

March 11, 2014

Follow up Testimony to the Vermont Senate Committee on Commerce

This is my third testimony so allow me to summarize the problems:

It's the sellers that are the source of the problem. Dealers are simply a conduit, that in the worst case facilitate; in the best case can help to eliminate; or occasionally are victims of the problem.

The underlying problem with this legislation, as written, is that it makes the wrong assumption that dealers somehow created or are responsible for the plague around them, and that they should bear the burden of it. This is poor thinking and any piece of legislation that is crafted with this as the basic assumption is unrealistic and will both inhibit legitimate commerce and have little effect on the underlying causes of theft.... which must be acknowledge is illegal drug use and the crimes associated with it.... which seem not to be decreasing.

There are many levels of dealers of precious metals and other items of value, both in volume of business, method of operations and legitimacy. We will never stop all of the deliberate "fences" from doing business through regulations. We can regulate the ones who are visible only. That would suggest that the registration of anybody who advertises to buy in any way or presents himself as a dealer might be subject to laws and codes of conduct as is the case with real estate agents, private investigators and other Vermont professionals. There is nothing wrong with licensing.

Those existing bad dealers who wish to stay in the dark will not come out of hiding to identify themselves and buy into your program, and thinking they will is not realistic. However, if we catch enough bad sellers, some of them will identify the hidden or bad dealers and they will eventually come to light.

I reiterate that it is the sellers who are the root of the problem.

Step #1 is to have a standard procedure and set of rules to positively identify and screen sellers that is used by all the registered dealers. It should be a requirement that any potential seller who fails the screening process should be properly noted, either in dealer records or immediate reporting to authorities. Patterns will appear and arrests will be made.

Here's how a smart dialogue between seller and dealer might go.

Seller appears with a desire to sell. (Dealer may or may not be leery of the person)

Buyer asks to see the item(s)

Buyer then asks to see a photo id and takes a photo of the item(s) with the ID

Buyer then asks seller to fill out a standard statement of ownership, including where, when and from whom the item(s) were acquired.

The Dealer explains to seller that he is next required by the State to check the current list of missing property to see if there is any match. At this point if the dealer has any doubt he says "I'm interested, but I can't make the purchase right now. There may be nothing wrong but I need to clear your items and notify you when it's cleared.

At this point the dealer has everything he needs to know to either buy or to record and report a suspicious seller. If turned away, the illegitimate seller will most likely go to another dealer who might come up with the same suspicion - likely on the same day, because that's what addicts in need do - and when that person appears at another registered dealer we have significant evidence of a possible problem, and the authorities have the opening for immediate intervention.

If, in fact, the suspect turns out to be a problem, the authorities have the opportunity to extract the names and locations of all the places he or she has disposed of stolen property and the bad dealers start getting sorted out. Otherwise, you may never find them.

This system places no outrageous record-keeping on the dealer, yet provides the basic information needed by the dealer and by the authorities. This system places the onus of ownership where it belongs on the seller. This system provides the legitimate dealer with the tools to operate in a smart and responsible manner, and there is nothing wrong with requiring them to do so.

To make all this work the registered dealers absolutely need to have information on stolen goods as soon as possible through cooperation and open communications with law enforcement agents. This is the second way we identify bad sellers, recover goods and solve problems. I note that the current legislature has a draft provision for this and I applaud it.

I hate to bring this up for the third time, but this legislation also focuses solely on precious metals, when all the input I've heard from law enforcement officers is that copper ripped out of vacant properties, and stolen cell phones, computers and other "quick turnover" items is just as

big a problem. Whatever legislation you may ultimately propose cannot deny or ignore this aspect of the obvious underlying problem.

I know that much of this legislation was crafted after models from other states or communities, but this doesn't make it smart, perfect or functional. Vermont has a pretty good track record of doing things better and smarter than other government entities. This is a perfect opportunity to prove it again.

And by the way... there has also been discussion in this legislation about outlawing cash as a means of payment to legitimate sellers. Is the committee aware of the growing illegal and underground internet trade in drugs called the "silk trade" where purchase is made with the new "bit coins." How might you account for this.

There are also a wealth of "mail in" places to sell precious metals. How are they accounted for? How do you account for thieves who simply trade their loot for drugs from their dealer.

Respectfully submitted,

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