

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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RANDALL G. KNOWLES – PETITIONER

VS.

STATE OF MONTANA ex rel.  
MONICA J. LINDEEN,  
MONTANA STATE – RESPONDENT  
AUDITOR and Ex OFFICIO  
COMMISSIONER OF SECURITIES

ON PETITION FOR A WRIT OF CERTIORARI TO  
SUPREME COURT of the STATE of MONTANA – CASE DA 08-0016

**PETITION FOR WRIT OF CERTIORARI**

RANDALL G. KNOWLES, pro se

3017 NINTH AVENUE SOUTH

GREAT FALLS, MONTANA 59405

406-799-1547

knowlesmt@bigfoot.com

*Randall G. Knowles*

4-12-2010

## QUESTION(S) PRESENTED

Petitioner seeks this courts attention for the preservation of the Constitution of the United States. Specifically the Petitioner references the 14<sup>th</sup> Amendment. The Montana Supreme Court and Montana Securities Commissioner, each, admit in their written decisions they are stripping the Petitioner of his 14<sup>th</sup> Amendment rights. The Securities Commissioner took Petitioner's right to "due process" and the Montana Supreme Court took Petitioner's right to "equal protection under the law." Jointly the Montana Securities Commissioner and Montana Supreme Court are ignoring the Constitution's mandate to "promote the General Good." Appendix C p.36 & Appendix A p.10

Therefore:

1] Petitioner believes the Constitutional Right to "Equal Treatment under the Law" shall be denied to all securities brokers licensed by the State of Montana.

2] Petitioner believes that Montana failed its Constitutional mandate to "promote the General Good."

3] Petitioner believes the right to due process under the law will be denied to all securities brokers licensed by the State of Montana.

## LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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APPENDIX A	<i>Securities Commissioner's Findings of FACT</i>	<i>5-24-06</i>
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APPENDIX C	<i>Supreme Court of MT DA 08-0016</i>	<i>12-2-09</i>
APPENDIX D	<i>Supreme Court Order</i>	<i>1-13-2010</i>
APPENDIX E	<i>Profit or Loss from Business</i>	<i>2006, 2007, 2008, 2009</i>
APPENDIX F	<i>Affidavit from Vernon &amp; Joyce Knowles</i>	

## TABLE OF AUTHORITIES CITED

CASES: The violations to the Constitution of the United States are admitted by the offending parties and are part of the judicial record and the Appendix of this writ.

### STATUTES and RULES

[ARM] Administrative Rules of Montana - 6.2.122

[MCA] Montana Code Annotated - MCA 30-10-305

[MCA] Montana Code Annotated 1-3-218

The Constitution of the United States - Amendment 14 - Citizenship Rights

The Constitution of the United States – Preamble

<http://data.opi.mt.gov/bills/mca/30/10/30-10-305.htm>

<http://www.mtrules.org/gateway/ruleno.asp?RN=6%2E2%2E122>

[http://fnweb1.isd.doa.state.mt.us/idmws/custom/sll/sll\\_fn\\_home.htm](http://fnweb1.isd.doa.state.mt.us/idmws/custom/sll/sll_fn_home.htm)

<http://mt.gov/government.asp>

### OTHER

Your Honor: first let the Petitioner thank you for allowing this cause to be presented pro se.

This cause is based upon the printed words of the Judges. Words which are found in the attached appendixes. The words of the Judges speak for themselves.

On page 10 of Appendix A the Montana Securities Commissioner admits that he denied the Petitioner his right to due process under the Administrative Rules of Montana [ARM].

On page 36 of Appendix C; the Montana Supreme Court recognizes that the Montana Securities Commissioner imposed “a single rigid procedure” upon the Petitioner. The Montana Supreme Court also stated their decision cannot be applied in a “broad application” to the other licensed securities brokers practicing in the State of Montana.



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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- reported at www.mt.gov; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was 12-2-2009.  
A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: 1-13-2010, and a copy of the order denying rehearing appears at Appendix D.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).



## CONSTITUTIONAL AND STATUTUORY PROVISIONS INVOLVED

Public Issue Number ONE: Every citizen's right to due process

On page 10 of Appendix A the Montana Securities Commissioner admits that the Petitioner was denied due process in violation of Montana Code Annotated - MCA 1-3-218. Vigilance, the law helps the vigilant before those who sleep on their rights, and Montana Rule 6.2.122 <sup>4</sup>

Public Issue Number TWO: Constitutional right to equal treatment under the law and government's obligation to promote the general welfare.

On page 36 of Appendix C the Montana Supreme Court admits that the Montana Securities Commissioner's interpretation of Montana Codes Annotated applies ONLY to the petitioner.

## STATEMENT OF THE CASE

Petitioner was issued a cease and desist order by the Montana Securities Commissioner in 2004. Petitioner timely filed a demand for hearing which should have occurred within 30 days and did not. The Securities Commissioner filed a second cease and desist order in November 2004, a hearing was held, and the Commissioner's decision was issued. Appendix A.

Petitioner filed an appeal with the 8<sup>th</sup> Judicial District Court of Montana. Judge Macek reversed the Securities Commissioner's findings. Judge Macek said: "the court hereby finds that the substantial rights of Knowles have been prejudiced due to the errors of law set forth previously." Appendix B.

Montana Securities Commissioner appealed to Montana Supreme Court which reversed the Montana 8<sup>th</sup> District Court, which leads us here today. Appendix C.

**Public Issue Number ONE:** Every citizen's right to due process. <sup>1</sup>

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<sup>1</sup> The "how" is procedural due process. Is a law too vague? Is it applied fairly to all? Does a law presume guilt? A law must be clear, fair, and have a presumption of innocence to comply with procedural due process.

Your Honor: This cause is based upon the words of the Judges which are found in the record. The words speak for themselves. The Petitioner feels his right to due process was denied because:

On page 10 of Appendix A the Montana Securities Commissioner admits that the Petitioner was denied due process. If the rules found in the Montana Codes Annotated [MCA] and Administrative Rules of Montana [ARM] are ignored with respect to due process then all the Securities Agents, around the world, licensed to practice in the state of Montana, [will have no right to due process] and can be forced out of business through the simple act of the commissioner's inaction.

Based upon the Montana Supreme Court's interpretation; the Securities Commissioner can issue a temporary "cease and desist order" to shut a licensed Securities broker down and force him out of business by simply choosing to never act. p. 34, Appendix C.

A lapse of contact between a securities agent and his clients, of more than 90 days, in effect, closes the business. To rebuild a securities business after more than 5 years of legal battle, which is the position the Petitioner is in, is like

starting from scratch and could take more than 10 years. There is a reason that the Administrative Rules of Montana [ARM] contain a quick call to action by all parties.<sup>2 3 4</sup>

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<sup>2</sup> Montana Code Annotated - MCA 1-3-218. Vigilance. The law helps the vigilant before those who sleep on their rights. History: En. Sec. 4618, Civ. C. 1895; re-en. Sec. 6195, Rev. C. 1907; re-en. Sec. 8756, R.C.M. 1921; Cal. Civ. C. Sec. 3527; Field Civ. C. Sec. 1982; re-en. Sec. 8756, R.C.M. 1935; R.C.M. 1947, 49-119.

<sup>3</sup> <http://data.opi.mt.gov/bills/mca/30/10/30-10-305.htm>

Montana Code Annotated - MCA 30-10-305. Injunctions and other remedies -- limitations on actions.

(1) If it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of parts 1 through 3 of this chapter or any rule or order under this chapter, the commissioner may:

(a) issue an order directing the person to cease and desist from continuing the act or practice after reasonable notice and opportunity for a hearing. The commissioner may issue a temporary order pending the hearing that:

(i) remains in effect until 10 days after the hearing examiner issues proposed findings of fact and conclusions of law and a proposed order; or

(ii) becomes final if the person to whom notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(b) without the issuance of a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any acts or practices and to enforce compliance with parts 1 through 3 of this chapter or any rule or order under this chapter. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus must be granted and a receiver or



**Public Issue Number TWO:** Constitutional right to equal treatment under the law and government's obligation to promote the general welfare.

On page 36 of Appendix C the Montana Supreme Court admits that the Montana Securities Commissioner's position and interpretation of the Codes and Rules ONLY applies to the petitioner. Petitioner believes that this action violates his right under the United States Constitution. <sup>5 6 7</sup> Public welfare and prosperity are served only when the

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conservator may be appointed for the defendant or the defendant's assets. The commissioner may not be required to post a bond. If the commissioner prevails, the commissioner is entitled to reasonable attorneys' fees as fixed by the court.

<sup>4</sup><http://www.mtrules.org/gateway/ruleno.asp?RN=6%2E2%2E122>

Montana Rules 6.2.122 TEMPORARY CEASE AND DESIST ORDERS

(1) If the commissioner issues a temporary cease and desist order, the respondent has 15 days from receipt of the order to make a written request for a contested case hearing on the allegations contained in the order. The hearing must be held within 30 days of the commissioner's receipt of the hearing request unless the time is extended by agreement of the parties or by order of the hearing examiner. If the respondent does not request a hearing within 15 days of receipt of the order by the respondent and the commissioner does not order a hearing, the order becomes final.

History: Sec. 30-10-107 MCA; IMP, Sec. 30-10-305 MCA; NEW, 1985 MAR p. 1238, Eff. 8/30/85; AMD, 1988 MAR p. 1888, Eff. 8/26/88.

<sup>5</sup> Amendment 14 - Citizenship Rights. Ratified 7/9/1868. Note History

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;

law is applied equally, then and only then will the general good of the public be served.

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nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

<sup>6</sup> **Deprive** - deprive *v.* 1. To take something away from; divest. 2. To keep from the possession of something. [*Med. Lat. deprivare*]

<sup>7</sup> **Welfare** - welfare *n.* 1. health, happiness, or prosperity; well-being. [*ME wel faren, to fare well*]



## REASONS FOR GRANTING THE PETITION

The primary reason for granting this petition is: Montana's courts and regulatory agencies do not agree upon the meaning or application of Montana's Securities Codes and Administrative Rules. Codes and rules should apply equally to all securities brokers licensed by Montana. This Montana Supreme Court decision recognized that the Petitioner was being singled out when it said, on page 36 of Appendix C: "A broad application of the rules applied in this case would very well impose a rigid process on securities sales which would disrupt everyday practices.....Nothing in our opinion should serve to impose a single, rigid procedure for application in all securities sales," which was contrary to the 8<sup>th</sup> District Court decision.

All securities sales should abide by the same set of codes and rules to promote the general economic welfare and prosperity of the United States. Securities brokers should be able to rely upon the plain language of Montana's published Codes and Administrative Rules in the conduct of their business. Petitioner believes that United States Securities brokers should not have to worry that Montana's Codes and Administrative Rules can be twisted by the Securities Commissioner, in such a manner, that the code creates a single rigid procedure which applies to only one Securities broker at a time.

The Montana Supreme Court decision recognized that the Petitioner was being singled out when it said, on page 36 of Appendix C: "A broad application of the rules applied in this case would very well impose a rigid process on securities sales which would disrupt everyday practices.....Nothing in our opinion should serve to impose a single, rigid procedure for application in all securities sales."

How is a Securities broker to know what the rigid process is and when it applies?

Equal protection under The Constitution of the United States must be vigilantly guarded and all infractions must be deterred.

**CONCLUSION**

It is in the best interest of the United States of America for this petition for a writ of certiorari to be granted

Respectfully submitted,

Randall G Knowles

Randall Gene Knowles, Petitioner, pro se

Date: 4-12-2010

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COMMISSIONER OF SECURITIES

PROOF OF SERVICE

I, Randall G. Knowles, do swear or declare that on this date, April 12, 2010, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelop containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

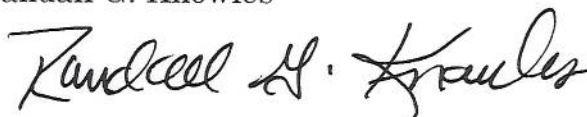
The name and address of those served are as follows:

Monica J. Lindeen – Securities Commissioner  
840 Helena Avenue  
Helena, MT 59601

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12<sup>th</sup> day of April 2010.

Randall G. Knowles



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CERTIFICATE OF COMPLIANCE

I, Randall G. Knowles, do swear or declare that on this date, April 12, 2010, as required by Supreme Court Rule 28, I have counted the words and found there were less than 3000.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12<sup>th</sup> day of April 2010.

Randall G. Knowles

3017 Ninth Avenue South  
Great Falls, MT 59405

406-799-1547

knowlesmt@bigfoot.com

