

<p>Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203</p> <hr/> <p>Original Proceeding Pursuant to § 1-40-107 (2), C.R.S.(2016) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2017-2018 #70 (“Severance Taxes on Oil and Gas”)</p> <p>Petitioners:</p> <p>Andrew J. O’Connor and Mary E. Henry,</p> <p>v.</p> <p>Respondent:</p> <p>Jeff Wasden,</p> <p>and</p> <p>Title Board:</p> <p>Suzanne Staiert, Shannon Eubanks and Glen Roper.</p>	<p style="text-align: right;">FILED IN THE SUPREME COURT</p> <p style="text-align: center;">DATE FILED: January 25, 2018 JAN 25 2018</p> <p style="text-align: center;">OF THE STATE OF COLORADO Cheryl L. Stevens, Clerk</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Petitioners: Andrew J. O’Connor and Mary E. Henry 1220 W. Devonshire Court Lafayette, CO 80026 Phone Number: (303) 882-1693 Email: oconnorandrew@hotmail.com</p>	<p>Supreme Court Case No: 2017SA286</p>

PETITIONERS’ ANSWER BRIEF

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, I certify that:

A. The brief complies with C.A. R. 28(g) because it contains 3,546 words.

B. The brief complies with C.A. R. 28 (a)(7)(A) because each issue it contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority and (2) a citation to the precise location in the record and not to an entire document, where the issue was raised and ruled on.

/s/Andrew J. O'Connor and Mary E. Henry
Andrew J. O'Connor and Mary E. Henry
Petitioners

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BACKGROUND

On December 6, 2017, while Petitioner Andrew J. O’Connor was waiting to go into a Title Board Hearing, Jason Dunn, the attorney for Respondent, made a death threat against the Petitioner outside of the Aspen Room on the third floor of the Colorado Secretary of State’s Office. Mr. Dunn made this threat loudly and publicly and it was heard by Petitioner’s wife and co-petitioner Mary E. Henry and Jim Tatem and they reported the threat to Petitioner. On December 7, 2017, Petitioner’s wife filed a complaint against Mr. Dunn with Steven Ward, Colorado Secretary of State’s Office. (See email dated 12/7/2017, attached and marked as Exhibit A). On December 12, 2017, Mr. Ward responded and promised to have security at the next Title Board Hearing. (See email dated 12/12/17, attached and marked as Exhibit B). On December 12, 2017, Petitioner’s wife filed a complaint with Beth McCann, Denver District Attorney. (See email dated 12/12/2017, attached and marked as Exhibit C). On December 20, 2017, Petitioner’s wife and Petitioner filed a complaint against Mr. Dunn with the Denver Police Department, Case # 17-848-244, and said complaint was assigned to Detective Norwell for investigation. (See Denver Police Department Case # 17-848-244, dated 12/20/2017, attached and marked as Exhibit D). On January 8, 2018, my wife and I filed Request for Investigation of Jason Dunn with the Colorado Supreme Court, Attorney Regulation Counsel, Case # 17-3584 and said case was assigned to Lisa Pearce, Assistant Regulation Counsel for investigation. (See letters dated 1/8/18, attached and marked as Exhibit E and

F, respectively). Mr. Dunn poses a security threat to the Petitioners and his actions should not be tolerated. Mr. Dunn's threats are criminal in nature and implicate Colorado Rules of Professional Conduct 4.3, 4.4, as well as other provisions and go to Mr. Dunn's lack of ethics and credibility and his attempts to intimidate and harass an unrepresented person.

STATEMENTS OF THE ISSUES PRESENTED FOR REVIEW

1. The Title Board had jurisdiction and the title, summary and the submission reflected the intent of the initiative.
2. The Title Board has jurisdiction and the proposed initiative is definite, clear and understandable.
3. The proposed initiative 2017-2018 #70 complies with the single-subject requirement pursuant to section 1-40-106.5 C.R.S.
4. The title is not misleading nor does it contain an impermissible catch phrase.
5. The abstract adequately describes that the oil and gas industry will bear the severance tax increase and properly details the economic impacts thereby complying with section 1-40-105.5 (3).

STATEMENT OF THE CASE

The Title Board erred when it found that it lacked jurisdiction over Initiative 2017-2018 #70 and refused to set title because of the following factors: the title, summary and submission reflected the intent of the initiative; the proposed initiative is definite, clear and understandable; the proposed initiative 2017-2018 #70 complies with the single-subject requirement pursuant to section 1-40-106.5 C.R.S.; the title is not misleading nor

does it contain an impermissible catch phrase and the abstract adequately describes that the oil and gas industry will bear the severance tax increase and properly details the economic impacts thereby complying with section 1-40-105.5 (3).

SUMMARY OF THE ARGUMENT

The Title Board had jurisdiction to set title on proposed initiative 2017-2018 #70, because it complies with the single-subject requirement pursuant to section 1-40-106.5 C.R.S. and the title is not misleading nor does it contain an impermissible catch phrase and the abstract adequately describes that the oil and gas industry will bear the severance tax increase and properly details the economic impacts thereby complying with section 1-40-105.5 (3). Based upon the foregoing, The Title Board erred when it found that it lacked jurisdiction over Initiative 2017-2018 #70 and refused to set title and the erroneous decision by the Title Board should be reversed and the case remanded back to the Title Board.

ARGUMENT

I. The Title Board had jurisdiction and the title, summary and submission clause reflected the intent of the initiative.

The Title Board should have denied the Motion for Hearing because the title and submission clause set by the Title Board on November 15, 2017, and they were sufficient and fairly express the true meaning and intent of the proposed state law. The proposed initiative clearly reflected the intent of the initiative. It is well established in Colorado that it is in the interest of public policy for the Title Board to confer jurisdiction on citizen ballot initiatives. Provisions relating to the initiative should be liberally construed to permit, if possible, the exercise by the electors of this more important privilege.

Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938); *Say v. Baker*, 137 Colo. 155, 322 P.2d 317 (1958).

The Motion for Rehearing should have been denied because the respondent impermissibly argued that the Title Board's function is to interpret the initiative. It is not the function of the Supreme Court in the review proceeding, nor is it the board's function, to determine the meaning of the language of the initiative. *Spelts v. Klausling*, 649 P.2d 303 (Colo. 1982). Furthermore, the Motion for Rehearing should have been denied because it impermissibly argues about the merits of the proposed initiative. The Court will not address the merits of the proposed initiative nor interpret the meaning of proposed language. It is beyond the scope of the court's review to interpret or construe the language of a proposed initiative. *In re Proposed Ballot Initiative on Parental Rights*, 913 P.2d 11227 (Colo. 1996). The Motion for Rehearing should have been denied because it erroneously raised a myriad of possible future problems and ignores the limitation of review which is whether the intent of the initiative is properly reflected. On review, the Supreme Court can only consider whether the titles, summary, and submission clause reflects the intent of the initiative, not whether they reflect all possible problems that may arise in the future in applying the language of the initiative. *In re Proposed Initiative on Transf. of Real Estate*, 200 Colo. 40, 611 p.2d 981 (1982).

The Title Board's action on November 15, 2017, in setting title and Ballot Initiative 2017-2018 #70, are presumed to be valid by operation of law. In fact, a proposed ordinance is clothed with the presumption of validity and its constitutionality will not be considered by the courts by means of a hypothetical question, but only after enactment. *City of Rocky Ford v. Brown*, 133 Colo. 262, 293 P.2d 974 (1956). No

discretion rests with administrative officials to pass on the validity of an act proposed by the people. *City of Rocky Ford v. Brown*, 133 Colo. 262, 293 P.2d 974 (1956). The burden of proving procedural noncompliance rests with the petitioner, not with the proponents of the initiative. A presumption exists that the secretary of state properly determined the sufficiency of the filing of a petition to initiate a measure. *In re Petition on Campaign and Political Finance*, 877 P.2d 311 (Colo. 1994). The respondent failed to meet its burden of proof and accordingly, the Motion for Rehearing should have been denied and it was erroneous for the Title Board to grant same.

II. The Title Board has jurisdiction because the proposed initiative is definite, clear and understandable.

The language of Initiative 70 is definite, clear and understandable and is different and distinct from the language of Initiative 20. Initiative 70 is not an updated version of Initiative 20 despite the petitioner's material misrepresentations to the contrary. Accordingly, any and all references and comparisons to Initiative 20 are irrelevant and are a distraction and should not be considered by the Title Board. The Motion for Rehearing the petitioner impermissibly argues claim preclusion and law of case principles. In fact, Section 1-40-107 provides a special statutory process that overrides claim preclusion or law of case principles. Consequently, the title board and Supreme Court must review an initiative challenged under this section even if its language is identical to the language of a previous initiative. *In re Ballot Title 2005-2006 No. 55*, 138 P.3d 273 (Colo. 2006).

Pursuant to Section 1-40-105 (1.5) C.R.S., the petitioners attended review and comment hearings on April 7, 2017, July 19, 2017, August 23, 2017, September 7, 2017, September 22, 2017 and October 25, 2017. The petitioners attended said hearings,

reviewed comments and worked with Legislative Council Staff and made suggested edits and corrections and on October 25, 2017, petitioners submitted the final version of Initiative 2017-2018 # 70. On October 26, 2017, the Directors of the Office of Legislative Services and Legislative Council sent petitioners a waiver letter pursuant to Section 1-40-105 (2) C.R.S., notifying them that Proposed Initiative 2017-2018 # 70 did not raise any additional comments and that another review and comment hearing was not necessary. Where changes in final version of initiative submitted to Secretary of State were in direct response to substantive questions and comments raised by directors of the legislative council and the office of legislative legal services, the petitioners of the initiative were not required to resubmit the initiative to the directors. *In re Ballot Title 1999-2000 No. 256*, 12 P.3d 246 (Colo. 2000). The respondent failed to meet its burden of proof and accordingly, the Motion for Rehearing should have been denied and it was erroneous for the Title Board to grant same.

III. The proposed initiative 2017-2018 #70 complies with the single-subject requirement pursuant to section 1-40-106.5 C.R.S.

The Motion for Rehearing should have been denied because Proposed Initiative 2017-2018 #70, contains a single-subject which is Severance Taxes on Oil and Gas pursuant to 1-40-106 C.R.S. Proposed Initiative 2017-2018 #70, is simply a severance tax on oil and gas and provides details relating to its implementation. The single-subject requirement is not violated simply because it an initiative with a single, distinct purpose spells out details relating to its implementation. As long as the procedures specified have a necessary and proper relationship to the substance of the initiative, they are not a separate subject. *Matter of Ballot Title 1997-98 No. 74*, 962 P.2d 927 (Colo. 1998); *In re Ballot Title 199-2000 No. 255*, 4 P.3d 485 (Colo. 2000). Again, the stated purpose of Proposed

Initiative 2017-2018 #70 is to raise severance taxes on hydraulic fracturing (fracking) operations in Colorado: nothing more, nothing less.

Why does Colorado subsidize the World's most profitable industry? The oil and gas industry pollutes our air, land and water, devastates the safety, health and welfare of Colorado communities, in 2017, incinerated two Coloradans in Firestone, insists on putting fracking wells next to schools and homes over the objections of concerned parents, children and communities and refuses to pay its fair share. In Colorado, the oil and gas industry pays an effective severance tax of only 1.9% through ad valorem deductions and stripper well exemptions. In fact, the oil and gas industry pays no severance taxes on 75% of the State's oil and gas wells. In neighboring states of Wyoming and New Mexico, oil and gas industry pays 5.5 % and 6.9% respectively in severance taxes; however, Colorado leaves billions on the table and between 2002 and 2006, Colorado failed to assess \$1.3 billion in severance taxes. The additional revenue that Proposed Initiative 2017-2018 #70, will bring into Colorado's coffers will be used to redress the negative health, social and environmental impacts of fracking and fund elementary education in Colorado which now rivals Mississippi at the bottom of the public investment ladder. North Dakota has saved \$4 billion from oil and gas taxes and Colorado has saved nothing.

Neither, TABOR nor "deBrucing" concerns apply here despite opposing counsel's disingenuous arguments to the contrary. Proposed Initiative 2017-2018 #70, does not raise tax rates on the public nor does it increase spending limits because it only raises taxes on oil and gas in order to redress the negative health, social and environmental impacts of fracking and fund elementary education. The petitioner

intentionally conflates TABOR and “deBrucing” which are inapplicable and irrelevant to Proposed Initiative 2017-2018 #70. Furthermore, the petitioner impermissibly attempts to interpret and construe the language of Proposed Initiative 2017-2018 #70 and erroneously attempts to predict possible problems that may arise in the future. On review, the supreme court can only consider whether the titles, summary, and submission clause reflects the intent of the initiative, not whether they reflect all possible problems that may arise in the future in applying the language of the initiative. *In re Proposed Initiative on Transf. of Real Estate*, 200 Colo. 40, 611 p.2d 981 (1982). The respondent failed to meet its burden of proof and accordingly, the Motion for Rehearing should have been denied and it was erroneous for the Title Board to grant same.

IV. The title is not misleading nor does it contain an impermissible catch phrase.

The Motion for Rehearing should have been denied because the Title of Proposed Initiative 2017-2018 #70, is not misleading nor does it contain an impermissible catchphrase despite the petitioner’s material misrepresentations to the contrary. In fact, the description more than adequately conveys to a voter the extent of the severance tax increase on the oil and gas industry. The Text of Proposed Initiative 2017-2018 #70 reads that: “*State taxes shall be increased \$470,800.00 annually by a change to the Colorado Revised Statutes concerning the severance tax on oil and gas extracted in the State, and, in connection therewith, increasing the severance tax by 5 percent points...*” Said language fairly and succinctly advises the import of the proposed law. The purpose of the title-setting process is to ensure that both the persons reviewing an initiative petition and the voters are fairly and succinctly advised of the import of the proposed law. *In re Proposed Initiative on Education Tax Refund*, 823 P.2d 1353 (Colo. 1991);

Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994). It is opposing counsel that is attempting to mislead by falsely implying that this measure raises taxes on Coloradans when the truth of the matter is that it only raises taxes on the oil and gas industry.

The Proposed Initiative 2017-2018 #70 provides for “*medical care and treatment to people suffering negative health impacts proximately caused by oil and gas production.*” Said language is not an impermissible catch phrase despite opposing counsel’s material misrepresentations to the contrary. In fact, said language clearly states the intention to the initiative to require that the oil and gas industry fund medical care for the harm, destruction deaths that their lethal industry causes to Coloradans and communities negatively impacted by oil and gas production. In a similar case, the Court found that the “*Right of health care choice*” is not an impermissible catch phrase because the phrase is a descriptive term that presents to voters in a straightforward manner. *In re Title Board Title, Sub. C1. For 2009-2010 No. 45*, 234 P.3d 642 (Colo. 2010). Similarly, the above referenced language is necessary to describe the negative health impacts caused by fracking operations. In fact, fracking results in air, water and soil contamination; species extinction; ozone depletion; climate change and necessitates medical treatment for skyrocketing cases of asthma, cancer, immune system diseases, cognitive deficiencies, miscarriages and birth defects. So, while the profits from fracking go to the oil and drilling companies, the costs of cleanup, adverse environmental and health consequences will be borne by the people of Colorado. Again, it is opposing counsel that is attempting to mislead and deflect by falsely stating that the above referenced language contains an impermissible catchphrase. The Title in

Proposed Initiative 2017-2018 #70 is clear and it fairly and sufficiently advises voters about the import of the severance tax. A sufficiently clear title enables the electorate whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal. *In re Ballot Title 2011-2012*, No. 45, 2012 CO 26, 274 P.3d 576. The respondent failed to meet its burden of proof and accordingly, the Motion for Rehearing should have been denied and it was erroneous for the Title Board to grant same.

V. The abstract adequately describes that the oil and gas industry will bear the severance tax increase and properly details the economic impacts thereby complying with Section 1-40-105.5 (3).

The Motion for Rehearing should have been denied because the Abstract of Proposed Initiative 2017-2018 #70, adequately describes that the oil and gas industry will bear the severance tax increase and properly details the economic impacts thereby complying with Section 1-40-105.5 (3). In fact, the abstract is very clear and is not misleading under Section 1-40-107 (1)(a)(II)(B), despite the petitioner's material misrepresentations to the contrary. The petitioner impermissibly argues about the meaning or application of the severance tax. The Board is not required to consider and resolve potential or theoretical disputes or determine the meaning or application of proposed amendment. *Matter of Title, Ballot Title & S. Clause*, 875 P.2d 207 (Colo. 1994).

The abstract is not misleading because it does not mention elimination of the tax credit. The petitioner impermissibly argues about potential economic impacts and possible interpretations of the language of Proposed Initiative 2017-2018 #70. It is not function of the Board to disclose every possible interpretation of the language of the

initiative. *In Re Prop. Init. "Fair Fishing"*, 877 P.2d 1355 (Colo. 1994). The respondent failed to meet its burden of proof and accordingly, the Motion for Rehearing should have been denied and it was erroneous for the Title Board to grant same.

CONCLUSION

Based upon the foregoing, Petitioners Andrew J. O'Connor and Mary E. Henry respectfully request that the Court reverse the Title Board's decision to grant Motion for Rehearing and remand this case back to the Title Board because the measure does not violate the single-subject requirement and the Title Board has jurisdiction to set title.

Respectfully submitted on this 24th day of January 2018.
ANDREW J. O'CONNOR AND MARY E. HENRY

By: /s/ Andrew J. O'Connor and Mary E. Henry
Andrew J. O'Connor and Mary E. Henry
1220 W. Devonshire Court
Lafayette, CO 80026
Phone Number: (303) 882-1693
Email: occonnorandrew@hotmail.com
Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of January 2018, a true and correct copy of **PETITIONERS' ANSWER BRIEF** was emailed to the following:

Brownstein, Hyatt, Faber, Schreck, L.L.P.

Attn: Jason R. Dunn

410 17th Street, #2200

Denver, CO 80202

Email: jdunn@bhfs.com

Attorneys for Respondent

Office of the Colorado Attorney General

Attn: LeeAnn Morrill, First Assistant Attorney General

Ralph L. Carr Colorado Judicial Center

1300 Broadway, 6th Floor

Denver, CO 80203

Email: leeann.morrill@coag.gov

Attorneys for Title Board

/s/ Andrew J. O'Connor

Andrew J. O'Connor

From: mary henry [mailto:meandgriff@gmail.com]

Sent: Thursday, December 7, 2017 8:54 PM

To: Steven Ward <Steven.Ward@SOS.STATE.CO.US>; Jim Tatten <jimtatten@legislativebasecamp.com>; jdunn@bhfs.com; newsroom@denverpost.com

Subject:

Hello Mr Ward,

Please find this complaint about Jason Dunn making threatening remarks against my husband before the December 6, 2017, Title Board Meeting. Please forward this complaint to the Title Board. I want to bring to you and the Board's attention an incident that occurred yesterday morning before the Title Board meeting at 10 a.m. I was standing in the hallway by the elevators and there was a group of people talking loudly about the ballot initiative that my husband and I have worked on. I heard Mr. Dunn say to the group that included a reporter for The Denver Post the following: "I want to say to the Title Board don't shoot the messenger but shoot the guy who brought it" while pointing at my husband. Jim Tatten also heard Mr. Dunn's threat. The comment upset and shocked me because Mr. Dunn made the comment in a threatening tone and I felt threatened and unsafe. Less than a year ago Mr Dunn claimed to feel threatened by a letter to the editor written by my husband. Mr. Dunn's actions yesterday were threatening, intimidating and inappropriate and they should not be tolerated by the Title Board. I am worried about me and my husband's safety next time we appear before the Title Board. Please investigate this unfortunate incident.

Thank you,

Mary Henry

Untitled

mary henry <meandgriff@gmail.com>

Tue 12/12/2017 2:00 PM

To: beth@bethmccann.org <beth@bethmccann.org>; Jim Tatten <jimtatten@legislativebasecamp.com>;
newsroom@denverpost.com <newsroom@denverpost.com>; andrew oconnor <oconnorandrew@hotmail.com>;
jdunn@bhfs.com <jdunn@bhfs.com>;

Cc: Steven.Ward@sos.state.co.us <Steven.Ward@sos.state.co.us>;

Dear Ms. McCann,

Please find this criminal complaint and request for investigation regarding Jason Dunn. On 12/6/2017, Mr. Dunn publicly threatened my husband in the hallway by the elevators outside the Aspen Room at the Colorado Secretary of State's Office. Mr. Dunn publicly made this threat in front of several people including myself, Jim Tatten and a Denver Business Journal reporter. Mr. Dunn's threat against my husband made me feel unsafe at the Title Board hearing. My husband and I are co-sponsors on Ballot Initiative 2017-2018 # 70, Severance Tax on Oil and Gas and Mr. Dunn is an attorney with Bronstein, Hyatt and represents oil and gas. I have included the original complaint to the Title Board and the Title Board's response for your review. If you have any questions then please do not hesitate to contact me via email or call me at (303) 919-7124. Thank you.

Mary E. Henry

Fwd: RE:see this!

mary henry <meandgriff@gmail.com>

Tue 12/12/2017 12:44 PM

to: andrew oconnor <oconnorandrew@hotmail.com>;

----- Forwarded message -----

From: "Steven Ward" <Steven.Ward@sos.state.co.us>

Date: Dec 12, 2017 10:58 AM

Subject: RE:

To: "mary henry" <meandgriff@gmail.com>

Cc:

Ms. Henry,

First, let me apologize for the delay in responding to your message. I was unexpectedly out of the office on Friday and Monday dealing with a family emergency. Today, I was able to follow up on your message. At our office, we take the security of our constituents, guests, and our staff seriously. Because of your concerns, we plan to have security at any future meeting of the Title Board where you or your husband are expected to appear. However, neither the Title Board nor the Secretary of State are law enforcement bodies, so we cannot take any other action on your complaint.

Please contact a law enforcement agency if you feel that you or your husband have been the victims of any illegal behavior or you otherwise feel endangered.

Thank you,

Steven Ward

Colorado Department of State

Elections Division

303-894-2200 x6318

steven.ward@sos.state.co.us

Detective Norwell
(720) 913-2959

Case # 17-848244 Offense THREATS

Please call between _____ AM PH & _____ AM PH You have an appointment:

Room _____

Date: 12-20-17 Time: 5:00 AM PH

Non-Emergency Police (720) 913-2000
 Positive Comments or Complaints (720) 913-6665
 Nuisance Abatement Office (720) 913-6220
 City and County of Denver www.denvergov.org
 Denver Police www.denvergov.org/police
 On-Line Offense Report www.denvergov.org/police/report
 On-Line Accident Report https://crash.state.co.us
 Volunteer's in Policing www.denvergov.org/police/volunteers

Title Board - Hearing Results

Steven Ward <Steven.Ward@SOS.STATE.CO.US>

Wed 1/3/2018 4:36 PM

To: andrew oconnor <oconnorandrew@hotmail.com>;

Cc: Mary O'Connor <meandgriff@gmail.com>;

1 attachments (41 KB)

2017-2018 #94 - Hearing Results.pdf;

The results from today's Title Board session are attached to this message.

Our office submitted a request for a trooper to attend today's Title Board session. The request was confirmed by State Patrol. Unfortunately, the trooper did not arrive until after your initiative was heard. While I cannot speak to the service provided by another state agency, please know that the request was made and confirmed. We did everything that we needed to do in order to provide a secure environment, and we intend to ensure that we have coverage for future Title Board sessions. Additionally, while I cannot discuss any specific security plans for our office, there may be additional security measures in place that are not immediately visible.

Thank you,

Steven Ward
Colorado Department of State
Elections Division
303-894-2200 x6318
steven.ward@sos.state.co.us

Exhibit E

Mary Henry
1220 West Devonshire CT
Lafayette CO 80026
3039197124

1/8/2018

Colorado Supreme Court

Attorney Regulation Counsel

Attn: Lisa E Pierce, Assistant Regulation counsel

1300 Broadway

Suite 500

Denver CO 80203

RE: Complaint Regarding Jason R Dunn 17-3584

Dear Ms Pearce,

Please find the complaint and request for investigation regarding attorney Jason Dunn (Bar #33011). On December 6 2017, I was at the Secretary of State's office on 1700 Broadway Denver CO 80203, awaiting a title board meeting regarding a bill my husband, Andrew O'Connor and I are co-sponsors on. I was standing out in the hall with about 15-20 other people waiting to attend. There was a large group of people standing by the elevators including Jason Dunn, a reporter from the Denver Business Journal and others who were talking loudly. I heard Mr. Dunn say "I want to say to the title board don't shoot the messenger, shoot the person who brought this" and pointed in the direction of my husband. I was very upset and felt that Mr. Dunn was making a direct threat against us. After the title board hearing was over I approached a gentleman I know named Jim Tatten and I asked him if he had overheard Mr. Dunn's statement. He immediately showed me a notebook in which he had documented the statement.

I ask you to investigate Mr. Dunn for threatening and unprofessional misconduct.

Thank you

Mary Henry

EXHIBIT

**Andrew J. O'Connor
1220 W. Devonshire Court
Lafayette, CO 80026
(303) 882-1693**

January 8, 2018

VIA HAND DELIVERY

Colorado Supreme Court
Attorney Regulation Counsel
Attn: Lisa E. Pearce, Assistant Regulation Counsel
1300 Broadway, Suite 500
Denver, CO 80203
(303) 457-8500

Re: Complaint About Jason Dunn, 17-3584

Dear Ms. Pearce:

Please find this complaint and request for investigation about Colorado attorney Jason Dunn, Bar # 33011. On December 6, 2017, Mr. Dunn made a death threat against me outside the Aspen Room on the third floor of the Colorado Secretary of State's Office, 1700 Broadway, Denver, Co 80203. Said threats were heard by my wife, Mary E. Henry and Jim Tatem. We reported the threats to the Denver Police Department, Case # 17-848-244, to the Title Board which has been forced to provide additional security because of Mr. Dunn's threats as well as to Denver District attorney Beth McCann. I have provided copies of emails from my wife to the Title Board as well as the Title Board's response. I am also providing a copy of the police report. Please initiate an investigation into Mr. Dunn's criminal misconduct and violations of the rules of professional conduct for attorneys in Colorado. Thank you.

Very truly yours,

Andrew J. O'Connor