATION OF CREDIT RISK (Continued)

	June 30, 1995			June 30, 1994		
	Mountain West Bank Helena, MT	Western Federal Helena, MT	Total Checking	Mountain West Bank Helena, MT	Western Federal Helena, MT	Total Checking
Restricted accounts:						
Baby Your Baby Project	(18,271)	10,986	(7,285)	6,587	2,548	9,135
Families Count Project				6,484		6,484
Cherish our Indian Children Project	78,686		78,686	109,877		109,877
Kids Count Project	19,684		19,684	22,881		22,881
Immunization Project				3,487		3,487
PATH Teen Day Project	233		233			
	<u>99,858</u>	<u>10,986</u>	<u>110,844</u>	<u>131,129</u>	<u>2,548</u>	<u>133,677</u>
Savings accounts:						
General account, Healthy Mothers, Healthy Babies Mountain West Bank IDS	7,826		7,826	7,564		7,564
		11,342	11,342		10,924	10,924
	<u>7,826</u>	<u>11,342</u>	<u>19,168</u>	<u>7,564</u>	<u>10,924</u>	<u>18,488</u>
Restricted accounts:						
Cherish Our Indian Children Project						
Piper Jaffray - cash		28,553				
Certificate of deposit		50,000				
		<u>78,553</u>				

The balances on deposit at Mountain West Bank and Western Federal Savings are insured by the Federal Deposit Insurance Corporation up to \$100,000. The balances on deposit at IDS and Piper Jaffray are backed by reserves held to cover the balances in the accounts.

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 EXPENSE DETAIL  
 YEARS ENDED JUNE 30,

HEALTHY MOTHERS, HEALTHY BABIES	<u>1995</u>	<u>1994</u>
Salaries		33,270
Payroll taxes and fringe benefits	600	3,179
Management contract	5,073	
Supplies		1,298
Printing	101	5,165
Telephone	824	1,064
Postage	38	1,946
Equipment maintenance		264
Staff travel		4,228
Meeting costs	223	2,390
Consultant fees	150	6,328
Consultant travel	14	1,914
Rent		3,049
Insurance	277	324
Conference and events	1,125	8,196
Public information	1,963	5,625
Information materials	89	555
Accounting	1,500	3,449
Legal	251	427
Community project costs	5,011	5,000
Dues	85	700
Depreciation	4,019	3,920
Evaluation		1,302
Fundraising	275	42
Miscellaneous		3,192
	<u>21,618</u>	<u>96,827</u>
 PATH - TEEN DAY		
Events	1,742	
Public information	825	
	<u>2,567</u>	

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 EXPENSE DETAIL  
 YEARS ENDED JUNE 30,  
 (Continued)

	<u>1995</u>	<u>1994</u>
BABY YOUR BABY		
Salaries	25,197	26,999
Payroll taxes and fringe benefits	2,688	2,617
Project coordinator contract	26,296	13,262
Supplies	2,158	1,167
Printing	2,314	1,306
Telephone	3,473	2,984
Postage	5,376	6,007
Equipment maintenance	27	406
Incentives	6,780	3,303
Project staff travel		61
Meeting costs	5,137	135
Contracted services	44,750	58,600
Consultant fees	5,250	11,725
Consultant travel	1,803	3,737
Rent	5,002	3,765
Public information	24,034	27,163
Management fees	14,331	30,556
Media resources	42,437	80,465
Information materials	150	14,461
Accounting	4,767	4,314
Legal	244	66
Depreciation	680	1,047
Evaluations		2,520
Other expenses	1,000	1,763
	<u>223,894</u>	<u>298,429</u>
FAMILIES COUNT		
Salaries		24,879
Payroll taxes and fringe benefits		3,378
Supplies		625
Printing		693
Telephone		461
Postage		84
Equipment maintenance		56
Project staff travel		1,012
Meeting costs		274
Insurance		324
Information materials		574
Accounting		1,465
Depreciation		758
Local coalition grants	11,495	36,005
Other expenses		281
Management fee		7,077
	<u>11,495</u>	<u>77,946</u>

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 EXPENSE DETAIL  
 YEARS ENDED JUNE 30,  
 (Continued)

CHERISH OUR INDIAN CHILDREN

	<u>1995</u>	<u>1994</u>
Salaries	3,337	58,083
Payroll taxes and fringe benefits	1,681	3,401
Supplies	104	1,704
Printing	226	1,655
Telephone	760	5,405
Postage	321	1,504
Equipment repair and maintenance	315	864
Project staff travel		18,919
Meeting costs		44,023
Consultant fees		9,125
Consultant travel		2,070
Elders		2,103
Curriculum committee		2,212
Rent		5,588
Insurance	3,150	1,956
Conferences and events	124	7,341
Public information		8,039
Information materials		1,063
Accounting		7,157
Legal	332	1,239
Community project costs		214,328
Depreciation	75,930	1,927
Evaluations		5,403
Other expenses		1,703
	<u>2,123</u>	<u>406,812</u>
	<u>88,403</u>	

KIDS COUNT

Salaries	17,130	43,040
Payroll taxes and fringe benefits	1,229	3,700
Supplies	1,636	1,373
Printing	7,039	1,174
Telephone	2,870	1,485
Postage	4,420	4,617
Equipment maintenance	27	407
Project staff travel	120	1,363
Meeting costs	2,720	241
Contracted services	14,000	14,425
Consultant fees	4,047	12,512
Consultant travel	1,537	1,449
Rent	1,150	
Management contract	31,621	
Information materials	3,233	572
Public information	5,762	
Depreciation	3,175	2,868
Accounting	1,850	
Other expenses	1,171	1,199
Management fees	5,000	12,500
	<u>109,737</u>	<u>102,925</u>

HEALTHY MOTHERS, HEALTHY BABIES -  
 THE MONTANA COALITION  
 EXPENSE DETAIL  
 YEARS ENDED JUNE 30,  
 (Continued)

IMMUNIZATION - MONTANA EVERY CHILD FOR TWO	<u>1995</u>	<u>1994</u>
Salaries	1,853	15,539
Payroll taxes and fringe benefits	121	626
Management contract	2,590	
Supplies	733	544
Printing	1,650	1,416
Telephone	1,274	694
Postage	802	938
Project staff travel		61
Community project costs	1,000	1,000
Consultant fees		5,950
Consultant travel	861	233
Rent	1,998	1,998
Public information	375	4,380
Media resources		556
Information materials		93
Accounting	1,482	600
Legal		34
Insurance		133
Evaluations	622	254
Other expenses	105	31
	<u>15,466</u>	<u>35,080</u>

CHERISH OUR INDIAN CHILDREN - SUPPLEMENTAL GRANT		
Salaries	4,847	
Payroll taxes and fringe benefits	554	
Management contract	1,500	
Supplies	725	
Printing	43	
Telephone	1,606	
Postage	324	
Sustainability	2,675	
Elders	350	
Rent	3,100	
Depreciation	1,999	
Meeting costs	2,403	
Public relations	75	
Accounting	1,000	
Legal	183	
Insurance	500	
Community project costs	95,532	
	<u>117,416</u>	

HEALTHY MOTHERS, HEALTHY BABIES -  
THE MONTANA COALITION  
FURNITURE AND EQUIPMENT  
YEARS ENDED JUNE 30,

	Balance 6/30/94	Additions	Deductions	Balance 6/30/95
<b>FURNITURE AND EQUIPMENT</b>				
General	31,585	3,661	1,636	33,610
Baby Your Baby project	5,577		2,000	3,577
Families Count project	3,661		3,661	
Cherish our Indian Children project	9,994			9,994
Kids Count project	15,875			15,875
	<u>66,692</u>	<u>3,661</u>	<u>7,297</u>	<u>63,056</u>
<b>ALLOWANCE FOR DEPRECIATION</b>				
General	23,849	4,019	40	27,828
Baby Your Baby project	2,947	680	1,333	2,294
Families Count project	1,596		1,596	
Cherish our Indian Children project	3,137	1,999		5,136
Kids Count project	3,110	3,175		6,285
	<u>34,639</u>	<u>9,873</u>	<u>2,969</u>	<u>41,543</u>
<b>BOOK VALUE</b>				
General	7,736	2,065	4,019	5,782
Baby Your Baby project	2,630		1,347	1,283
Families Count project	2,065		2,065	
Cherish our Indian Children project	6,857		1,999	4,858
Kids Count project	12,765		3,175	9,590
	<u>32,053</u>	<u>2,065</u>	<u>12,605</u>	<u>21,513</u>

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON SCHEDULE OF FEDERAL AWARDS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies -  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995. These financial statements are the responsibility of the management of Healthy Mothers, Healthy Babies, The Montana Coalition. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards, Government Auditing Standards, issued by the Comptroller General of the United States and the provisions of Office of Management and Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Our audit was made for the purpose of forming an opinion on the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition, taken as a whole. The accompanying Schedule of Federal Awards for the year ended June 30, 1995 is presented for purposes of additional analysis and is not a required part of the financial statements. The information in this Schedule has been subjected to the auditing procedures applied in the audit of the financial statements and, in our opinion, is fairly presented in all material respects in relation to the financial statements taken as a whole.

*Galusha, Higgins & Galusha*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
 SCHEDULE OF FEDERAL AWARDS  
 FOR THE YEAR ENDED JUNE 30, 1995

<u>Program Title</u>	<u>Federal CFDA Number</u>	<u>Agency or Pass-through Number</u>	<u>Federal Expenditures</u>
<u>MAJOR PROGRAM</u>			
U.S. Department of Health and Human Services Pass-through from Montana Department of Social & Rehabilitation Services and Montana Department of Health and Environmental Sciences Baby Your Baby	93.994	93-075-12007-0 340195	70,121 26,180
Pass-through from Montana Department of Health and Environmental Sciences Title V of the Maternal and Child Health Block grant	93.994	340194-02	<u>25,000</u> <u>121,301</u>
<u>NONMAJOR PROGRAM</u>			
U.S. Department of Health and Human Services Pass-through from Montana Department of Social and Rehabilitation Services, Developmental Disabilities Planning and Advisory Council Immunization - Montana Every Child by Two	93.630	94-154-3549	4,267
Pass-through from Montana Department of Social and Rehabilitation Services Immunization - Montana Every Child by Two	93.268	340281	<u>10,653</u> <u>14,920</u>

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON THE INTERNAL CONTROL STRUCTURE  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH  
GOVERNMENT AUDITING STANDARDS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition as of and for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States and the provisions of Office of Management and Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Non-Profit Institutions." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition for the year ended June 30, 1995, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control structure.

The management of Healthy Mothers, Healthy Babies, The Montana Coalition is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
August 11, 1995

For the purpose of this report, we have classified the significant internal control structure policies and procedures in the following categories:

General  
Cash receipts and disbursements  
Program expenditures  
Payroll  
Indirect costs

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the internal control structure elements does not reduce to a relatively low level of risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defined above.

This report is intended for the information of the Board of Directors, management, and the Montana Department of Public Health and Human Services. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

*Galuska, Higgins & Galuska*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH  
THE GENERAL REQUIREMENTS APPLICABLE TO FEDERAL PROGRAMS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition as of and for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995.

We have applied procedures to test Healthy Mothers, Healthy Babies, The Montana Coalition's compliance with the following requirements applicable to its federal financial assistance programs, which are identified in the accompanying schedule of federal awards, for the year ended June 30, 1995:

- Political Activity
- Civil Rights
- Cash Management
- Administrative Requirements
- Allowable Costs
- Drug-free Workplace Act

Our procedures were limited to the applicable procedures described in the Office of Management and Budget's "Compliance Supplement for Audits of Institutions of Higher Learning and Other Nonprofit Institutions". Our procedures were substantially less in scope than an audit, the objective of which is the expression of an opinion on Healthy Mothers, Healthy Babies, The Montana Coalition's compliance with the requirements listed in the preceding paragraph. Accordingly, we do not express such an opinion.

With respect to the items tested, the results of those procedures disclosed no material instances of noncompliance with the requirements listed in the second paragraph of this report. With respect to items not tested, nothing came to our attention that caused us to believe that Healthy Mothers, Healthy Babies, The Montana Coalition had not complied, in all material respects, with those requirements.

This report is intended for the information of the Board of Directors, management, and the Montana Department of Public Health and Human Services. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

*Galusha, Higgins & Galusha*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH  
SPECIFIC REQUIREMENTS APPLICABLE TO MAJOR PROGRAMS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition as of and for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995.

We have also audited the Healthy Mothers, Healthy Babies, The Montana Coalition (a nonprofit organization) compliance with the requirements governing types of services allowed or unallowed; matching; reporting; and amounts claimed or used for matching that are applicable to each of its major federal financial assistance programs, which are identified in the accompanying schedule of federal awards, for the year ended June 30, 1995. The management of Healthy Mothers, Healthy Babies, The Montana Coalition is responsible for the Organization's compliance with those requirements. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards, Government Auditing Standards, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions." Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether material noncompliance with requirements referred to above occurred. An audit includes examining, on a test basis, evidence about the Organization's compliance with those requirements. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, Healthy Mothers, Healthy Babies, The Montana Coalition complied, in all material respects, with the specific requirements referred to in the second paragraph that are applicable to the Baby Your Baby program for the year ended June 30, 1995.

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
August 11, 1995

This report is intended for the information of the Board of Directors,  
management, and the Montana Department of Public Health and Human Services.  
This restriction is not intended to limit the distribution of this report,  
which is a matter of public record.

*Galuska, Higgins & Galuska*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE ON  
SPECIFIC REQUIREMENTS APPLICABLE TO NONMAJOR PROGRAM TRANSACTIONS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition as of and for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995.

In connection with our audit of the financial statements of Healthy Mothers, Healthy Babies and with our consideration of the Organization's internal control structure used to administer federal programs, as required by Office of Management and Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions", we selected certain transactions applicable to certain nonmajor federal programs for the year ended June 30, 1995.

As required by OMB Circular A-133, we performed auditing procedures to test compliance with the requirements governing types of services allowed or not allowed, reporting requirements and compliance with the terms of the grant agreements that are applicable to those transactions. Our procedures were substantially less in scope than an audit, the objective of which is the expression of an opinion on Healthy Mothers, Healthy Babies' compliance with these requirements. Accordingly, we do not express such an opinion.

With respect to the items tested, the results of our procedures disclosed no material instances of noncompliance with the requirements listed in the preceding paragraph. With respect to items not tested, nothing came to our attention that caused us to believe that Healthy Mothers, Healthy Babies, The Montana Coalition had not complied, in all material respects, with those requirements.

This report is intended for the information of the Board of Directors, management, and the Montana Department of Public Health and Human Services. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

*Galusha, Higgins & Galusha*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH LAWS, REGULATIONS  
CONTRACTS, AND GRANTS BASED ON AN AUDIT OF FINANCIAL STATEMENTS  
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition (a nonprofit organization) as of and for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995.

We conducted our audit in accordance with generally accepted auditing standards and Government Auditing Standards, issued by the Comptroller General of the United States and the provisions of Office of Management and Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

Compliance with laws, regulations, contracts, and grants applicable to Healthy Mothers, Healthy Babies, The Montana Coalition is the responsibility of the organization's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of Healthy Mothers, Healthy Babies, The Montana Coalition's compliance with certain provisions of laws, regulations, contracts, and grants. However, the objective of our audit of the financial statements was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests indicate that, with respect to the items tested, Healthy Mothers, Healthy Babies, The Montana Coalition complied, in all material respects, with the provisions referred to in the preceding paragraph. With respect to items not tested, nothing came to our attention that caused us to believe that Healthy Mothers, Healthy Babies, The Montana Coalition had not complied, in all material respects, with those provisions.

This report is intended for the information of the Board of Directors, management, and the Montana Department of Public Health and Human Services. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

*Galusha, Higgins & Galusha*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

HEALTHY MOTHERS, HEALTHY BABIES - THE MONTANA COALITION  
INDEPENDENT AUDITORS' REPORT ON THE INTERNAL CONTROL STRUCTURE  
USED IN ADMINISTERING FEDERAL AWARDS

August 11, 1995

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
Helena, Montana

We have audited the financial statements of Healthy Mothers, Healthy Babies, The Montana Coalition as of and for the year ended June 30, 1995, and have issued our report thereon dated August 11, 1995.

We conducted our audit in accordance with generally accepted auditing standards; Government Auditing Standards, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions." Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and about whether Healthy Mothers, Healthy Babies, The Montana Coalition complied with laws and regulations, noncompliance with which would be material to a federal program.

In planning and performing our audit for the year ended June 30, 1995, we considered Healthy Mothers, Healthy Babies, The Montana Coalition's internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion on Healthy Mothers, Healthy Babies, The Montana Coalition's financial statements and to report on the internal control structure in accordance with OMB Circular A-133. This report addresses our consideration of internal control structure policies and procedures relevant to compliance with requirements applicable to our audit of the financial statements in a separate report dated August 11, 1995.

The management of Healthy Mothers, Healthy Babies, The Montana Coalition is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs on internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and

Board of Directors  
Healthy Mothers, Healthy Babies,  
The Montana Coalition  
August 11, 1995

recorded properly to permit the preparation of financial statements and that federal awards programs are managed in compliance with applicable laws and regulations. Because of inherent limitations in any internal control structure, errors, irregularities, or instances of noncompliance may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this report, we have classified the significant internal control structure policies and procedures used in administering federal programs in the following categories:

- General
- Cash receipts and disbursements
- Support revenues
- Expenditures for goods and services
- Payroll

For all of the internal control structure categories listed above, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk.

During the year ended June 30, 1995, Healthy Mothers, Healthy Babies, The Montana Coalition expended 100 percent of its total federal awards under major programs.

Our consideration of the internal control structure policies and procedures used in administering federal awards would not necessarily disclose all matters in the internal control structure that might constitute material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the internal control structure elements does not reduce to a relatively low level of risk that noncompliance with laws and regulations that would be material to a federal awards program may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control structure and its operations that we consider to be material weaknesses as defined above.

This report is intended for the information of the Board of Directors, management, and the Montana Department of Public Health and Human Services. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

*Galusha, Higgins & Galusha*

GALUSHA, HIGGINS AND GALUSHA  
Certified Public Accountants

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

1994

This Form is Open to Public Inspection

Department of the Treasury Internal Revenue Service

Note: The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 1994 calendar year, OR tax year period beginning July 1, 1994, and ending June 30, 1995

B Check if: C Name of organization Healthy Mothers, Healthy Babies D Employer identification number 81-0436517 E State registration number F Check if exemption application is pending

G Type of organization: [X] Exempt under section 501(c) ( 3 ) (insert number) OR section 4947(a)(1) nonexempt charitable trust

Note: Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).

H (a) Is this a group return filed for affiliates? [X] No I If either box in H is checked "Yes," enter four-digit group exemption number (GEN)

(b) If "Yes," enter the number of affiliates for which this return is filed: J Accounting method: [X] Other (specify) Modified Cash

(c) Is this a separate return filed by an organization covered by a group ruling? [X] No

K Check here if the organization's gross receipts are normally not more than \$25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: Form 990EZ may be used by organizations with gross receipts less than \$100,000 and total assets less than \$250,000 at end of year.

Part I Statement of Revenue, Expenses, and Changes in Net Assets or Fund Balances

Table with 21 rows and 4 columns: Description, (A) Securities, (B) Other, Amount. Includes Revenue (lines 1-12), Expenses (lines 13-17), and Net Assets (lines 18-21).

For Paperwork Reduction Act Notice, see page 1 of the separate instructions.

Doc #4 - Submitted to Senate Judiciary Committee - April 4, 2007

**Part II Statement of Functional Expenses**

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See instructions.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.	(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22 Grants and allocations (attach schedule) (cash \$ <u>183,957</u> noncash \$ _____)	22 183,957	183,957		
23 Specific assistance to individuals (attach schedule)	23			
24 Benefits paid to or for members (attach schedule)	24			
25 Compensation of officers, directors, etc.	25			
26 Other salaries and wages	26 52,364	52,364		
27 Pension plan contributions	27			
28 Other employee benefits	28 8,763	8,163	600	
29 Payroll taxes	29 4,890	4,890		
30 Professional fundraising fees	30			
31 Accounting fees	31 10,931	9,431	1,500	
32 Legal fees	32 678	427	251	
33 Supplies	33 5,356	5,356		
34 Telephone	34 10,807	9,983	824	
35 Postage and shipping	35 11,281	11,243	38	
36 Occupancy	36 14,400	14,400		
37 Equipment rental and maintenance	37 369	369		
38 Printing and publications	38 14,845	14,655	190	
39 Travel	39 4,335	4,321	14	
40 Conferences, conventions, and meetings	40 11,608	10,260	1,348	
41 Interest	41			
42 Depreciation, depletion, etc. (attach schedule)	42 9,873	5,854	4,019	
43 Other expenses (itemize): a Dues	43a 85		85	
b Consultants	43b 68,197	68,047	150	
c Insurance	43c 901	624	277	
d Public information	43d 32,959	30,996	1,963	
e Scheduled	43e 124,666	52,300	72,366	
44 Total functional expenses (add lines 22 through 43) Organizations completing columns (B)-(D), carry these totals to lines 13-15.	44 571,265	487,640	83,625	

**Reporting of Joint Costs.** - Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation?  Yes  No  
 If "Yes," enter (i) the aggregate amount of these joint costs \$ \_\_\_\_\_; (ii) the amount allocated to program services \$ \_\_\_\_\_; (iii) the amount allocated to Management and general \$ \_\_\_\_\_; and (iv) the amount allocated to fundraising \$ \_\_\_\_\_.

**Part III Statement of Program Service Accomplishments (See instructions.)**

What is the organization's primary exempt purpose? <input type="checkbox"/> All organizations must describe their exempt purpose achievements. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501 (c)(3) and (4) organizations and 497(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)	Program Service Expenses (Required for 501(c)(3) and (4) orgs., and 4947(a)(1) trusts; but optional for others.)
a <u>Baby your Baby-multimedia community outreach program provoding information and services to pregnant women and mothers of young children for prenatal and early childhood health care.</u> (Grants and allocations \$ _____)	183,267
b <u>Families Count- funding of three demonstration sites to develop parenting centers</u> (Grants and allocations \$ <u>11,495</u> )	11,495
c <u>Cherish our Indian Children- Develop programs for Native American communities to promote child health care</u> (Grants and allocations \$ <u>171,462</u> )	204,319
d <u>Kids Count- Develop database and publication of data book on the condition of children in Montana</u> (Grants and allocations \$ _____)	73,116
e Other program services (attach schedule) (Grants and allocations \$ <u>1,000</u> )	15,443
f <b>Total of Program Service Expenses</b> (should equal line 44, column (B) Program services)	487,640

**Part IV Balance Sheets**

**Note:** Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.

		(A) Beginning of year	(B) End of year
<b>Assets</b>			
45	Cash - non-interest-bearing	50	50
46	Savings and temporary cash investments	170,302	208,515
47a	Accounts receivable		
b	Less: allowance for doubtful accounts		
48a	Pledges receivable		
b	Less: allowance for doubtful accounts		
49	Grants receivable		
50	Receivables due from officers, directors, trustees, and key employees (attach schedule)	96,152	13,353
51a	Other notes and loans receivable (attach schedule)		
b	Less: allowance for doubtful accounts		
52	Inventories for sale or use		
53	Prepaid expenses and deferred charges		
54	Investments - securities (attach schedule)		576
55a	Investments - land, buildings, and equipment: basis	63,056	
b	Less: accumulated depreciation (attach schedule)	41,543	
56	Investments - other (attach schedule)	32,053	21,513
57a	Land, buildings, and equipment: basis		
b	Less: accumulated depreciation (attach schedule)		
58	Other assets (describe <b>Worker Comp Deposit</b> )	669	307
59	<b>Total assets</b> (add lines 45 through 58) (must equal line 75)	299,226	244,314
<b>Liabilities</b>			
60	Accounts payable and accrued expenses	67,595	538
61	Grants payable		
62	Support and revenue designated for future periods (attach schedule)	1,000	6,000
63	Loans from officers, directors, trustees, and key employees (attach schedule)		
64a	Tax-exempt bond liabilities (attach schedule)		
b	Mortgages and other notes payable (attach schedule)		
65	Other liabilities (describe <b>Board Designated</b> )		
66	<b>Total liabilities</b> (add lines 60 through 65)	68,595	6,538
<b>Fund Balances or Net Assets</b>			
Organizations that use fund accounting, check here <input checked="" type="checkbox"/> and complete lines 67 through 70 and lines 74 and 75 (see instructions).			
67a	Current unrestricted fund	45,176	30,741
b	Current restricted fund	179,169	200,749
68	Land, buildings, and equipment fund		
69	Endowment fund		
70	Other funds (describe <b>Board Designated</b> )	6,286	6,286
Organizations that do not use fund accounting, check here <input type="checkbox"/> and complete lines 71 through 75 (see instructions).			
71	Capital stock or trust principal		
72	Paid-in or capital surplus		
73	Retained earnings or accumulated income		
74	<b>Total fund balances or net assets</b> (add lines 67a through 70 OR lines 71 through 73: column (A) must equal line 19 and column (B) must equal line 21)	230,631	237,776
75	<b>Total liabilities and fund balances/net assets</b> (add lines 66 and 74)	299,226	244,314

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes the organization's programs and accomplishments.

**Part V List of Officers, Directors, Trustees, and Key Employees** (List each one even if not compensated; see instructions.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (if not paid, enter -0-)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
Betty Hidalgo Great Falls, MT	President 5			
Ken Moore Helena, MT	Vice Pres 5			
Dave Jackson Helena, MT	Treasurer 5			
Doris Biersdorf Billings, MT	Secretary 5			

Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations?  Yes  No  
If "Yes," attach schedule-see instructions.

**Part VI Other Information**

	Yes	No
76 Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity . . . . .		X
77 Were any changes made in the organizing or governing documents, but not reported to the IRS? . . . . . If "Yes," attach a conformed copy of the changes.		X
78a Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return? b If "Yes," has it filed a tax return on Form 990-T, Exempt Organization Business Income Tax Return, for this year?		X
79 Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement; see instructions . . . . .		X
80a Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or non-exempt organization? (See instructions.) b If "Yes," enter the name of the organization <input type="checkbox"/> and check whether it is <input type="checkbox"/> exempt OR <input type="checkbox"/> nonexempt.		X
81a Enter the amount of political expenditures, direct or indirect, as described in the instructions <b>81a</b> NONE		
b Did the organization file Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations, for this year?		X
82a Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value? . . . . . b If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions for reporting in Part III.) <b>82b</b>		X
83 Did the organization comply with the public inspection requirements for returns and exemption applications?	X	
84a Did the organization solicit any contributions or gifts that were not tax deductible? b If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible? (See General Instruction M.)		X
84b		
85 Section 501(c)(4), (5), or (6) organizations. - a Were substantially all dues nondeductible by members? b Did the organization make only in-house lobbying expenditures of \$2,000 or less? If "Yes" to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year:		
c Dues, assessments, and similar amounts from members <b>85c</b>		
d Section 162(e) lobbying and political expenditures <b>85d</b>		
e Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices <b>85e</b>		
f Taxable amount of lobbying and political expenditures (line 85d less 85e; (see instructions.) <b>85f</b>		
g Does the organization elect to pay the section 6033(e) tax on the amount in 85f?		
h If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?		
85g		
85h		
86 Section 501(c)(7) organizations. - Enter: a Initiation fees and capital contributions included on line 12 <b>86a</b> b Gross receipts, included on line 12, for public use of club facilities (See instructions.) <b>86b</b>		
87a Section 501(c)(12) organizations. - Enter: a Gross income from members or shareholders <b>87a</b> b Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.) <b>87b</b>		
88 At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership? If "Yes," complete Part IX		X
89 Public interest law firms. - Attach information described in the instructions.		
90 List the states with which a copy of this return is filed <input type="checkbox"/>		
91 The books are in care of <input checked="" type="checkbox"/> HMHB Telephone no. <input checked="" type="checkbox"/> 406-449-8611 Located at <input checked="" type="checkbox"/> 324 Fuller Ave, Helena, MT ZIP code <input checked="" type="checkbox"/> 59601		
92 Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041, U.S. Income Tax Return for Estates and Trusts, check here <input type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the tax year <input type="checkbox"/> <b>92</b>		

**Part VII Analysis of Income-Producing Activities**

Enter gross amounts unless otherwise indicated	Unrelated business income		Excluded by section 512, 513, or 514		(E) Related or exempt function income (See instructions)
	(A) Business code	(B) Amount	(C) Exclusion code	(D) Amount	
93 Program service revenue:					
a					
b					
c					
d					
e					
f					
9 Fees and contracts from government agencies					
94 Membership dues and assessments . . . . .					1,090
95 Interest on savings and temporary cash investments			14	7,243	
96 Dividends and interest from securities . . .					
97 Net rental income or (loss) from real estate:					
a debt-financed property . . . . .					
b not debt-financed property . . . . .					
98 Net rental income or (loss) from personal property					
99 Other investment income . . . . .					
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events . . .					
102 Gross profit or (loss) from sales of inventory					
103 Other revenue: a Misc			1	9,319	
b Conference fees					320
c					
d					
e					
104 Subtotal (add columns (B), (D), and (E))				16,562	1,410
105 Total (add line 104, columns (B), (D), and (E))					17,972

Note: (Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.)

**Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes**

Line No.	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes). (See instructions.)
94	Members are health care professionals who have an interest in maternal and child health, receive information about these issues and provide referral services.
103	Conferences provide information and training in health related issues.

**Part IX Information Regarding Taxable Subsidiaries (Complete this Part if the "Yes" box on line 88 is checked.)**

Name, address, and employer identification number of corporation or partnership	Percentage of ownership	Nature of business activities	Total income	End-of-year assets

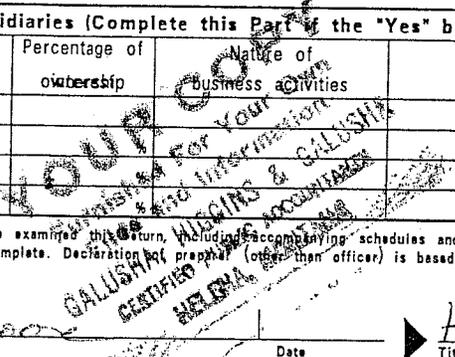
Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Signature of officer: *Deborah D. Owen* Date: \_\_\_\_\_ Title: *HMHBB Board Vice President*

Paid Preparer's Use Only

Preparer's signature: *Margaret L. W...* Date: *11/10/95* Check if self-employed:  Preparer's social security no.: *516-66-2545*  
 Firm's name (or yours if self-employed) and address: *GALUSHA, HIGGINS & GALUSHA I D #81-0272932* E.I. No.: *81-0272932*  
*CERTIFIED PUBLIC ACCOUNTANTS*  
*P O Box 1699 HELENA, MONTANA 59624* ZIP code: \_\_\_\_\_



**SCHEDULE A  
(Form 990)**

**Organization Exempt Under Section 501(c)(3)**

(Except Private Foundation), and Section 501(e), 501(f), 501(k),  
or Section 4947(a)(1) Nonexempt Charitable Trust

OMB No. 1545-0047

**1994**

Department of the Treasury  
Internal Revenue Service

**Supplementary Information**

▶ Must be completed by the above organizations and attached to their Form 990 (or 990-EZ).

Name of the organization

Employer identification number

Healthy Mothers, Healthy Babies, the Montana Coalition

81-0436517

**Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees**  
(See instructions.) (List each one. If there are none, enter "None.")

(a) Name and address of employees paid more than \$50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
None				

Total number of other employees paid over \$50,000

.....▶

[Redacted]

**Part II Compensation of the Five Highest Paid Persons for Professional Services**  
(See instructions.) (List each one. If there are none, enter "None.")

(a) Name and address of each person paid more than \$50,000	(b) Type of service	(c) Compensation
None		

Total number of others receiving over \$50,000 for professional services

.....▶

[Redacted]

**Part III Statements About Activities**

	Yes	No
1 During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities. \$ Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.	1	X
2 During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:		
a Sale, exchange, or leasing of property?	2a	X
b Lending of money or other extension of credit?	2b	X
c Furnishing of goods, services, or facilities?	2c	X
d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)?	2d	X
e Transfer of any part of its income or assets? If the answer to any question is "Yes," attach a detailed statement explaining the transactions.	2e	X
3 Does the organization make grants for scholarships, fellowships, student loans, etc.?	3	X
4 Attach a statement explaining how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs qualify to receive payments. (See instructions.)		

For Paperwork Reduction Act Notice, see page 1 of the instructions to Form 990 (or Form 990-EZ).

Schedule A (Form 990) 1994

**Part IV Reason for Non-Private Foundation Status** (See instructions for definitions.)

The organization is not a private foundation because it is (please check only **ONE** applicable box):

- 5  A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
- 6  A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 3.)
- 7  A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
- 8  A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).
- 9  A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state **▶** \_\_\_\_\_
- 10  An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the **Support Schedule** below.)
- 11a  An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the **Support Schedule** below.)
- 11b  A community trust. Section 170(b)(1)(A)(vi). (Also complete the **Support Schedule** below.)
- 12  An organization that normally receives: (a) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975, and (b) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions - subject to certain exceptions. See section 509(a)(2). (Also complete the **Support Schedule** below.)
- 13  An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: (1) lines 5 through 12 above; or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See instructions for Part IV, line 13.)

(a) Name(s) of supported organization(s)	(b) Line number from above

14  An organization organized and operated to test for public safety. Section 509(a)(4). (See instructions.)

**Support Schedule** (Complete only if you checked a box on line 10, 11, or 12 above.) Use cash method of accounting.

**Note:** You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in) ▶	(a) 1993	(b) 1992	(c) 1991	(d) 1990	(e) Total
15 Gifts, grants, and contributions received. (Do not include unusual grants. See line 28.)	556,451	410,715	247,427	429,959	1,644,552
16 Membership fees received	3,260	2,809	4,822	3,785	14,676
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is not a business unrelated to the organization's charitable, etc., purpose	7,576	14,996	8,811	6,445	37,828
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975	4,815	13,160	40,107	5,187	63,269
19 Net income from unrelated business activities not included in line 18					
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf					
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge					
22 Other income. Attach a schedule. Do not include gain (or loss) from sale of capital assets					
23 Total of lines 15 through 22	572,102	441,680	301,167	445,376	1,760,325
24 Line 23 minus line 17	564,526	426,684	292,356	438,931	1,722,497
25 Enter 1% of line 23	5,721	4,417	3,012	4,454	

26 Organizations described in lines 10 or 11:

- a Enter 2% of amount in column (e), line 24
- b Attach a list (which is not open to public inspection) showing the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1990 through 1993 exceeded the amount shown in line 26a. Enter the sum of all these excess amounts here **▶** \_\_\_\_\_

(Support Schedule continued on page 3)

**Part IV Support Schedule** (continued) (Complete only if you checked a box on line 10, 11, or 12.)

**27** Organizations described on line 12:

**a** Attach a list, for amounts shown on lines 15, 16, and 17, to show the name of, and total amounts received in each year from, each "disqualified person." Enter the sum of such amounts for each year:

(1993) 431,872 (1992) 330,459 (1991) 145,100 (1990) 308,558

**b** Attach a list to show for 1990 through 1993, the name of, and amount included in line 17 for, each person (other than a "disqualified person") from whom the organization received, during that year, an amount that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000. Include organizations described in lines 5 through 11, as well as individuals. After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of all these differences (the excess amounts) for each year:

(1993) 7,000 (1992) 12,550 (1991) 22,671 (1990) 15,000

**28** For an organization described in line 10, 11, or 12, that received any unusual grants during 1990 through 1993, attach a list (which is not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15. (See instructions.)

**Part V Private School Questionnaire**  
(To be completed ONLY by schools that checked the box on line 6 in Part IV)

	Yes	No
<b>29</b> Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?		
<b>30</b> Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?		
<b>31</b> Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves? If "Yes," please describe; if "No," please explain. (If you need more space, attach a separate statement.)		
<b>32</b> Does the organization maintain the following:		
<b>a</b> Records indicating the racial composition of the student body, faculty, and administrative staff?		
<b>b</b> Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?		
<b>c</b> Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?		
<b>d</b> Copies of all material used by the organization or on its behalf to solicit contributions? If you answered "No" to any of the above, please explain. (If you need more space, attach a separate statement.)		
<b>33</b> Does the organization discriminate by race in any way with respect to:		
<b>a</b> Students' rights or privileges?		
<b>b</b> Admissions policies?		
<b>c</b> Employment of faculty or administrative staff?		
<b>d</b> Scholarships or other financial assistance? (See instructions.)		
<b>e</b> Educational policies?		
<b>f</b> Use of facilities?		
<b>g</b> Athletic programs?		
<b>h</b> Other extracurricular activities? If you answered "Yes" to any of the above, please explain. (If you need more space, attach a separate statement.)		
<b>34 a</b> Does the organization receive any financial aid or assistance from a governmental agency?		
<b>b</b> Has the organization's right to such aid ever been revoked or suspended? If you answered "Yes" to either 34a or b, please explain using an attached statement.		
<b>35</b> Does the organization certify that it has complied with the applicable requirements of sections 4.01 through 4.05 of Rev. Proc. 75-50, 1975-2 C.B. 587, covering racial nondiscrimination? If "No," attach an explanation. (See instructions for Part V.)		

**Part VI-A Lobbying Expenditures by Electing Public Charities** (See instructions.)

(To be completed **ONLY** by an eligible organization that filed Form 5768)

- Check here  a If the organization belongs to an affiliated group (see instructions).  
 Check here  b If you checked a and "limited control" provisions apply (see instructions).

**Limits on Lobbying Expenditures**

(The term "expenditures" means amounts paid or incurred)

	(a) Affiliated group totals	(b) To be completed for ALL electing organizations
36 Total lobbying expenditures to influence public opinion (grassroots lobbying) . . . . .	36	0
37 Total lobbying expenditures to influence a legislative body (direct lobbying) . . . . .	37	0
38 Total lobbying expenditures (add lines 36 and 37) . . . . .	38	0
39 Other exempt purpose expenditures (see Part VI-A instructions) . . . . .	39	571,265
40 Total exempt purpose expenditures (add lines 38 and 39) (see instructions) . . . . .	40	571,265
41 Lobbying nontaxable amount. Enter the amount from the following table -		
<b>If the amount on line 40 is - The lobbying nontaxable amount is -</b>		
Not over \$500,000 . . . . . 20% of the amount on line 40 . . . . .		
Over \$500,000 but not over \$1,000,000 . . . \$100,000 plus 15% of the excess over \$500,000 . . . . .		
Over \$1,000,000 but not over \$1,500,000 . . . \$175,000 plus 10% of the excess over \$1,000,000 . . . . .		
Over \$1,500,000 but not over \$17,000,000 . . . \$225,000 plus 5% of the excess over \$1,500,000 . . . . .		
Over \$17,000,000 . . . . . \$1,000,000 . . . . .	41	110,690
42 Grassroots nontaxable amount (enter 25% of line 41) . . . . .	42	27,673
43 Subtract line 42 from line 36. Enter -0- if line 42 is more than line 36 . . . . .	43	0
44 Subtract line 41 from line 38. Enter -0- if line 41 is more than line 38 . . . . .	44	0

**Caution:** File Form 4720 if there is an amount on either line 43 or line 44.

**4-Year Averaging Period Under Section 501(h)**

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below.

See the instructions for lines 45 through 50.)

Calendar year (or fiscal year beginning in) ▶	Lobbying Expenditures During 4-Year Averaging Period				
	(a) 1994	(b) 1993	(c) 1992	(d) 1991	(e) Total
45 Lobbying nontaxable amount (see instructions)					
46 Lobbying ceiling amount (150% of line 45(e)) . . . . .					
47 Total lobbying expenditures (see instructions) . . . . .					
48 Grassroots nontaxable amount (see instructions)					
49 Grassroots ceiling amount (150% of line 48(e)) . . . . .					
50 Grassroots lobbying expenditures (see instructions)					

**Part VI-B Lobbying Activity by Nonelecting Public Charities**

(For reporting by organizations that did not complete Part VI-A.)

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter of referendum, through the use of:

	Yes	No	Amount
a Volunteers . . . . .			
b Paid staff or management (include compensation in expense reported on lines c through h) . . . . .			
c Media advertisements . . . . .			
d Mailings to members, legislators, or the public . . . . .			
e Publications, or published or broadcast statements . . . . .			
f Grants to other organizations for lobbying purposes . . . . .			
g Direct contact with legislators, their staffs, government officials, or a legislative body . . . . .			
h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means . . . . .			
i Total lobbying expenditures (add lines c through h) . . . . .			

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities.



Healthy Mothers, Healthy Babies  
 1994 Form 990  
 EIN 81-0436517  
 Supporting Schedules

Part II - Line 22, Grants and Allocations

Class of Activity	Donee's Name and Add Relationship	Amount
Charitable	Blackfeet Babies	None 19,830
Charitable	Youth Advancement	None 8,653
Charitable	North American Indian	None 16,339
Charitable	IDEA, Inc	None 15,580
Charitable	Missoula Indian	None 12,241
Charitable	Native Families	None 12,336
Charitable	Missoula COIC	None 7,589
Charitable	Indian Health	None 6,182
Charitable	Ft Belknap COIC	None 15,867
Charitable	Flathead COIC	None 14,718
Charitable	Ft Peck COIC	None 8,030
Charitable	Kiwanis Foundation	None 1,000
Charitable	Helena Indian Alliance	None 14,164
Charitable	Billings Indian Alliance	None 4,250
Charitable	MUIA, Great Falls	None 5,566
Charitable	Crow HMHB	None 2,800
Charitable	Babies First	None 4,250
Charitable	Great Falls COIC	None 5,566
Charitable	Ennis HMHB	None 5,830
Charitable	Cascade County HMH	None 3,166
		<u>183,957</u>

Part II - Line 43, Other Expenses Description	(A) Total	(B) Program Services	(C) Mgmt & Genl	(D) Fund-raising
Community Projects	5,011		5,011	
Miscellaneous	5,371	5,096	275	
Management Contract	67,080		67,080	
Events	1,742	1,742		
Media	42,437	42,437		
COIC- Sustain & Elders	3,025	3,025		
	<u>124,666</u>	<u>52,300</u>	<u>72,366</u>	<u>0</u>

Part III - Line E, Other Program Services Description	Grants & Allocations	Expenses
Immunization- promote public awareness on the importance of immunization of children by two years.	1,000	12,876
PATH- Teen Day youth conference		2,567
	<u>1,000</u>	<u>15,443</u>

Healthy Mothers, Healthy Babies  
 1994 Form 990  
 EIN 81-0436517  
 Supporting Schedules

Schedule A, Form 990  
 Part IV - Line 27a, Name of and Amount Received from "Disqualified Persons"

Name	1993	1992	1991	1990
Henry J. Kaiser Foundation			97,500	11,000
Northwest Area Foundation				30,000
US West	70,772	69,950		82,308
St. Peter's Hospital				10,000
Montana Dept of Health	52,000			90,963
Medicaid	133,780	116,709		84,287
Missoula Community Hospital		15,000	18,000	
Montana Deaconess Hospital	4,000	30,000	15,000	
St. Vincent's Hospital	10,560	4,600	14,600	
Columbus Hospital		19,200		
Annie Casey Foundation	125,000	75,000		
St. Patrick's Hospital	15,000			
Pickles N' Ice Cream	10,560			
Dr. Donald Espelin	10,200			
	<u>431,872</u>	<u>330,459</u>	<u>145,100</u>	<u>308,558</u>

Schedule A, Form 990  
 Part IV - Line 27b, Name of and Amount Received From Individuals/Organizations Included in Line 17.

Name	1993	1992	1991	1990
Department of Family Svcs	5,000	6,500		7,500
Blue Cross Blue Shield				7,500
IDS			5,000	
Bozeman Deaconess Hospital	2,000	6,050	6,000	
Shodair Hospital			6,671	
AHEC			5,000	
	<u>7,000</u>	<u>12,550</u>	<u>22,671</u>	<u>15,000</u>

Schedule A, Form 990  
 Part IV - Line 28, Unusual Grants

Name	Year	Amount	Description
W. K. Kellogg Foundation	1991	403,301	Native Am. Child Health
W. K. Kellogg Foundation	1992	395,273	Native Am. Child Health
W. K. Kellogg Foundation	1993	254,421	Native Am. Child Health

Healthy Mothers, Healthy Babies  
EIN: 81-0436517  
Form 990 Supporting Schedules  
June 30, 1995

Part V- List of Officers, Directors, and Trustees - Continued

Name and Address	Title, Hrs	Compen	Contribs	Expense Acct
Joye Kohl, Ph. D. Bozeman, MT	Director 5 Hrs	0	0	0
Kathy Toney, RN Billings, MT	Director 5 Hrs	0	0	0
Bernie Wallace Helena, MT	Director 5 Hrs	0	0	0
Steve Yeakel Helena, MT	Director 5 Hrs	0	0	0
Tammy Plubell Helena, MT	Director 5 Hrs	0	0	0
Carl Tanberg Clancy, MT	Director 5 Hrs	0	0	0
Joyce Williams, M.D. Sidney, MT	Director 5 Hrs	0	0	0
Jodi Overstreet Three Forks, MT	Director 5 Hrs	0	0	0
Tom Key, MD Great Falls, MT	Medical Adv. 5 Hrs	0	0	0



Healthy Mothers, Healthy Babies  
June 30, 1995

Depreciation Schedule	Date	Balance		Asset Cost		Depreciation Allowance					Depreciation Allocation					TOTAL
		06/30/94	Increase/Decrease	06/30/95	Life	06/30/94	Increase/Decrease	06/30/95	Value	1 HHHD	6 BYD	0 USWEST	9 COTC	10 KIOS		
IBM 14" monitor	10 6/93	392.00		392.00	5L/5	34.93	78.40	163.32	200.67					78.40	78.40	
IBM Server	10 6/93	2735.00		2735.00	5L/5	582.58	547.00	1139.58	1595.42					547.00	547.00	
IBM monitor	10 6/93	201.00		201.00	5L/5	43.55	40.20	83.75	117.25					40.20	40.20	
File cabinet	1 7/2/93	93.50		93.50	5L/5	18.70	18.70	37.40	56.10	19.70				18.70	18.70	
	8 7/2/93	93.50		93.50	5L/5	18.70	18.70	37.40	56.10		18.70			18.70	18.70	
Cassorder	9 7/2/93	679.63		679.63	5L/5	135.53	135.53	271.06	407.77			135.53		135.53	135.53	
Tripod	9 7/2/93	59.96		59.96	5L/5	11.99	11.99	23.98	35.93			11.99		11.99	11.99	
Computer chips	8 7/20/93	553.00		553.00	5L/5	101.38	116.60	211.70	341.02		116.60			116.60	116.60	
	9 7/20/93	1125.00		1125.00	5L/5	208.25	225.00	431.25	633.75			225.00		225.00	225.00	
	10 7/20/93	573.00		573.00	5L/5	105.05	116.60	215.65	353.35			116.60		116.60	116.60	
	8 7/20/93	35.00		35.00	5L/5	6.42	7.00	13.42	21.50		7.00			7.00	7.00	
Computer upgrades	9 7/20/93	70.00		70.00	5L/5	12.03	14.00	26.03	43.17			14.00		14.00	14.00	
	10 7/20/93	40.00		40.00	5L/5	7.33	8.00	15.33	25.67					8.00	8.00	
Bookcase	10 9/1/93	19.99		19.99	5L/5	3.33	4.00	7.33	12.66					4.00	4.00	
Hand truck	1 9/9/93	20.00		20.00	5L/5	3.33	4.00	7.33	12.67	4.00				4.00	4.00	
	6 9/9/93	20.00		20.00	5L/5	3.33	4.00	7.33	12.67			4.00		4.00	4.00	
	10 9/9/93	19.99		19.99	5L/5	3.33	4.00	7.33	12.66					4.00	4.00	
Networking parts	1 10/14/93	804.00		804.00	5L/5	120.60	160.00	281.40	522.60	160.00				160.00	160.00	
	6 10/14/93	268.00		268.00	5L/5	40.20	53.60	93.80	174.20					53.60	53.60	
	9 10/14/93	436.00		436.00	5L/5	65.40	87.20	152.60	283.40			87.20		87.20	87.20	
	10 10/14/93	3560.90		3560.90	5L/5	549.14	732.18	1281.52	2377.58				732.18	732.18	732.18	
Laser jet 4 printer	10 11/5/93	1413.95		1413.95	5L/5	188.53	282.79	471.32	942.63					282.79	282.79	
Chair	9 11/8/93	179.00		179.00	5L/5	23.07	35.80	59.67	119.33					35.80	35.80	
Typewriter	6 6/3/94	99.81		99.81	5L/5	1.66	19.96	21.62	70.19		19.96			19.96	19.96	
	9 6/3/94	99.81		99.81	5L/5	1.66	19.96	21.62	70.19			19.96		19.96	19.96	
	10 6/3/94	99.81		99.81	5L/5	1.66	19.96	21.62	70.19				19.96	19.96	19.96	
				0.00				0.00	0.00					0.00	0.00	
		66691.71	0.00	3635.56	63055.15	34639.25	9872.61	2768.99	41542.96	21513.19	3851.30	679.57	757.95	1970.00	3174.09	9072.61