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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

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STATE OF MONTANA, )

Cause No. DC-02-146(C)  
Cause No. DC-05-380(B)  
Cause No. DC-10-456(C)

11

Plaintiff, )

12

vs. )

ORDER OF REVOCATION,  
JUDGMENT AND SENTENCE

13

14

TIMOTHY SHAWN PERRY, )

15

Defendant. )

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\* \* \* \* \*

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On December 12, 2002, having previously pleaded guilty on  
September 12, 2002, in Cause No. DC-02-146(C) to the offense of  
Forgery, a Felony Common Scheme, imposition upon the Defendant  
was deferred for a period of six (6) years, subject to a number  
of conditions.

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On May 11, 2006, the Defendant pleaded guilty in Cause No.  
DC-05-380(B) to the offense of Theft, a Felony. In addition,  
the Defendant's deferred sentence in Cause No. DC-02-146(C) was

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1 revoked as a result of his failure to remain law abiding (having  
2 committed a DUI), and the fact he changed residences without  
3 approval; consumed Marijuana; deceived his supervising officer;  
4 failed to make payments on restitution, fines, and fees  
5 obligations; consumed alcohol; and failed to obtain a G.E.D. as  
6 directed.

7 At the conclusion of a hearing in aggravation and  
8 mitigation of sentence and dispositional hearing on October 26,  
9 2006, the Court sentenced the Defendant in **Cause No. DC-02-**  
10 **146(C)** for the offense of Forgery, a Felony Common Scheme, to  
11 the Department of Corrections for a period of six (6) years,  
12 with those six (6) years suspended, and in **Cause No. DC-05-**  
13 **380(B)**, for the offense of Theft, a Felony, to the Montana State  
14 Prison for a consecutive term of six (6) years with those six  
15 (6) years suspended.

16 On May 17, 2007, the Defendant's suspended sentences in  
17 **Cause Nos. DC-02-146(C) and DC-05-380(B)** were revoked as a  
18 result of his failure to submit to UA testing as directed,  
19 consuming illegal drugs (cocaine), attempting to deceive his  
20 supervising officer on one occasion, failing to remain law  
21 abiding and conduct himself as a good citizen (making  
22 threatening phone calls), failing to obtain permission prior to  
23 purchasing a truck, traveling outside his assigned district  
24 without prior approval, frequenting casinos and gambling, and  
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1 failing to make orderly payments on his Court-Ordered financial  
2 obligations, namely restitution.

3 A hearing in aggravation and mitigation of sentence was  
4 then held on June 14, 2007, where the Court sentenced the  
5 Defendant in **Cause No. DC-02-146(C)** to the Department of  
6 Corrections for a period of six (6) years, with three (3) years  
7 suspended, and in **Cause No. DC-05-380(B)**, he was sentenced to  
8 the Montana State Prison for a consecutive term of six (6) years  
9 with those six (6) years suspended.

10 On December 15, 2010, the Defendant was charged in **Cause**  
11 **No. DC-10-456(C)** with the offense of Theft by Insurance Fraud, a  
12 Felony.

13 On April 14, 2011, the State filed a petition for  
14 revocation of the Defendant's suspended sentences in **Cause Nos.**  
15 **DC-02-146(C) and DC-05-380(B)** alleging the Defendant violated  
16 the conditions of his suspended sentences in a number of  
17 respects.

18 On July 28, 2011, the Defendant pleaded guilty to the  
19 offense of Theft by Insurance Fraud, a Felony in **Cause No. DC-**  
20 **10-456(C)**. The Defendant's suspended sentences in **Cause Nos.**  
21 **DC-02-146(C) and DC-05-380(B)** were revoked as a result of his  
22 failure to remain law abiding among other violations.

23 On September 22, 2011, the Defendant, accompanied by  
24 counsel, Tina Valacich, appeared for a dispositional hearing in  
25 **Cause Nos. DC-02-146(C) and DC-05-380(B)** and hearing in

1 aggravation and mitigation of sentence in **Cause No. DC-10-**  
2 **456(C)** .

3 In fashioning the following sentence, the Court has  
4 considered the testimony presented; the nature of the violations  
5 of probation conditions and history of probation violations; the  
6 Defendant's criminal history, including the Defendant's recent  
7 offense; the victim's need for restitution; the recommendations  
8 of the parties; and the Pre-Sentence Investigation prepared by  
9 Cindy Ault of Adult Probation. Therefore,

10 **IT WAS THE JUDGMENT OF THIS COURT** that

11 1) In **Cause No. DC-05-380(B)**, the Defendant is committed  
12 to the Department of Corrections for a period of six (6) years,  
13 with four (4) years suspended;

14 2) In **Cause No. DC-02-146(C)**, the Defendant shall be  
15 committed to the Department of Corrections for a consecutive  
16 period of three (3) years, with three (3) of those years  
17 suspended; and

18 3) In **Cause No. DC-10-456(C)**, for the offense of Theft by  
19 Insurance Fraud, a Felony, the Defendant is sentenced to the  
20 Montana State Prison for a concurrent term of six (6) years,  
21 with those six (6) years suspended.

22 (The net effect being the Defendant is committed to the DCC  
23 for a period of two (2) years followed by a probationary period  
24 of seven (7) years suspended.) It is recommended that the  
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1 Defendant be considered for placement in the Intensive  
2 Supervision Program.

3 **IT WAS THE FURTHER JUDGMENT OF THIS COURT** that in addition  
4 to the conditions set forth below, the Defendant must also  
5 comply with all requirements imposed by this Court's Judgments  
6 of December 12, 2002; October 26, 2006; and June 14, 2007,  
7 including the restitution owed by the Defendant.

8 As conditions of parole and probation, the Defendant must  
9 comply with the following:

- 10 1. The Defendant shall be placed under the supervision of the  
11 Department of Corrections, subject to all rules and  
12 regulations of the Adult Probation & Parole Bureau.
- 13 2. The Defendant must obtain prior written approval from his  
14 supervising officer before taking up residence in any  
15 location. The Defendant shall not change his place of  
16 residence without first obtaining written permission from  
17 his supervising officer or the officer's designee. The  
18 Defendant must make the residence open and available to an  
19 officer for a home visit or for a search upon reasonable  
20 suspicion. The Defendant will not own dangerous or vicious  
21 animals and will not use any device that would hinder an  
22 officer from visiting or searching the residence.
- 23 3. The Defendant must obtain permission from his supervising  
24 officer or the officer's designee before leaving his  
25 assigned district.
4. The Defendant must seek and maintain employment or  
maintain a program approved by the Board of Pardons and  
Parole or the supervising officer. Unless otherwise  
directed by his supervising officer, the Defendant must  
inform his employer and any other person or entity, as  
determined by the supervising officer, of his status on  
probation, parole, or other community supervision.

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5. Unless otherwise directed, the Defendant must submit written monthly reports to his supervising officer on forms provided by the probation and parole bureau. The Defendant must personally contact his supervising officer or designee when directed by the officer.
6. The Defendant is prohibited from using, owning, possessing, transferring, or controlling any firearm, ammunition (including black powder), weapon, or chemical agent such as oleoresin capsicum or pepper spray.
7. The Defendant must obtain permission from his supervising officer before engaging in a business, purchasing real property, purchasing an automobile, or incurring a debt.
8. Upon reasonable suspicion that the Defendant has violated the conditions of supervision, a probation and parole officer may search the person, vehicle, and residence of the Defendant, and the Defendant must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the Defendant has violated the conditions of supervision.
9. The Defendant must comply with all municipal, county, state, and federal laws and ordinances and shall conduct himself as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to his supervising officer or designee. The Defendant must be cooperative and truthful in all communications and dealings with any probation and parole officer and with any law enforcement agency.
10. The Defendant is prohibited from using or possessing alcoholic beverages and illegal drugs. The Defendant is required to submit to bodily fluid testing for drugs or alcohol on a random or routine basis and without reasonable suspicion.
11. The Defendant is prohibited from gambling.

1  
2 12. The Defendant shall pay all fines, fees, and restitution  
3 ordered by the sentencing court.

4 13. The Defendant shall pay the following fees and/or charges  
5 which are statutorily mandated:

6 a. The Probation & Parole Officer shall determine the  
7 amount of supervision fees (§46-23-1031, MCA) to be paid  
8 each month in the form of money order or cashier's check  
9 to the Department of Corrections Collection Unit, P.O.  
10 Box 201350, Helena, MT 59620 (\$50 per month if the  
11 Defendant is sentenced under §45-9-202, MCA, dangerous  
12 drug felony offense, and placed on ISP). The DOC shall  
13 take a portion of the Defendant's inmate account if the  
14 Defendant is incarcerated.

15 b. Surcharge of \$15 for each misdemeanor. [§46-18-  
16 236(1)(a), MCA] **Defendant to pay: \$0.00**

17 c. Surcharge of the greater of \$20 or 10% of the fine for  
18 each felony offense. [§46-18-236(1)(b), MCA] **Defendant  
19 to pay: \$100.00**

20 d. Surcharge for victim and witness advocate programs of  
21 \$50 for each misdemeanor or felony charge under Title  
22 45, Crimes; §61-8-401 (DUI); or §61-8-406 (DUI). [§46-  
23 18-236(1)(c), MCA] **Defendant to pay: \$50.00**

24 e. \$10.00 per count for court information technology fee.  
25 (§3-1-317, MCA) **Defendant to pay: \$10.00**

**f. DELETED BY THE COURT**

26 g. A \$50 fee at the time a PSI report is completed, unless  
27 the court determines the Defendant is not able to pay  
28 the fee within a reasonable time (§46-18-111, MCA). The  
29 Defendant shall submit this payment to the Department of  
30 Corrections Collection Unit, P.O. Box 201350, Helena, MT  
31 59620. **Defendant to pay: \$50.00**

32 **Payments on the surcharges and fees listed at Nos. b-f  
33 shall be paid through the Flathead County Clerk of District  
34 Court, 920 South Main, Suite 300, Kalispell, MT 59901,  
35**

1 according to a schedule developed by his supervising  
2 officer.

3 h. The Defendant will pay court ordered victim restitution  
4 in the amount of \$3,982.16 to SAFECO Insurance Company P.O.  
5 Box 461 St. Louis, MO 63166, SAFECO Claim #481707504020-  
6 201. The Defendant shall pay court-ordered restitution by  
7 money order or cashier's check sent to the Department of  
8 Corrections, Collection Unit, P.O. Box 201350, Helena, MT  
9 59620. The Defendant shall be assessed a 10 percent  
10 administration fee on all restitution ordered. All of the  
11 methods for collection of restitution provided under §46-  
12 18-241 through §46-18-249, MCA, shall apply, including  
13 garnishment of wages and interception of tax refunds.  
14 Pursuant to §46-18-244(6)(b), MCA, the Defendant shall sign  
15 a statement allowing any employer to garnish up to 25  
16 percent of his/her wages. The Defendant shall continue to  
17 make monthly restitution payments until he/she has paid  
18 full restitution, even after incarceration or supervision  
19 has ended.

20 i. The Defendant shall pay a fine(s) over and above any  
21 amount credited for pre-conviction incarceration as ordered  
22 and directed by the court. (§46-18-231, MCA)  
23 **Recommended net fine to be paid to the Clerk of District  
24 Court: \$1,000.00.**

25 j. The Defendant shall pay costs of legal fees and  
expenses defined in §25-10-201, MCA, plus costs of jury  
service, prosecution, and pretrial, probation, or community  
service supervision or \$100 per felony or \$50 per  
misdemeanor, whichever is greater. (§46-18-232, MCA)  
**Defendant to pay: \$100.00**

**Payments on the fine and fees listed at Nos. i and j shall  
be paid through the Flathead County Clerk of District  
Court, 920 South Main, Suite 300, Kalispell, MT 59901,  
according to a schedule developed by his supervising  
officer.**

14. All Defendants convicted of a felony offense shall submit  
to DNA testing. (§44-6-103, MCA)

1 15. The Defendant shall not be given credit against the fine  
2 for time served in jail prior to sentencing. (§46-18-403,  
3 MCA).

4 16. The Defendant shall obtain a chemical dependency  
5 evaluation by a state-approved evaluator. The Defendant  
6 shall pay for the evaluation and follow all of the  
7 evaluator's treatment recommendations.

8 17. The Defendant shall not possess or use any electronic  
9 device or scanner capable of listening to law enforcement  
10 communications.

11 18. The Defendant shall abide by a curfew as determined  
12 necessary and appropriate by the Probation & Parole  
13 Officer.

14 19. The Defendant shall complete any community service ordered  
15 by the court or the Probation & Parole Officer.

16 20. The Defendant shall not enter any bars.

17 21. The Defendant shall not enter any casinos.

18 22. The Defendant shall provide yearly credit report.

19 23. The Defendant shall not knowingly associate with  
20 probationers, parolees, prison inmates, or persons in the  
21 custody of any law enforcement agency without prior  
22 approval from the Probation & Parole Officer. The  
23 Defendant shall not associate with persons as ordered by  
24 the court or BOPP.

25 24. The Defendant shall not knowingly have any contact, oral,  
written, electronic or through a third party, with the  
victim(s) unless such contact is voluntarily initiated by  
the victim(s) through the Department of Corrections. DOC  
staff may notify victims about the availability of  
opportunities for facilitated contact with their offenders  
without being considered "third parties."

1 25. The Defendant shall attend self-help meetings at the  
direction of the Probation & Parole Officer.

2 26. The Defendant shall advise all medical personnel of  
3 addiction history/conviction, including all prescribed  
narcotics and/or medical marijuana.

4 27. The use of marijuana will be detrimental to the  
5 Defendant's rehabilitation and to the safety of the  
6 community. The Defendant is, therefore, prohibited from  
7 obtaining a medical marijuana registry card without prior  
authorization from the sentencing court.

8 28. The Defendant shall comply with all sanctions given as a  
9 result of an intervention, on-site (preliminary), or  
disciplinary hearing.

10 29. The PSI report shall be released by the Department to  
11 certain persons, such as treatment providers, mental  
12 health providers, and/or medical providers, as needed for  
the Defendant's rehabilitation.

13  
14 The Defendant is to be given credit for two (2) days served  
15 in the Flathead County Detention Center pending final  
16 disposition in this matter (01/13/11 and 04/26/11).<sup>1</sup> He is not  
17 to receive credit for any time served on probation.

18 The Defendant is hereby advised that he has 120 days from  
19 the date of filing this Judgment and Sentence to contest any  
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22 The Defendant was previously granted credit for the following days in  
prior Orders:

23 24 days (03/07/07 to 03/30/07) in the Order of Revocation, Judgment and  
Sentence dated June 14, 2007; and

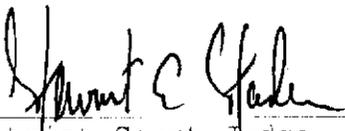
24 40 days (01/02/06 to 02/02/06 and 05/30/06 to 06/06/06) in the Order of  
Revocation, Judgment and Sentence dated October 26, 2006.

1 perceived differences between this written Judgment and the  
2 Court's oral pronouncement of sentence.

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

5 DONE IN OPEN COURT the 22<sup>nd</sup> day of September, 2011.

6 DATED this 5th day of October, 2011.

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10   
11 District Court Judge

12 cc: Mike Winsor, Dept. Ins.  
13 Ken Park, Deputy County Attorney  
14 Tina Valacich, Defense Counsel  
15 Timothy S. Perry, Defendant  
16 Flathead County Sheriff's Office  
17 Adult Probation and Parole  
18 Montana State Prison  
19 Board of Pardons  
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