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**MONTANA ELEVENTH JUDICIAL DISTRICT COURT,
FLATHEAD COUNTY**

STATE OF MONTANA,

Plaintiff,

vs.

DONALD L. CHOUINARD,

Defendant.

Cause No.: DC-09-576B

KATHERINE R CURTIS

**MOTION & AFFIDAVIT FOR ORDER
GRANTING LEAVE TO FILE
INFORMATION DIRECTLY IN
DISTRICT COURT**

STATE OF MONTANA)
 :SS
County of Lewis & Clark)

JESSE LASLOVICH, being first duly sworn, upon oath, deposes and says:

1. That he is a duly appointed, qualified, and acting Special Deputy County Attorney in and for the county of Flathead, state of Montana.

2. That the Defendant has committed offenses in Flathead County as hereinafter set forth and, based upon information developed through an investigation conducted by law enforcement officers and criminal justice investigators, the Court should grant leave to file an

Information directly in District Court pursuant to Mont. Code Ann. § 46-11-201, charging the
Motion and Affidavit for Order Granting Leave to File Information Directly in District Court
STATE OF MONTANA v. DONALD L. CHOUINARD

above named Defendant with the offenses of: **COUNT ONE**, THEFT by EMBEZZLEMENT (Common Scheme), a FELONY, in violation of Mont. Code Ann. § 45-6-301(7)(a); **COUNT TWO**, SECURITIES FRAUD by conducting a Ponzi Scheme, a FELONY, in violation of Mont. Code Ann. § 30-10-325; **COUNT THREE**, SECURITIES FRAUD by making untrue statements of material fact to J.M., a FELONY, in violation of Mont. Code Ann. § 30-10-301(b); **COUNT FOUR**, SECURITIES FRAUD by making untrue statements of material ~~fact to~~ L.S., a FELONY, in violation of Mont. Code Ann. § 30-10-301(b); and **COUNT FIVE**, SECURITIES FRAUD by making untrue statements of material fact to A.W., a FELONY, in violation of Mont. Code Ann. § 30-10-301(b).

3. That law enforcement officers and criminal justice investigators have made a full and careful investigation of all the facts and circumstances surrounding the commission of said offense, so far as they are known or ascertainable and Affiant believes it a proper case for the filing of an Information. For this reason and pursuant to Mont. Code Ann. § 46-11-201, Affiant respectfully moves the Court for leave to file said Information directly in District Court.

4. That the following information is submitted to establish probable cause for the filing of the foregoing charges:

a. Until May 12, 2009, the Defendant was registered with the Montana Securities Department (Department) as a broker/dealer salesperson and investment adviser.

b. After receiving complaints from some of the Defendant's clients about possible misappropriation of their money, the Department requested that an Investigative Subpoena Duces Tecum be issued by the First Judicial District Court to the Defendant's bank, Glacier Bank of Kalispell (Glacier Bank).

c. On August 25, 2009, District Court Judge Kathy Seeley (First Judicial District) issued an Investigative Subpoena Duces Tecum to Glacier Bank.

d. As part of its investigation, the Department obtained the following information from the victims and Glacier Bank:

J.M.

e. On or about March 18, 2009, the Defendant, as J.M.'s securities salesperson, solicited J.M. to invest in Cradlepoint Technologies (Cradlepoint).

f. J.M. gave the Defendant \$50,000 to invest in Cradlepoint, but instead of investing the \$50,000 as J.M. wished and as he said he would, the Defendant instead deposited it into his DC Wealth Management, Inc., account, on which he was the sole signatory.

g. The Defendant used the \$50,000 for his own personal use and benefit. See Exhibit A attached hereto.

h. J.M. never received a stock certificate or evidence of ownership from Cradlepoint or from the Defendant even though the Defendant repeatedly represented to J.M. that J.M. was a shareholder of Cradlepoint.

i. An officer of Cradlepoint told investigators that Cradlepoint has less than 30 investors, all of whom are institutional or accredited investors, and that J.M. is not now, nor has J.M. ever been, a shareholder in Cradlepoint.

L.S.

j. From approximately September 2008 to March 2009, L.S. gave the Defendant a total of \$12,400 to invest in the Defendant's "day-trading platform" that the Defendant set up as DC Associates, Inc.

k. Instead of investing the money in the "day-trading platform," as instructed by L.S., the Defendant deposited each check into either his joint checking account or his DC Associates, Inc., account, on which he was the sole signatory. The following shows when and where the Defendant deposited L.S.'s checks:

1. On September 11, 2008, \$2,500 was deposited into his DC Associates bank account and with the exception of \$32, he transferred all of it to his joint checking account the following day;
2. On October 15, 2008, \$2,500 was deposited into his DC Associates bank account and then he transferred all of it to his joint checking account the following day;
3. On November 3, 2008, \$2,500 was deposited into his DC Associates bank account and then he transferred all of it to his joint checking account the following day;
4. On November 24, 2008, \$2,200 was deposited into his DC Associates bank account and then he transferred \$2,074 to his joint checking account within 3 days and wrote a \$126 check to the Postmaster;
5. On March 5, 2009, \$1,200 was deposited directly into his joint checking account;
6. On March 17, 2009, \$1,500 was deposited into his DC Associates bank account and then he transferred \$1,490 to his joint checking account the following day and transferred \$10 to an unknown online account on March 17, 2009.

See Exhibit B attached hereto.

l. The Defendant returned \$3,500 to L.S. at the end of March 2009.

m. In June 2009, L.S. also gave the Defendant \$100,000 to invest in the "day-trading platform" because the Defendant promised L.S. that he could get L.S. a good return within 30 days.

n. L.S. took out a 90 day loan for \$100,000 to invest in the "day-trading platform," which was due in mid-September.

o. Upon receiving the \$100,000, the Defendant did not invest it in the "day-trading platform," but instead spent it as follows:

1. \$50,000 to J.M. for J.M.'s intended investment in Cradlepoint;
2. \$25,000 to his lawyer; and
3. \$25,000 deposited into his joint checking account.

p. Despite L.S.'s repeated and persistent requests for the return of the money, the Defendant never returned the \$100,000.

A.W.

q. On or about June 8, 2009, A.W. gave the Defendant \$25,000 to invest in the Defendant's "day-trading platform."

r. Instead of investing it in the "day-trading platform," the Defendant deposited the \$25,000 into his joint checking account and then transferred \$20,000 to his DC Wealth Management account, using the remaining \$5,000 for his own personal use and benefit. See Exhibit C attached hereto.

s. Of the \$20,000 the Defendant transferred to his DC Wealth Management account, he gave L.S. \$10,000 as a return for L.S.'s intended investments in the "day-trading platform," and he used the other \$10,000 for his own personal use and benefit.

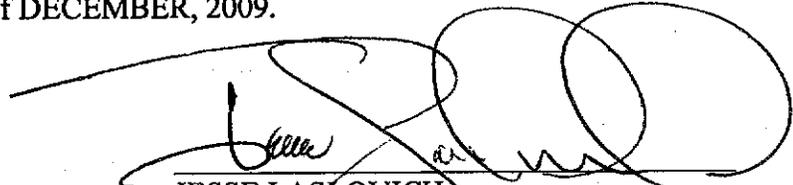
Summary

t. In total, the Defendant misappropriated \$187,400 of money entrusted to him by J.M., L.S., and A.W.

u. In a settlement between the Department and LPL Financial Corporation (LPL), with whom the Defendant was registered as a broker/dealer salesperson and investment adviser until May 12, 2009, LPL agreed to reimburse J.M. and L.S. for the above-identified losses, but A.W. did not receive any money from the settlement.

WHEREFORE, the undersigned moves the Court for an Order granting leave to file an Information directly in District Court charging the above named Defendant with the felony offenses of THEFT by EMBEZZLEMENT (Common Scheme), SECURITIES FRAUD by conducting a Ponzi Scheme, SECURITIES FRAUD by making untrue statements of material fact to J.M., SECURITIES FRAUD by making untrue statements of material fact to L.S., and SECURITIES FRAUD by making untrue statements of material fact to A.W., as more particularly set forth herein.

DATED this 15th day of DECEMBER, 2009.



JESSE LASLOVICH
Special Deputy Flathead County Attorney

SUBSCRIBED and SWORN to before me this 15 day of December, 2009.



Notary Public for the State of Montana
Printed name PAULA SAUTTER
Residing at HELENA
My commission expires: 4/14/2010

(SEAL)

EXHIBIT A

EXHIBIT A - Details of misuse of J.M.'s investment funds

STATE OF MONTANA V. DONALD L. CHOUINARD

DATE	DEPOSIT	DISBURSMT	DESCRIPTION	USE OF FUNDS
3/18/2009	\$ 50,000.00		JM's Funds deposited to DC Wealth Management	
3/19/2009		\$ 300.00	ATM Withdrawal	Personal use
3/19/2009		\$ 20.85	JD Morrells	Personal use
3/30/2009		\$ 40.95	Holiday Station Store	Personal use
3/31/2009		\$ 2.99	Office Max	Office related
3/31/2009		\$ 2,000.00	Transfer to DC Associates	Office related
4/1/2009		\$ 3,000.00	Transfer to joint checking	Bank acct with wife
4/1/2009		\$ 1,500.00	Bank of America	Credit card payment
4/1/2009		\$ 30.70	Costco Gas	Personal use
4/2/2009		\$ 3,000.00	Transfer to joint checking	Bank acct with wife
4/2/2009		\$ 1,795.75	Payroll/Cook	Office related
4/3/2009		\$ 1,000.00	Transfer to joint checking	Bank acct with wife
4/3/2009		\$ 38.82	Yahoo - Glacier Notes	Office related
4/2/2009		\$ 1,795.75	Payroll/Cook	Office related
4/3/2009		\$ 20.20	Charlie Wong	Personal use
4/3/2009		\$ 1,000.00	Tom Murray	Personal use
4/6/2009		\$ 3,000.00	Transfer to joint checking	Bank acct with wife
4/6/2009		\$ 1,000.00	Transfer to joint checking	Bank acct with wife
4/6/2009		\$ 260.00	Transfer to online acct.	Online acct.
4/6/2009		\$ 41.26	Costco Gas	Personal use
4/7/2009		\$ 0.30	Skype charges	Personal use
4/7/2009		\$ 0.60	Skype charges	Personal use
4/7/2009		\$ 29.50	Skype charges	Personal use
4/8/2009		\$ 1,000.00	Transfer to joint checking	Bank acct with wife
4/8/2009		\$ 60.00	Skype charges	Personal use
4/8/2009		\$ 99.95	CNBC Plus	Personal use
4/9/2009		\$ 58.91	Evergreen Super One	Personal use
4/10/2009		\$ 148.13	Alltel	Office related
4/10/2009		\$ 33.00	Holiday Station Store	Personal use
4/10/2009		\$ 57.83	1-800-Flowers	Personal use
4/13/2009		\$ 6.99	Office Max	Office related
4/13/2009		\$ 286.40	Alaska Air	Personal use
4/14/2009		\$ 3,100.00	Transfer to online acct.	Online acct.
4/14/2009		\$ 1,149.96	Best Buy	Personal use
4/16/2009		\$ 43.03	Albertsons	Personal use
4/17/2009		\$ 35.50	Holiday Station Store	Personal use
4/20/2009		\$ 10.00	Sems Car Wash	Personal use
4/20/2009		\$ 27.72	ExxonMobil	Personal use
4/20/2009		\$ 141.50	MacKenzie River Pizza	Personal use
4/21/2009		\$ 41.39	Costco Gas	Personal use
4/21/2009		\$ 19.67	Holiday Station Store	Personal use
4/21/2009		\$ 80.04	Olive Garden	Personal use
4/22/2009		\$ 36.00	Costco Gas	Personal use
4/22/2009		\$ 66.15	Charlie Wong	Personal use

4/23/2009		\$ 8,500.00	Source National Mortgage wire	Personal use
4/23/2009		\$ 20.00	Wire transfer fee	Office related
4/23/2009	\$ 3,100.00		Transfer from online acct.	Online acct.
4/23/2009		\$ 11.79	Zip Trip	Personal use
4/24/2009		\$ 387.11	Century Tel	Office related
4/24/2009		\$ 1,795.75	Payroll/Cook	Office related
4/30/2009		\$ 10.35	Starbucks	Personal use
4/30/2009		\$ 42.16	Holiday Station Store	Personal use
4/30/2009		\$ 70.59	Applebees	Personal use
5/1/2009		\$ 42.42	Costco Gas	Personal use
5/1/2009		\$ 25.50	North Ban Grille	Personal use
5/4/2009		\$ 75.00	Big Mountain Golf	Personal use
5/5/2009		\$ 1,500.00	Glacier Insurance	Office related
5/7/2009		\$ 42.00	USPS	Office related
5/7/2009		\$ 18.95	Five Guys	Personal use
5/8/2009		\$ 82.85	US Search	Office related
5/11/2009		\$ 29.39	Staples	Office related
5/11/2009		\$ 27.03	Costco Gas	Personal use
5/11/2009		\$ 23.90	Los Caporales	Personal use
5/11/2009		\$ 56.58	Smith's Fuel	Personal use
5/11/2009		\$ 203.00	Ravenswood Winery	Personal use
5/12/2009		\$ 1,795.75	Payroll/Cook	Office related
5/12/2009		\$ 9.00	Clean Get A Way	Personal use
5/12/2009		\$ 192.82	Payless Car Rental	Personal use
5/12/2009		\$ 39.00	Costco Gas	Personal use
5/13/2009		\$ 160.00	Flathead Travel	Personal use
5/13/2009		\$ 5,095.40	Flathead Travel	Personal use
5/15/2009		\$ 500.00	Transfer to joint checking	Bank acct with wife
5/18/2009		\$ 1,500.00	Transfer to joint checking	Bank acct with wife
5/18/2009		\$ 500.00	Transfer to online acct.	Online acct.
5/18/2009		\$ 300.00	ATM Withdrawal	Personal use
5/18/2009		\$ 12.18	Woody's	Personal use
5/19/2009		\$ 87.65	Main Dick Clark	Personal use
5/20/2009		\$ 0.10	Skype charges	Office related
5/20/2009		\$ 10.00	Skype charges	Office related
5/22/2009		\$ 37.00	Holiday Station Store	Personal use
5/26/2009		\$ 41.97	Office Max	Office related
5/27/2009		\$ 50.22	Costco Gas	Personal use
5/27/2009		\$ 8.00	Sems Car Wash	Personal use
5/29/2009		\$ 1,795.75	Payroll/Cook	Office related
5/29/2009		\$ 27.00	Paid Item Fee	Office related

EXHIBIT B

EXHIBIT B - Details of misuse of L.S.'s investment funds
STATE OF MONTANA V. DONALD L. CHOUINARD

DATE	DEPOSIT	DSBRSMT	DESCRIPTION	USE OF FUNDS
9/11/2008	\$2,500		L.S. funds deposited in DC Associates	
9/12/2008		\$2,468	Transfer to joint account with wife	Personal use
10/15/2008	\$2,500		L.S. funds deposited in DC Associates	
10/16/2008		\$2,500	Transfer to joint account with wife	Personal use
11/3/2008	\$2,500		L.S. funds deposited in DC Associates	
11/4/2008		\$2,500	Transfer to joint account with wife	Personal use
11/24/2008	\$2,200		L.S. funds deposited in DC Associates	
11/28/2008		\$2,074	Transfer to joint account with wife	Personal use
11/28/2008		\$126	Postmaster	Personal use
3/5/2009	\$1,200	\$1,200	Deposited directly to joint account	Personal use
3/17/2009	\$1,500		L.S. funds deposited in DC Associates	
3/17/2009		\$10	Transfer to online account	Personal use
3/18/2009		\$1,490	Transfer to joint account with wife	Personal use
6/19/2009	\$100,000		L.S. funds deposited in DC Wealth	
6/19/2009		\$50,000	Check to J.M.	Ponzi Scheme
6/23/2009		\$5,000	Transfer to joint account with wife	Personal use
6/25/2009		\$20,000	Check to law firm	Personal use
6/26/2009		\$4,000	Transfer to joint account with wife	Personal use
6/26/2009		\$10,000	Transfer to joint account with wife	Personal use
6/30/2009		\$5,000	Check to law firm	Personal use
Total=\$112,400				

EXHIBIT C

EXHIBIT C - Details of misuse of A.W.'s investment funds

STATE OF MONTANA V. DONALD L. CHOUINARD

DATE	DEP	DSBMT	DESCRIPTION	USE OF FUNDS
6/8/2009	25,000		A.W. gives funds for investment	
6/8/2009		25,000.00	Deposited directly to joint account	Bank acct with wife
6/8/2009		100.00	ATM withdrawal	Personal use
6/8/2009		3.94	Target	Personal use
6/8/2009		10.59	Dollar Tree	Personal use
6/8/2009		15.74	Evergreen Super One	Personal use
6/8/2009		39.42	Office Max	Personal use
6/8/2009		2.99	Finnegans Restaurant	Personal use
6/8/2009		7.10	Starbucks	Personal use
6/8/2009		12.75	Famous Daves	Personal use
6/8/2009		18.00	TJ Maxx	Personal use
6/8/2009		28.01	Target	Personal use
6/8/2009		550.00	Transfer from joint acct to DC Wealth	
6/8/2009		140.00	ATM withdrawal	Personal use
6/8/2009		28.96	Ross Stores	Personal use
6/9/2009		40.90	Scotty's Bar	Personal use
6/9/2009		20,000.00	Transfer from joint acct to DC Wealth	\$10,000 to LS and \$10,000 prsnl
6/10/2009		45.00	Andrees	Personal use
6/10/2009		45.00	Sally unreadable	Personal use
6/10/2009		63.75	Summit Medical	Personal use
6/10/2009		53.03	Evergreen Super One	Personal use
6/10/2009		4.70	Kalispell Regional	Personal use
6/10/2009		44.07	Holiday	Personal use
6/10/2009		46.50	Mackenzie River Pizza	Personal use
6/10/2009		300.00	Alltel	Personal use
6/11/2009		143.68	Safeco	Personal use
6/11/2009		11.98	Woody's	Personal use
6/11/2009		15.50	Kalispell Regional	Personal use
6/11/2009		21.41	FedEx	Personal use
6/11/2009		1,200.00	Transfer from joint acct to DC Wealth	
6/11/2009		100.00	Transfer from joint acct to DC Wealth	
6/12/2009		600.00	LCCU	Personal use
6/12/2009		23.25	Shopko	Personal use
6/12/2009		43.00	Costco	Personal use
6/12/2009		9.57	McDonalds	Personal use
6/12/2009		14.80	FedEx	Personal use
6/12/2009		18.50	1st Ave. East Café	Personal use
6/15/2009		11.96	SYS Cardinal True Value	Personal use
6/15/2009		47.52	Evergreen Super One	Personal use
6/15/2009		70.32	Shopko	Personal use
6/15/2009		77.81	Evergreen Super One	Personal use
6/15/2009		12.00	JD Morrells	Personal use
6/15/2009		17.47	Woody's	Personal use
6/15/2009		21.40	Woody's	Personal use
6/15/2009		50.87	Snappy Sports	Personal use
6/15/2009		100.00	Transfer from joint acct to DC Wealth	

6/16/2009		17.26	Evergreen Super One	Personal use
6/16/2009		14.00	Subway	Personal use
6/16/2009		72.49	Evergreen Disposal	Personal use
6/17/2009		141.46	US Dept. of Education	Personal use
6/17/2009		24.97	Papa Murphys	Personal use
6/17/2009		16.36	QDOBA	Personal use