

BEFORE THE COMMISSIONER
OF POLITICAL PRACTICES

Bonogofsky v. National Gun Owners Alliance No. COPP-2013-CFP-0008	Summary of Facts and Statement of Findings of Sufficient Evidence to Show a Violation of Title 13, Chapters 35 or 37
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Debra Bonogofsky of Billings was a candidate for the Montana House of Representatives, District 57 (HD57), in the 2010 primary. On June 21, 2010, Ms. Bonogofsky filed a complaint against the National Gun Owners Alliance (NGOA) claiming it made a HD57 election expense through the mailing of a letter. The complaint further claimed NGOA violated Montana law by failing to register, disclose and report the expense.

A copy of NGOA letter is attached to this Decision as Exhibit 1. The NGOA letter is hereafter referred to as "Letter."

I. INTRODUCTION

This Decision is a companion Decision to the simultaneously released Decision in the matter of *Bonogofsky v. Kennedy* COPP-2010-CFP-0015. Ms. Bonogofsky's complaint and this Decision raise and address issues related to independent expenditures. The *Kennedy* decision addresses issues related to coordination of expenditures.

An election expense such as the Letter addressed in this Decision falls into one of three types of election expense. The first type is that of a candidate election expense. A candidate election expense includes money spent in an election that is contributed to and expended by a candidate. Candidate election expenses are, of course, subject to contribution limits and must be attributed, disclosed and reported by the candidate. A candidate election expense includes a third party election expense coordinated with a candidate, as a coordinated expense is deemed to be an in-kind contribution to a candidate.

The companion *Kennedy* Decision determined that the Letter is an election expense. The *Kennedy* Decision further determined that the Letter did not involve a candidate expense, either direct or coordinated.

The *Kennedy* decision means the Letter is one of the remaining two types of election expense; that is, it is either an independent expenditure or an issue advocacy expenditure. An independent expenditure is that of a third party entity independent of a candidate, but focused on a candidate in the election. Any “independent expenditure” must be disclosed, reported, and attributed, albeit by the third party rather than the candidate. An independent expenditure, however, is not attributed as a contribution to a candidate and therefore it is not subject to contribution limits or to reporting by a candidate.

The third type of election expense is that made coincident to the election by a third party entity independent of a candidate, but with the use of the money focused on an issue and not on a candidate. This election expense is

called issue advocacy. This “issue advocacy” expense is not considered to be a candidate related expense and therefore is not subject to campaign practice requirements. Specifically, Montana law does not require that an issue advocacy expense be attributed, reported or disclosed.¹

II. SUBSTANTIVE ISSUES ADDRESSED

The substantive areas of campaign finance law addressed by this decision are: 1) Independent Expenditures; 2) Issue Advocacy; 3) Express Advocacy; and 4) Attribution, reporting and disclosure of independent expenditures.

III. FINDING OF FACTS

The following are the foundational relevant facts for a Decision in this Matter:

Finding of Fact No. 1: Ms. Bonogofsky was a 2010 Candidate for the Republican Party nomination from House District 57, Billings, Montana. Another Republican, Dan Kennedy, also sought the 2010 nomination by the Republican Party from House District 57. (Secretary of State (SOS) Website).

Finding of Fact No. 2: The primary vote in Montana took place on Tuesday, June 8, 2010. (SOS website).

Finding of Fact No. 3: Six days before the election, the National Gun Owner’s Alliance mailed a letter dated June 1, 2010 and postmarked on Wednesday, June 2, 2010 in Richmond, Virginia to a list of Montanans identified as “HD 57”. The letter was accompanied by the results of a survey. (Commissioner’s Records). See the Letter, Exhibit 1.

Finding of Fact No. 4: The National Gun Owner’s Alliance is a non-profit corporation based in the state of Virginia. (Commissioner’s Records).

The Commissioner has examined the circumstances of the Letter in the

¹ The 2012 Montana Legislative session considered several bills that would have required reporting and disclosure of any election expense, including issue advocacy, made within 60 days of the date of an election. None of these bills passed into law. A 2014 ballot initiative has been proposed to address this issue.

companion *Kennedy* Decision. Based on the analysis and facts in the *Kennedy* Decision as well as the language of the Letter the Commissioner makes the following finding of fact.

Finding of Fact No. 5: The Letter is the third document sent by the National Gun Owner's Alliance to 2010 HD 57 voters. The first document was a letter with an accompanying survey form. The second document was a letter, with wording similar to the Letter, introducing the survey results. The third document was the Letter, also introducing survey results.

IV. DISCUSSION

The Commissioner determined that the Letter had value and was not coordinated. See companion matter of *Bongofsky v. Kennedy* No. COPP-2010-CFP-0015.² Please see the companion *Kennedy* Decision for a full discussion of these issues. The *Kennedy* Decision is incorporated by reference as though set out in full.

The central issue in this matter is therefore whether or not the Letter is an expenditure affecting the election of a candidate. Stated in contrast, the issue is whether or not the Letter is an expenditure made during an election but servicing discussion of an issue. The Letter is one or the other; either candidate related or issue related. If the Letter is candidate related then it is an independent expenditure that must be attributed, reported and disclosed. If the Letter is an issue advocacy expense and it need not be attributed, reported and disclosed.

A. Neither Issue Advocacy or Independent Expenditures May Be Limited

An issue advocacy and/or an independent expenditure made by a

² The *Bonogofsky v. Kennedy* Decision is released simultaneous with this Decision.

corporate entity may be made in any amount in any Montana election, including the 2010 HD 57 election. This notation is necessary because Montana law has historically banned candidate election expenditures, including independent expenditures, by a group operating as a corporation, such as National Gun Owner's Alliance. See §13-35-227 MCA and see also the history of this law set out in *Western Tradition Partnership, Inc. v. State of Montana*, 2011 MT 328, 363 Mont. 220, 271 P. 3d 1.

At the time the Letter was mailed the prohibition of corporate independent expenditure in candidate races established by §13-35-227 MCA was still in place. The US Supreme Court decided *Citizens United v. F.E.C.*, 130 S. Ct 876, 175 LO. Ed. 2d 753 in 2010. Section 13-35-227 MCA, however, remained in place until 2012 when *Citizens United* was applied to strike down the part of §13-35-227 MCA providing limitation of such independent expenditures. See *American Tradition Partnership v. Bullock*, 132 S. Ct. 1307, 181 L. Ed. 2d 1036 (2012).³ The Commissioner applies the *American Tradition Partnership v. Bullock* decision retroactively to the 2010 HD 57 election. See *Graybill v. WTP*, COPP-2010-CFP-0016.

B. An Independent Campaign Expenditure is Public Information

The NGOA may, under Montana law (see above), make an independent expenditure of any amount in a Montana election. However, any independent expenditure (as contrasted to an issues advocacy expenditure), must be attributed, disclosed and reported as an election expense. Montana law

³ The portion of §13-35-227 MCA prohibiting contributions by corporations to candidates was not stricken and remains in force in Montana elections, including the 2010 HD 57 election.

mandates an entity must file as an independent committee (“shall file”) and report its independent election expenditures (§13-37-226(5) MCA). Montana law further requires attribution on the communication funded by the expense (“must clearly and conspicuously include the attribution ‘paid for by’..”) (§13-35-225(1) MCA). Further, Montana law requires certain disclosures (“must disclose”) as to contributions to (§13-37-2229 MCA) and the cost of the communication (§13-37-230 MCA).

i. The Letter as an Independent or Issue Advocacy Expenditure

There has been considerable past analysis by this Office as to whether an expenditure made during the time of an election is an issue advocacy or an independent expenditure. To date the Commissioner’s analysis on this issue has been subjected to only one judicial review, that being by a state district court in *Western Tradition Partnership v. Gallik*, 1st Judicial District, Lewis and Clark County, No. BDV-2010-1120, 2011 Mont. Dist. LEXIS 83.

Sixteen years ago this Office, through Commissioner Argenbright, first discussed the differing constitutional standards measuring campaign practices law applicable to expenditures of candidates versus expenditures of independent committees. See *Harmon v. Citizens for Common Sense Government* decided December 31, 1997. This issue has been revisited by succeeding Commissioners as applied to decisions including: *Michels v. Nelson* decided July 31, 2001 (Commissioner Vaughey); *Little v. Progressive Missoula and Handler* decided July 22, 2004 (Commissioner Vaughey); *Close v. People for Responsible Government* decided December 12, 2005 (Commissioner

Higgins); *Keane v. Montanans for True Democrat* decided April 2, 2008 (Commissioner Unsworth); *Erickson v. PRIDE, Inc.* decided July 22, 2008 (Commissioner Unsworth); *Roberts v. Griffin* decided November 19, 2009 (Commissioner Unsworth); *Graybill v. Western Tradition Partnership*, COPP-2010-CFP-0016 (Commissioner Unsworth); and, *Wittich v. Main Street Advocacy Fund*, COPP-2010-CFP-0018 (Deputy Commissioner Dufrechou).

The Commissioner, consistent with the above precedent, measures the Letter as an independent expenditure if it is a "...communication[s] expressly advocating the success or defeat of a candidate or ballot issue...", ARM 44.10.323(3), emphasis added.⁴ It is noted that the last Decisions issued by a Commissioner involving the independent expenditure issue were those of Commissioner Unsworth in the *Matter of Graybill* and Deputy Commissioner Dufrechou in *Main Street Advocacy Fund*. Both Decisions were made in the midst of, or shortly after, the litigation concerning §13-35-227 MCA. Still, *Graybill* and *Main Street Advocacy Fund* analyzed and applied the express advocacy standard of ARM 44.10.323(3) without consideration of the lesser "anything of value" standard of §13-1-101(11)(a) MCA that the district court discussed in *WTP v. Gallik*, 1st Judicial District, Lewis and Clark County No. BDV-2010-1120, 2011 Mont. Dist. Lexis 83, ¶17. This Commissioner

⁴ Montana's prohibition of corporate independent expenditures originated as a statute passed in initiative in 1912. See annotations §13-35-227 MCA. The "expressly advocating" language of the current ARM 44.10.323(3) was added through administrative rule hearings adopted and approved by Commissioners on January 20, 1986 and September 27, 1999. The Notice of Adoption for each such rule change described the addition of the express advocacy words as being necessary to adjust to the "state of law" brought about by litigation.

continues to measure an independent expenditure under the express advocacy standard of ARM 44.10.323(3).

1. The Letter as Express Advocacy

The “express advocacy” phrase incorporated into Montana law through ARM 44.10.323(3) originated from a 1976 decision of the US Supreme Court (*Buckley v. Valeo*, 424 U.S. 1 (1976)). The phrase was intended as a measure of the allowed breadth of governmental regulation of political speech.

The *Buckley* Court narrowly construed the federal statutory definition of “expenditure” to apply, for certain purposes, “only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.” *Buckley* at 44, emphasis added. The *Buckley* Court recognized that general discussions of issues and candidates are distinguishable from more pointed exhortations to vote for or against particular persons. In a footnote the Court listed examples, which have become known as the “magic words” of express advocacy, including phrases such as “vote for,” “elect,” “support,” “cast your ballot for,” “vote against,” “defeat,” “reject,” etc. *Buckley* at 44, n. 52.

As measured by the “magic words” standard of *Buckley*, the Letter is not express advocacy. While the Letter is certainly more than a general discussion of issues and candidates, it does not use any “magic words”. The *Buckley* magic words standard, however, has been subjected to 37 years of jurisprudence and it has since been refined by Court decisions, administrative action and legislative acts. Express advocacy, while still subject to rigorous

analysis, is no longer measured by magic words but by whether the communication is the “functional equivalent of express advocacy”. The Commissioner has defined the “functional equivalent of express advocacy” express advocacy legal standard in detail in the *Graybill*, COPP-2010-CFP-16. The reader is directed to *Graybill* for a further discussion.

Under the “functional equivalent of express advocacy” test an analysis is made as to whether or not the communication (and therefore the expenditure) is express advocacy based on the content of the communication. The Letter at issue in this Matter is a two page, legal size document. The content of the Letter is reviewed as follows: “a court should find that an ad [letter] is the functional equivalent of express advocacy only if the ad [letter] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *Federal Election Comm’n v. Wisconsin Right to Life*, 551 U.S. 449, 469-70 (2007) (“*WRTL*”).

Chief Justice Roberts, writing for the majority, applied the test to *WRTL*’s ads as follows:

Under this test, *WRTL*’s three ads are plainly not the functional equivalent of express advocacy. First, their content is consistent with that of a genuine issue ad: the ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: the ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate’s character, qualifications, or fitness for office.

WRTL at 470.

The Letter is examined for content with the above guidance as to functional equivalency of express advocacy.

a. Examination of Content of Letter for Issue Advocacy

Roberts first directs that the Letter be examined for the issue content consistent “with that of a genuine issue ad”. We hereby apply the “focus”, “position”, “exhort” and “contact” considerations set out by Roberts in regard to issue determination.

Finding of Fact No. 6: The Letter takes a position on an issue (gun control) and therefore meets this standard of issue advocacy. However, the Letter does not focus on the legislative issue as opposed to the candidate or election. The first substantive sentence of the Letter reads: “[i]n a short time, voters will be going to the polls to select their State Legislators among other elected officials”. As further discussed below, the Letter is replete with references to candidates and election.

Finding of Fact No. 7: The Letter cannot reasonably be interpreted as an exhortation to the public. Unlike a general ad directed to the public, the letter was mailed to a very select group of people (Republican Party primary voters in a single legislative district in Montana) no more than 4 days prior to a primary election vote. Even the contact urged was election centered as it was focused on a candidate survey of the two candidates in the Republican primary election in Montana’s HD 57.

In addition to reading the Letter for issue advocacy content, the Commissioner may place the content in the context of use by a limited examination of background information. This is allowed because while “contextual factors...should seldom play a significant role in the inquiry,” courts “need not ignore basic background information that may be necessary to put an ad in context”, *WRTL* at 473-74.

Finding of Fact No. 8: The Letter was not addressed to the general public but only to Republican Party voters in HD 57. The envelope containing the letter and survey has a printed identification line for “HD 57”. The survey results accompanying the Letter is limited to HD 57. See, the Letter.

Finding of Fact No. 9: The Letter was mailed from Richmond, Virginia on Wednesday June 2, 2010 (see envelope, Exhibit 1). This meant it arrived in Montana no earlier than Friday June 4, 2010.

Finding of Fact No. 10: The *Kennedy* Decision determined that there were comparably timed and written letters mailed by Western Tradition Partnership, Montana Citizens for Right to Work, and Assembly Action Fund.

With this background information added to the content of the letter there is no reasonable interpretation that could find the Letter is consistent with a genuine issue ad. The Commissioner determines that Letter focused on a relatively small group of voters, those being Republican primary voters in one legislative district in one of the most sparsely populated states in the nation. Timing is recognized as important with an issue focus involving “a legislative issue that is either currently the subject of legislative scrutiny or likely to be the subject of scrutiny in the near future.” *WRTL*, 466 F. Supp. 2d 195, 207. The Commissioner determines that the Letter was timed around and tied to the primary voting date with its focus being on a specific candidate’s survey response. The Commissioner finds that there is no reasonable interpretation that could find a focus on an issue (thereby becoming issue advocacy) as opposed to a focus on a candidate (thereby becoming express advocacy).

b. Examination of Content of Letter for Indicia of Express Advocacy

Roberts secondly directs that the Letter be examined for “indicia of express advocacy”. Roberts lists those as “election, candidacy, political party or challenger” as well as “position on a candidate’s character, qualifications, or fitness for office”. We hereby apply the considerations set out by Roberts.

It is not necessary to separately address each of the Roberts' considerations because the Commissioner determines that the Letter includes each and every one of the indicia, most multiple times. See Ex. 1. Specifically, the Letter mentions the election three times ("your vote" and "June 8 primary election" twice), candidacy nine times, political party (Republican) five times, mentions Bonogofsky (always negatively) 5 times, mentions Dan Kennedy (always positively) 3 times, and takes a position on candidate qualifications (Kennedy has "leadership" while Bonogofsky is "stonewalling").

Applying the background information set out above the Commissioner determines that the Letter was mailed to a very select group of people (Republican Party primary voters in a single legislative district in Montana) no more than 4 days prior to a primary vote. Further, the Commissioner determines that the Letter meets each Roberts indicia of express advocacy. This Commissioner finds that there is no reasonable determination as to the Letter other than that it is express advocacy.

2. Other Factors Including *Graybill* Complaint

In examining content of the Letter this Commissioner took into consideration the accompanying survey results summary. The survey results does not change the above analysis regarding the Letter since the survey also lists the candidates for HD 57 and the primary election date of June 8, 2010. The Commissioner also took into consideration the envelope containing the Letter and survey (see Exhibit 1); specifically, the postmark date and the HD 57 notation set out on the envelope as part of the background information.

This Commissioner also took into consideration the decision of Commissioner Unsworth in *Graybill v. WTP*, COPP-2010-CFP-0016. In *Graybill* the Commissioner determined express advocacy also based on an election expense for the cost of a document attacking the opposing candidate. The flyers in *Graybill*, as the Letter in this Matter, did not instruct a “yes” or “no” vote for the candidate. The *Graybill* flyers did not contain the issue directed “please contact” exhortation, as did the Letter in this Matter. However, the Letter contained many more references to elections, candidates and even the time/date of election than did the *Graybill* flyers. The Letter, as measured by content, meets the express advocacy standard set by *Graybill*.

V. FINDINGS ESTABLISHING CAMPAIGN PRACTICE VIOLATIONS

The Commissioner has determined that the NGOA prepared and mailed at least three sets of documents concerning the 2010 HD 57 election including the Letter. The Commissioner has further found or determined that the production and mailing of the Letter constitutes value and is therefore an election expense. Finally, the Commissioner determined that the Letter constitutes an express advocacy election expense.

Montana law mandates an entity such as the NGOA must file with the commissioner as an independent political committee (“shall file”) upon making an independent election expenditure. §13-37-226(5) MCA. Montana law further requires attribution on the communication (“must clearly and conspicuously include the attribution ‘paid for by’...”, §13-35-225(1) MCA).

Finally, a political committee, having filed, “must disclose” as to contributions (§13-37-229 MCA) and the amount of expenditure (§13-37-230 MCA).

In accord with the above findings the Commissioner determines that sufficient evidence exists to show that the NGOA failed to register as a political committee and failed to report and disclose election contributions and expenses as required by Montana’s campaign practices law. To be specific, sufficient evidence exists to show that the NGOA failed to file as a political committee and failed to report and disclose election contributions and expenses related to the Letter use in the 2010 HD 57 Republican Party primary race, as required by Montana’s Campaign Practices law.

The Commissioner also considered whether the findings create a constitutionally impermissible burden on NGOA. The US Supreme Court, in *Citizens United*, determined that independent campaign expenditures, including those of a corporation, are protected election speech and cannot be limited or prohibited in amount. Disclosure and reporting of independent expenditures, however, do not limit such speech but instead keep elections fairer by informing the opposing candidate and the public as to who is making an election expenditure.

Consistent with the above reasoning, Montana courts have ruled that the filing and reporting requirements imposed by Montana law on incidental committees are constitutionally permissible as they do not create such a heavy burden that they interfere with the 1st Amendment political speech rights of the speaker. *National Association for Gun Rights, Inc. v. James Murry, et. al.*, CV-

12-95-H-DLC, (D. Mont. Sept. 17, 2013).

VI. ADJUDICATION

The Commissioner has limited discretion when making the determination as to an unlawful campaign practice. First, the Commissioner cannot avoid, but must make, a decision as the law mandates that the Commissioner (“shall investigate,” *see*, §13-37-111(2)(a) MCA) investigate any alleged violation of campaign practices law . The mandate to investigate is followed by a mandate to take action as the law requires that if there is “sufficient evidence” of a violation the Commissioner must (“shall notify”, *see* §13-37-124 MCA) initiate consideration for adjudication.

Second, having been charged to make a decision, the Commissioner must follow substantive law applicable to a particular campaign practice decision. In this Matter an independent election expenditure applies to all “...communications expressly advocating the success or defeat of a candidate or ballot issue...” ARM 44.10.323(3), emphasis added. The Commissioner has found that the Letter and survey attached as Exhibit 1 constitute express advocacy, *id.* The Letter, as a corporate independent expenditure, must be attributed, and contributions/expenditures disclosed and reported. The NGOA must file as independent committee to report and disclose §13-37-226(5) MCA.

This Commissioner, having been charged to investigate and decide, hereby determines that sufficient evidence exists to show that the NGOA violated Montana’s campaign practice laws, including but not limited to §§13-37-201, 225, 226, 229 and 230, MCA. Having determined that there is

sufficient evidence to show a campaign practice violation has occurred, the next step is to determine whether there are circumstances or explanations that may affect adjudication of the violation and/or the amount of the fine.

The NGOA's decision to act through a letter that was not properly reported or disclosed was by choice and deliberate. Excusable neglect cannot be applied to the failures of the NGOA in this Matter. See discussion of excusable neglect principles in *Matters of Vincent*, Nos. CPP-2013-CFP-0007 and 0011. The NGOA chose to make the expense and also chose to avoid reporting and disclosure requirements of Montana law. Montana has determined that political discourse is more fairly advanced when, through disclosure, the public is informed as to the identify of those who seek to influence elections. There can be no excuse, but only punishment, when an avoidance of reporting and disclosing occur, such as are involved in this matter.

Likewise, the amounts of money are too significant to be excused as *de minimis*. See discussion of *de minimis* principles in *Matters of Vincent* Nos. CPP-2013-CFP-0007 and 0011. With the above analysis in mind, this Matter is also not appropriate for application of the *de minimis* theory.

Because there is a sufficiency finding of violation and a determination that *de minimis* and excusable neglect theories are not applicable, civil adjudication and/or a civil fine is justified (see §13-37-124 MCA). This Commissioner hereby, through this decision, issues a "sufficient evidence" Finding and Decision justifying civil adjudication under §13-37-124 MCA.

This matter will now be submitted to (or “noticed to”) the Lewis and Clark County attorney for his review for appropriate civil action. See §13-37-124(1) MCA.⁵ Should the County Attorney waive the right to adjudicate (§13-37-124(2) MCA) or fail to prosecute within 30 days (§13-37-124(1) MCA) this Matter returns to this Commissioner for possible adjudication. *Id.*

Most of the Matters decided by a Commissioner and referred to the County Attorney are waived back to the Commissioner for his further consideration. Assuming that this Matter is waived back, the Finding and Decision in this Matter does not necessarily lead to civil adjudication as the Commissioner has discretion (“may then initiate” see §13-37-124(1) MCA) in regard to a legal action. Instead, most of the Matters decided by a Commissioner are resolved by payment of a negotiated fine. In the event that a fine is not negotiated and the Matter resolved, the Commissioner retains statutory authority to bring a complaint in district court against any person who intentionally or negligently violates any requirement of Chapter 37, including those of §13-37-226. (See 13-37-128 MCA). Full due process is provided to the alleged violator because the district court will consider the matter *de novo*.

At the point this Matter is returned for negotiation of the fine or for litigation mitigation will be considered. It is hereby determined that case specific mitigation, stemming from the facts of this Matter, is not appropriate


⁵ Notification is to “...the county attorney in which the alleged violation occurred...” §13-37-124(1) MCA. Any failure to attribute occurred in Yellowstone County and the failure to report occurred in Lewis and Clark County. This Commissioner chooses to Notice this matter to the county attorney in Lewis and Clark County.

and will be not be a factor in negotiations. See discussion of mitigation principles in *Matters of Vincent*, Nos. CPP-2013-CFP-0007 and 0011.

VII. CONCLUSION

Based on the preceding discussion as Commissioner, I find and decide that there is sufficient evidence to show that the National Gun Owners Alliance violated Montana's campaign practices laws, as set out above, and that a civil penalty action is warranted. This matter is hereby submitted to [or "noticed to"] the Lewis and Clark County Attorney for his review for appropriate civil action.

Dated this 16th day of October, 2013.



Jonathan R. Motl
Commissioner of Political Practices
Of the State of Montana
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National Gun Owners Alliance

Box 2268
Merrifield, VA 22116

URGENT!

RICHMOND VA 232

02 JUN 2010 PM 2 L



Mr. John Gonitzke
4313 Duck Creek Road
Billings, MT 59101-6188

8809541819 HD57

591016188





National Gun Owners Alliance

June 1, 2010

Dear Friend,

There's not a moment to waste.

In a short time, voters will be going to the polls to select their State Legislators among other elected officials.

You and I must act quickly to make sure our candidates pledge to support our constitutional right to keep and bear arms before the June 8 Primary Election.

At the state level, I wrote you earlier with the first results. Now, after delivering surveys to your candidates for State House District 57, the deadline has long passed, and the final candidate responses are in.

The good news is, Republican Dan Kennedy responded 100% in favor of your gun rights on the Gun Rights Candidate Survey.

Dan Kennedy publicly committed to oppose firearms registration, bans on semi-automatic weapons and new taxes on firearms and ammunition. Better still, he also signed the National Gun Owners Alliance Leadership pledge, promising to assume a leadership role for legislation to further protect our right to keep and bear arms.

The bad news is that the other Republican candidate in the June 8 Republican Primary Election, Republican Debra Bonogofsky, has still not responded to the Gun Rights Candidate Survey.

Frankly, her failure to respond is of great concern.

There is absolutely no reason for a candidate to be silent on the gun grabbers' anti-gun schemes, unless perhaps he or she plans to someday vote for some sort of additional gun control measures.

This is why I'm so concerned that Debra Bonogofsky continues to refuse to answer the Gun Rights Candidate Survey. She simply will not pledge to fight against the registration of firearms in Montana.

The overwhelming evidence is that the "Brady Bill's" registration of firearms purchases has done nothing to fight crime. But it does make it easy for bureaucrats to confiscate guns from private hands as soon as they have the political muscle to do so.

It is vital that you give Debra Bonogofsky an earful and demand that she solidly commit to support your gun rights NOW, while she is looking for your vote.

There is no reason to surrender to arm-twisting by gun grabbers. Quite simply, criminals do not submit to waiting periods and background checks.

However, these bureaucratic hurdles do make it more difficult for law-abiding citizens to buy a gun.

Worse yet, since they're so difficult to enforce, they create a complicated and expensive gun control bureaucracy. Thus, waiting periods serve the gun grabbers' real agenda -- laying the groundwork for registration and confiscation of all weapons.

You now have a chance to make an important difference.

Right now -- while the politicians want our support -- is the best time to let the candidates know that we will not tolerate any more erosion of our rights.

The stakes are high. There's not much time to act.

Here's how you can help.

Thank Dan Kennedy for his 100% public support of the Second Amendment and for his leadership pledge on this important issue.

Also, turn up the heat on Republican Debra Bonogofsky. Insist she stop stonewalling the Gun Rights Candidate Survey and instead come out strongly for our right to keep and bear arms.

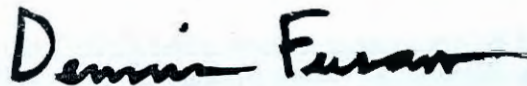
Finally, I hope you will inform me of what you've done.

By returning the enclosed Action Reply Memo, I can prove to the politicians that gun owners are informed and will not stand for any candidate who promotes failed gun control schemes on the citizens of Montana.

I hope you will also enclose a contribution to the National Gun Owners Alliance. If we all pitch in, there's no way the politicians can ignore us.

Thanks for your prompt action!

Sincerely,



Dennis Fusaro
Executive Director

P.S. Your action will send a clear signal that gun owners will not roll over when the gun grabbers, bureaucrats and big media come after us.

Please let Republican Dan Kennedy know you appreciate his principled pro-gun platform and leadership pledge.

And don't let Republican Debra Bonogofsky get away with her continued silence on the Gun Rights Candidate Survey. Be sure to tell her you demand 100% public support for your Second Amendment rights from ALL of your candidates before the June 8 Primary Election.

National Gun Owners Alliance
Roster of Responses to the Montana 2010 Candidate Survey
Primary Election – June 8, 2010

1. Should state law prohibit Montana localities from placing limitations on the rights of citizens to purchase or carry firearms?
2. Would you support efforts to strengthen Montana's Firearms Freedom Act to make it a felony for federal agents to serve warrants in Montana in violation of this new law?
3. Would you oppose legislation mandating a waiting period before the purchase of a firearm?
4. Would you oppose legislation that would require that firearms purchased by private citizens be registered with law enforcement and tracked by a centralized record system administered by government agencies?
5. Do you oppose legislation banning the manufacture, sale or possession of semi-automatic firearms?
6. Do you oppose laws that would require that the police give permission prior to a person buying a firearm?
7. Do you oppose laws which would impose any punitive taxes on the ownership, purchase or use of firearms or ammunition currently available to law-abiding citizens?
8. Do you oppose government licensing to buy a gun?
9. Would you support Vermont-style legislation which would eliminate all requirements to pay fees and register weapons and simply allow law-abiding citizens to carry firearms for any reason except for the commission of a crime?

Candidate Survey Responses
House District 57

	#1	#2	#3	#4	#5	#6	#7	#8	#9
Debra Bonogofsky (Rep)	--	--	--	--	--	--	--	--	--
Dan Kennedy (Rep)	Y	Y	Y	Y	Y	Y	Y	Y	Y

Montana 2010 Gun Rights Candidate Survey
Action Reply Memo
June 8 Primary Election
House District 57

To: Dennis Fusaro
National Gun Owners Alliance
Box 2268
Merrifield, VA 22116

Dear Dennis:

The continuing threat the gun grabbers pose to the Second Amendment is too great to sit by idly. As a Montana citizen, I want to send a strong pro-gun statement to the politicians. Therefore, I will:

___ Express my thanks to Republican Dan Kennedy for his clear, principled and total support of the right to keep and bear arms.

___ Insist that Republican Debra Bonogofsky answer the Gun Rights Candidate Survey and pledge support for the right to keep and bear arms.

___ Enclose a contribution to help mobilize more gun rights activists.*

\$75 \$50 \$25 \$15 Other \$ _____

Name

Address

City

State

Zip

*Note: Make checks payable to National Gun Owners Alliance.

BECAUSE THE NATIONAL GUN OWNERS ALLIANCE FIGHTS AGAINST ANTI-GUN LEGISLATION AT THE STATE AND FEDERAL LEVELS, YOUR DONATION IS NOT DEDUCTIBLE AS A CHARITABLE CONTRIBUTION.

[mailcode]