

CLERK OF DISTRICT COURT

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IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE  
STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

STATE OF MONTANA, )

Cause No. DC-09-576(B)

Plaintiff, )

vs. )

JUDGMENT AND SENTENCE

DONALD LOUIS CHOUINARD, )

Defendant. )

\* \* \* \* \*

On December 16, 2010, the Defendant, accompanied by  
counsel, Nick Aemisegger, pled guilty to the offenses of Theft  
by Embezzlement, a Felony Common Scheme, and Securities Fraud by  
Conducting a "Ponzi" Scheme, a felony.

A hearing in aggravation and mitigation of sentence was  
then held on February 24, 2011, where the Defendant was  
accompanied by counsel, Nick Aemisegger. In consideration of  
the nature of his offense, his prior criminal history, including  
no prior felony convictions, the amount of restitution owing,  
and his ability to maintain employment and make payments toward  
his court-ordered financial obligations, the recommendations of

JUDGMENT AND SENTENCE

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1 the parties and the Pre-Sentence Investigation prepared by Keely  
2 Absalonson of the Adult Probation and Parole office,

3  
4 **IT WAS THE JUDGMENT OF THIS COURT** that the Defendant is  
5 sentenced for Count I to the Montana State Prison for a term of  
6 TEN (10) years, suspended, and for Count II to the Montana State  
7 Prison for a term of TEN (10) years concurrent to Count I and  
8 suspended subject to the conditions contained in the pre-  
9 sentence investigation report. Additional conditions are that  
10 the Defendant serves THIRTY (30) days in the Flathead County  
11 Detention Center on weekends for ten (10) consecutive weekends  
12 beginning on Friday at 6:00 p.m. until Monday at 6:00 a.m. with  
13 the first weekend to begin Friday, February 25, 2011.

14 As conditions of parole and probation, the Defendant must  
15 comply with the following:

16 1) He must submit to the supervision of the Montana  
17 Department of Corrections, Adult Probation and Parole Bureau,  
18 and fully comply with all requirements and regulations imposed  
19 by that agency. More specifically, and in addition to any  
20 special rules imposed by the Bureau, he:

21 a) must reside at a location approved by his  
22 supervising officer and may not change his place of  
23 residence without first obtaining his supervising officer's  
24 approval to do so, and may not refuse to open the door of  
25 his residence when requested;

1           b) may not travel outside his assigned district  
2 without the prior, written approval of his supervising  
3 officer;

4           c) must obtain gainful employment, and remain so  
5 employed, to the satisfaction of his supervising officer;

6           d) may not change his employment without the prior  
7 approval of his supervising officer;

8           e) must disclose his status as a parolee/probationer  
9 to any prospective or current employer;

10          f) must personally report to his supervising officer  
11 as directed;

12          g) must submit written monthly reports on the forms  
13 provided;

14          h) may not attempt to deceive or otherwise mislead  
15 his probation officer in any respect;

16          i) may not own, possess, or otherwise use O.C. spray  
17 or any firearm or deadly weapon, including black powder  
18 firearms, as defined by state or federal law;

19          j) must obtain his supervising officer's approval  
20 before incurring any debt or entering into any type of  
21 financial undertaking such as, but not limited to,  
22 financing an automobile, purchasing property, or engaging  
23 in business;

24          k) may not own or possess dangerous/vicious animals  
25 such as guard dogs, perimeter security doors, electronic

1 device or scanner capable of listening to law enforcement  
2 communications which could jeopardize his supervising  
3 officer's safety or interfere with his supervising  
4 officer's efforts to monitor his compliance with the  
5 conditions of his sentence;

6 1) must report any arrests or contacts with law  
7 enforcement to his supervising officer within seventy-two  
8 (72) hours.

9 2) He must pay \$210,296.05 in restitution to the victims  
10 in this case, with \$27,993.15 to be paid to A.W. in full first,  
11 and \$182,302.90 to be paid to LPL Financial (Legal Department  
12 Attn: David Freinere, One Beacon Street, 22<sup>nd</sup> Floor, Boston, MA  
13 02109-3106 (or 02108). Payments on this restitution obligation  
14 are to be made to the Department of Corrections-Restitution, at  
15 P.O. Box 201350, Helena, MT 59620 by U.S. postal money order or  
16 cashier's check according to a schedule developed by his  
17 supervising officer. (The payment must include the Defendant's  
18 name and District Court Judgment number so the payment can be  
19 credited. Per the DOC, no receipt will be sent.) Pursuant to §  
20 46-18-241, MCA, an amount equaling 10% of his restitution  
21 obligations is to be assessed to reimburse the DOC for the costs  
22 of supervising and collecting these payments. All of the  
23 methods for collection of restitution provided under § 46-18-241  
24 through § 46-18-249, MCA, apply, including garnishment of wages  
25 and interception of tax refunds. Pursuant to § 46-18-244(6)(b),

1 MCA, the Defendant shall sign a statement allowing any employer  
2 to garnish up to 25% of his wages. The Defendant must continue  
3 to make monthly restitution payments until he has paid full  
4 restitution, even after supervision has ended.

5 3) He must pay **\$50.00** for the preparation of the Pre-  
6 Sentence Investigation to the Department of Corrections, at P.O.  
7 Box 201350, Helena, MT 59620 by U.S. postal money order or  
8 cashier's check, according to a schedule developed by his  
9 supervising officer. (The payment must include the Defendant's  
10 name and District Court Judgment number so the payment can be  
11 credited. Per the DOC, no receipt will be sent.)

12 4) He must pay a **fine of \$20,000.00, all suspended,**  
13 **subject to conditions set forth herein.** He must pay a surcharge  
14 of **\$200.00.** He must pay a surcharge of **\$100.00** for victim and  
15 witness advocate programs. He must pay a surcharge of **\$20.00**  
16 for court information technology. Payments on these obligations  
17 are to be made through the Flathead County Clerk of District  
18 Court, 920 South Main, Kalispell, MT 59901 according to a  
19 schedule developed by his supervising officer.

20 5) Pursuant to the provisions of §§ 45-9-202(2)(d)(ii)  
21 and/or 46-23-1031, MCA, he must pay a quarterly supervision fee  
22 of not less than \$30.00 or more than \$90.00 as determined by his  
23 supervising officer. Payments on supervision fees are to be  
24 made to the Department of Corrections-Supervision Fees, at P.O.  
25 Box 201350, Helena, MT 59620 by U.S. postal money order or

1 cashier's check, according to a schedule developed by his  
2 supervising officer. (The payment must include the Defendant's  
3 name and District Court Judgment number so the payment can be  
4 credited. Per the DOC, no receipt will be sent.)

5 6) He must apply any and all tax refunds towards his  
6 Court-ordered obligations until they are paid in full.

7 7) He may not consume or possess intoxicants.

8 8) He must submit to drug and alcohol testing (breath or  
9 bodily fluid testing) on a regular or random basis as required  
10 by his supervising officer.

11 9) He must submit at any time upon reasonable suspicion  
12 to a warrantless search of his residence, person, vehicle, and  
13 place of employment, and to a chemical analysis of his blood,  
14 breath, and urine, at the request of his supervising officer.

15 10) He may not possess or use illegal drugs, nor may he  
16 possess any drug paraphernalia.

17 11) He may not possess any drugs unless prescribed by a  
18 licensed physician.

19  
20 12) He must participate in any counseling determined  
21 appropriate by the Probation and Parole Officer, including  
22 financial counseling.

23 13) He must not possess or use any electronic device or  
24 scanner capable of listening to law enforcement communications.

1 14) He may not associate with probationers, parolees,  
2 prison inmates, or persons in the custody of any law enforcement  
3 agency without the prior approval of his supervising officer. He  
4 may not associate with anyone else ordered by the Court or by  
5 his supervising officer to be inappropriate.

6 15) He may not have contact with the victims in this  
7 matter, **J.M., L.S., A.W., and individuals associated with LPL**  
8 **Financial**, by means of writing, telephone, third-party, or in  
9 person.

10 16) He must serve 100 hours of community service at the  
11 direction of his supervising officer.

12 17) He must abide by any curfew imposed by his supervising  
13 officer.

14 18) He must attend self-help meetings at the direction of  
15 the Probation and Parole Officer.

16 19) Pursuant to § 26-23-1004(9), MCA, he must disclose to  
17 any and all employers notice of his conviction involving theft  
18 from an employer.

19 20) He must remain law abiding in all respects and conduct  
20 himself as a good citizen.

21 The Defendant is hereby advised that he has 120 days from  
22 the date of filing this Judgment and Sentence to contest any  
23 perceived differences between this written Judgment and the  
24 Court's oral pronouncement of sentence.

25  
JUDGMENT AND SENTENCE

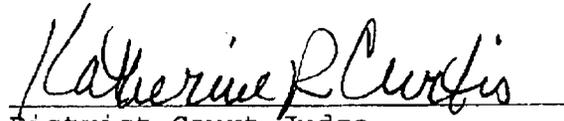
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1 Any bond posted in this matter is hereby exonerated and is  
2 to be released to the Defendant or his posting surety.

3 DONE IN OPEN COURT the 24th day of February, 2011.

4 DATED this 21<sup>st</sup> day of April, 2011.

5  
6   
7 District Court Judge

8 cc: Ed Corrigan, County Attorney  
9 Jesse Laslovich, Special Assistant Montana Attorney General  
10 840 Helena Ave.  
11 Helena, MT 59602

12 Nick Aemisegger, Defense Counsel

13 Donald L. Chouinard, Defendant

14 Flathead County Sheriff's Office  
15 Adult Probation and Parole

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