

THE STATE OF MONTANA

Commissioner of Political Practices 1209 Eighth Avenue Post Office Box 202401 Helena, MT 59620-2401 Phone: 406-444-2942 Fax : 406-444-1643 www.politicalpractices.mt.gov

Campaign Finance and Practices

Complaint Form (08/17)

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Type or print in ink all information on this form except for verification signature

JAN 28 2021

Person bringing complaint (Complainant): Complete Name Sean Rankin Complete Mailing Address 1350 I St NW Ste 300 Washington, DC 20005 Phone Numbers: Work 202-470-3165 Home

Person or organization against whom complaint is brought (Respondent): Complete Name Republican Attorneys General Association ("RAGA"); Austin Knudsen; Austin for Montana and its treasurer, Katie Wenetta; and RAGA Action Fund Complete Mailing Address RAGA and RAGA Action Fund: 1747 Pennsylvania Avenue, NW, Suite 800, Washington, DC 20006 Austin Knudsen, Austin for Montana, and Katie Wenetta: P.O. Box 5202 Helena, MT 59604 Phone Numbers: Work RAGA Action Fund: 202-263-4660 Austin for Montana: 406 561-8964 Home

Please complete the second page of this form and describe in detail the facts of the alleged violation.

Verification by oath or affirmation State of Montana, County of Washington, DC, District of Columbia I, Laly Rivera Perez, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief. Signature of Complainant Subscribed and sworn to before me this 28 day of January, 2021. Laly Rivera Perez Notary Public My Commission Expires: 2/28/2023

**Statement of facts:**

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

According to publicly-available facts, either Austin for Montana accepted in-kind contributions from a prohibited source well in excess of state contribution limits or RAGA failed to disclose its spending to the state. Either way, a clear violation of law has occurred. We request an immediate investigation into these violations.

Continued on attached.

**Complaints must be:**

- signed
- notarized
- delivered in person or by mail.



January 27, 2021

Commissioner Jeff Mangan  
Commissioner of Political Practices  
1209 Eighth Avenue  
P.O. BOX 202401  
Helena, MT 59620-2401  
[cpphelp@mt.gov](mailto:cpphelp@mt.gov)

Dear Commissioner Mangan:

Pursuant to Rule 44.11.106 of the Montana Administrative Rules, this letter and the accompanying Campaign Finance and Practices Complaint Form serve as a written complaint against the Republican Attorneys General Association (“*RAGA*”); Austin Knudsen; Austin for Montana and its treasurer, Katie Wenetta; and RAGA Action Fund, a political action committee registered with the Federal Election Commission. According to publicly-available facts, *either* Austin for Montana accepted in-kind contributions from a prohibited source well in excess of state contribution limits *or* RAGA failed to disclose its spending to the state. Either way, a clear violation of law has occurred. We request an immediate investigation into these violations.

### Factual Background

RAGA is a tax-exempt organization organized under Section 527 of the U.S. Internal Revenue Code.<sup>1</sup> According to RAGA’s website, “RAGA collaborates with our current Republican attorneys general and recruits outstanding candidates, providing them assistance with research, message development, and financial support.”<sup>2</sup> RAGA is not registered as a political committee in Montana.<sup>3</sup>

Austin Knudsen ran for election as a Republican candidate for Attorney General in 2020.<sup>4</sup> His candidate committee is Knudsen for Montana.<sup>5</sup> Raph Graybill ran for election as a Democrat candidate for Attorney General in 2020, and therefore was Mr. Knudsen’s opponent.<sup>6</sup>

After Mr. Knudsen won the election, RAGA released a press statement highlighting its contribution to Mr. Knudsen’s victory, stating that, “RAGA made strategic investments in the Montana Attorney General’s race because Austin Knudsen has a track record of supporting the

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<sup>1</sup> Alexander Burns, *Powerful GOP group splits apart*, Politico (Jan. 21, 2014),

<https://www.politico.com/story/2014/01/republican-state-leadership-committee-split-102443>.

<sup>2</sup> Republican Attorneys General Association, About RAGA, <https://republicanags.com/about/>.

<sup>3</sup> Mont. Campaign Electronic Reporting System, <https://cers-ext.mt.gov/CampaignTracker/public/search>.

<sup>4</sup> Mont. Campaign Electronic Reporting System, Statement of Candidate: Austin Knudsen, <https://cers-ext.mt.gov/CampaignTracker/public/search>.

<sup>5</sup> Austin for Montana, <https://austinformontana.com/>.

<sup>6</sup> Mont. Campaign Electronic Reporting System, Statement of Candidate: Raph Graybill, <https://cers-ext.mt.gov/CampaignTracker/public/search>.

rule of law and policies that will keep Montanans safe.”<sup>7</sup> As part of its “strategic investments” in electing Mr. Knudsen, RAGA issued at least seven other press releases supporting Mr. Knudsen’s campaign, some of which publicized television advertisements that advocated for Mr. Knudsen’s election.<sup>8</sup>

RAGA Action Fund is registered as a political action committee with the Federal Election Commission.<sup>9</sup>

RAGA maintains a Facebook page and paid Facebook over \$10,000 to promote about 100 advertisements initially aired by RAGA Action Fund supporting Mr. Knudsen and opposing Mr. Graybill (the “Paid Ads”), starting after the June 2, 2020 primary election and through the November 3, 2020 general election.<sup>10</sup> The Paid Ads featured text such as “Say no to Graybill,” “Stop Graybill,” “Austin Knudsen for Attorney General,” and “Austin Knudsen: The only choice.”<sup>11</sup>

Facebook requires that political advertisements include a sponsorship disclaimer that “[a]ccurately represent[s] the name of the entity or person responsible for the ad” and that the “name of the entity paying for the ad must be accurate, complete and truthful.”<sup>12</sup> Indeed, the Paid Ads ran through RAGA’s Facebook page and the Facebook-required disclaimer confirmed they were “[p]aid for by Republican Attorneys General Association.”<sup>13</sup>

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<sup>7</sup> RAGA, *RAGA Congratulates Austin Knudsen on Being Elected Montana Attorney General* (Nov. 4, 2020), <https://republicanags.com/2020/11/04/raga-congratulates-austin-knudsen-on-being-elected-montana-attorney-general/>.

<sup>8</sup> RAGA, *Radical Raph Will Rip Guns Out of Montanans Hands* (Oct. 20, 2020), <https://republicanags.com/2020/10/20/radical-raph-will-rip-guns-out-of-montanans-hands/>; *Seattle Elitist Lawless Liberal Raph Graybill Doesn’t Support Issues Important to Montanans* (July 14, 2020), <https://republicanags.com/2020/07/14/seattle-elitist-lawless-liberal-raph-graybill-doesnt-support-issues-important-to-montanans/>; *Raph Graybill is a Puppet for Radical Groups who Support Defunding the Police and Taking Away Guns* (Oct. 9, 2020), <https://republicanags.com/2020/10/09/raph-graybill-is-a-puppet-for-radical-groups-who-support-defunding-the-police-and-taking-away-guns/>; *Soft on Crime Liberal Seattle Politician Raph Graybill will Not Keep Montanans Safe* (Sept. 15, 2020), <https://republicanags.com/2020/09/15/soft-on-crime-liberal-seattle-politician-raph-graybill-will-not-keep-montanans-safe/>; *Radical Raph Graybill is Backed by Dangerously Progressive Special Interest Groups* (Oct. 27, 2020), <https://republicanags.com/2020/10/27/radical-raph-graybill-is-backed-by-dangerously-progressive-special-interest-groups/>; *ICYMI: The Great Falls Police Protective Association Endorses Austin Knudsen for Attorney General* (Oct. 22, 2020), <https://republicanags.com/2020/10/22/icymi-the-great-falls-police-protective-association-endorses-austin-knudsen-for-attorney-general/>; *Austin Knudsen is a Proven Prosecutor Who Will Defend Montana Values* (Sept. 23, 2020), <https://republicanags.com/2020/09/23/austin-knudsen-is-a-proven-prosecutor-who-will-defend-montana-values/>.

<sup>9</sup> FEC, Statement of Organization: RAGA Action Fund, <https://docquery.fec.gov/pdf/188/202004109216632188/202004109216632188.pdf>.

<sup>10</sup> Facebook, Republican Attorneys General Ass’n, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=knudsen&view\\_all\\_page\\_id=172298889630363&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=knudsen&view_all_page_id=172298889630363&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped).

<sup>11</sup> *Id.*

<sup>12</sup> Facebook, *How Disclaimers Work for Ads About Social Issues, Elections or Politics*, <https://www.facebook.com/business/help/198009284345835?id=288762101909005>.

<sup>13</sup> Facebook, Republican Attorneys General Ass’n, [https://www.facebook.com/ads/library/?active\\_status=all&ad\\_type=political\\_and\\_issue\\_ads&country=US&q=knudsen&view\\_all\\_page\\_id=172298889630363&sort\\_data\[direction\]=desc&sort\\_data\[mode\]=relevancy\\_monthly\\_grouped](https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&q=knudsen&view_all_page_id=172298889630363&sort_data[direction]=desc&sort_data[mode]=relevancy_monthly_grouped).

However, the *on-screen disclaimer* embedded into the actual graphics or video themselves said that the Paid Ads were “[p]aid for by RAGA Action Fund.”<sup>14</sup>

RAGA is not registered as a political committee in Montana, nor has it filed any financial statements in Montana or otherwise disclosed any expenditures to the Montana Commission of Political Practices.<sup>15</sup> Although RAGA Action Fund has filed campaign finance reports with the Montana Commissioner of Political Practices (“*COPP*”), it has not disclosed any expenditures to Facebook during this election cycle.<sup>16</sup>

### Legal Analysis

The facts indicate one of two things occurred here. Either the Paid Ads were coordinated with Mr. Knudsen, which his campaign committee did not disclose as contributions, and which are prohibited under Montana’s source restrictions and contribution limits. Alternatively, if the Paid Ads do not constitute coordinated expenditures with Mr. Knudsen and instead are independent expenditures, then RAGA has failed to file reports disclosing the independent expenditures, as required under Montana law. In either case, either Austin for Montana or RAGA has failed to disclose over \$10,000 expenditures for the Paid Ads.

#### I. Coordinated Expenditures

Montana permits candidate committees to accept contributions only from individuals, state political committees, and federal political committees.<sup>17</sup> Candidates for attorney general may only accept \$360 per primary or general election from each of the foregoing permissible sources.<sup>18</sup> For these purposes, “contributions” include coordinated expenditures, which Montana defines to include paid internet communications that “support or oppose” a candidate, and which were made by a person “in cooperation with, in consultation with, under the control of, or at the direction of, in concert with, at the request or suggestion of, or with the express prior consent of a candidate or an agent of the candidate.”<sup>19</sup> “Support or oppose” includes terms of express advocacy such as “elect” or “defeat,” or references to a candidate that are susceptible of no reasonable interpretation other than as a call for the election or defeat of the candidate in an election.<sup>20</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> Mont. Campaign Electronic Reporting System, <https://cers-ext.mt.gov/CampaignTracker/public/search>.

<sup>16</sup> Mont. COPP, Campaign Report Search, [https://dataportal.mt.gov/t/DOASITSDIBMDBA/views/CommitteeReportSearch\\_P/CommitteeReportSearchDash?showAppBanner=false&:display\\_count=n&:showVizHome=n&:origin=viz\\_share\\_link&:embed=yes&:linktarget=\\_parent](https://dataportal.mt.gov/t/DOASITSDIBMDBA/views/CommitteeReportSearch_P/CommitteeReportSearchDash?showAppBanner=false&:display_count=n&:showVizHome=n&:origin=viz_share_link&:embed=yes&:linktarget=_parent).

<sup>17</sup> Mont. Code Ann. § 13-37-216(1); Mont. Admin. R. 44.11.305.

<sup>18</sup> Mont. COPP, Montana Political Campaign Contribution Limits, Updated Sept. 23, 2019, <http://politicalpractices.mt.gov/contributionlimits>.

<sup>19</sup> Mont. Admin. R. 44.11.602(1); Mont. Code Ann. § 13-1-101(14)(a).

<sup>20</sup> Mont. Code Ann. § 13-1-101(50).

Further, an entity that contributes to a Montana candidate is required to register as a political committee with the COPP within five days of making its first expenditure, and file campaign finance reports disclosing its spending.<sup>21</sup>

In RAGA's own words, RAGA "recruits outstanding candidates, providing them assistance with research, message development, and financial support," and RAGA particularly "made strategic investments in the Montana Attorney General's race" to support Mr. Knudsen.<sup>22</sup> Given the close ties between RAGA and Mr. Knudsen, RAGA likely qualifies as his agent. And if RAGA qualifies as an agent, the Paid Ads would constitute coordinated expenditures and thus contributions to Austin for Montana. Notably, however, such contributions would be prohibited under Montana law because (i) RAGA is not an individual, state political committee, or federal political committee; and (ii) the value of RAGA's contribution -- over \$10,000 -- is over ten times the state's contribution limits. Accordingly, if the Paid Ads constitute coordinated expenditures, then Austin for Montana violated Montana law by accepting excessive in-kind contributions from a prohibited source.

Moreover, if the Paid Ads constitute coordinated expenditures, then RAGA violated Montana law by failing to register as a political committee within five days of its first coordinated expenditure with (and contribution to) Austin for Montana, and failing to file reports disclosing its spending.

## II. Independent Expenditures

If the Paid Ads are *not* coordinated expenditures with Mr. Knudsen, and instead constitute independent expenditures, then RAGA was required to register with the COPP and file reports disclosing its expenses for the Paid Ads.

An "independent expenditure" includes paid internet communications that "support or oppose" a candidate, and which were not coordinated with a candidate or an agent of the candidate.<sup>23</sup> "Support or oppose" includes terms of express advocacy such as "elect" or "defeat," or references to a candidate that are susceptible of no reasonable interpretation other than as a call for the election or defeat of the candidate in an election.<sup>24</sup>

Any entity that makes independent expenditures is required to register as a political committee with the Montana COPP within five days of making its first expenditure, and then file periodic reports disclosing its expenditures for Montana activity.<sup>25</sup>

The Paid Ads support Mr. Knudsen by describing him with phrases like "the only choice," and oppose Mr. Graybill by using phrases such as "Stop Graybill." Accordingly, if the Paid Ads were

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<sup>21</sup> *Id.* §§ 13-1-101(31)(a), (18)(a); 13-37-201(2)(b); 13-37-226(2)(d). There are limited exceptions to this requirement that apply to political committees registered federally or in another state, which do not apply here. *See* Mont. Admin. R. 44.11.305.

<sup>22</sup> Republican Attorneys General Association, About RAGA, <https://republicanags.com/about/>; RAGA, *RAGA Congratulates Austin Knudsen on Being Elected Montana Attorney General* (Nov. 4, 2020), <https://republicanags.com/2020/11/04/raga-congratulates-austin-knudsen-on-being-elected-montana-attorney-general/>.

<sup>23</sup> Mont. Code Ann. § 13-1-101(25).

<sup>24</sup> *Id.* § 13-1-101(50).

<sup>25</sup> *Id.* §§ 13-37-201(2)(b); 13-37-226(2)(d).

not coordinated expenditures as described in the previous section, the Paid Ads then qualify as independent expenditures. RAGA was therefore required to register as a Montana political committee and file reports disclosing its spending to the state. Despite these clear requirements, RAGA has failed to disclose *any* independent expenditures at this point.

### **Conclusion**

Montana's source restrictions, contribution limits, and disclosure requirements safeguard the integrity of its elections. Here, a clear violation of law has occurred where either Austin for Montana accepted excessive in-kind contributions from a prohibited source or RAGA failed to disclose its spending to the state. In either scenario, Montana voters were denied the transparency required by state law. We request an immediate investigation into these violations.

Sincerely,



Sean Rankin