

1 MIKE WINSOR
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2 Special Deputy Lewis and Clark County Attorney
Office of the Commissioner of Securities and
3 Insurance, Montana State Auditor (CSI)
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6 *Attorney for the State of Montana*

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8 **MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY**

9
10 THE STATE OF MONTANA,

11 Plaintiff,

12 v.

13 MARK JOSEPH BONAMARTE,

14 Defendant.

Case No. _____

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

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16 STATE OF MONTANA)
17 :ss.
County of Lewis and Clark)

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19 Mike Winsor, being first duly sworn, upon his oath, deposes and states:

20 1. I am a Special Assistant Attorney General, by virtue of my employment with the Office of
21 the Commissioner of Securities and Insurance, Montana State Auditor. I am also a duly appointed,
22 qualified, and acting Special Deputy Gallatin County Attorney for the purpose of prosecuting this case.
23 Acting in this capacity, I am familiar with the investigation relating to MARK JOSEPH BONAMARTE
24 (Defendant).

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26 2. I request that the Court determine probable cause exists to allow the State to file an
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1 Information directly in District Court, pursuant to Mont. Code Ann. § 46-11-201, alleging the Defendant
2 committed offenses in Gallatin County, based upon information set forth herein that was developed
3 through an investigation conducted by a criminal justice investigator. More specifically, the Information
4 alleges the Defendant committed the following offenses: COUNT I: INSURANCE FRAUD/THEFT,
5 (Common Scheme), a FELONY, in violation of Mont. Code Ann. §§ 33-1-1202(1), 33-1-1211(2), and
6 45-6-301(6)(a); COUNT II: INSURANCE FRAUD/THEFT, a FELONY, in violation of Mont. Code
7 Ann. §§ 33-1-1202(1), 33-1-1211(2) and 45-6-301.

9 3. A criminal justice investigator has made a full and careful investigation of all the facts
10 and circumstances surrounding the commission of said offenses, so far as they are known or
11 ascertainable, and your Affiant believes it a proper case for the filing of the Information that
12 accompanies this affidavit.

14 1. The facts establishing probable cause are as follows:

15 On June 30, 2010, in Bozeman, the Defendant's 2001 Chevrolet K2500 Silverado (Silverado)
16 sustained hail damage. The Silverado was covered by a State Farm Mutual Automobile Insurance
17 Company (State Farm) insurance policy (policy). The Defendant put in a claim for the damage with
18 State Farm, and on July 15, 2010, State Farm inspected the Silverado. On July 20, 2010, State Farm
19 issued payment to the Defendant in the amount of \$2,042.90 for hail damage to the Silverado.

21 The Defendant's son's 2007 Chevrolet Tahoe (Tahoe) also sustained hail damage in the June 30,
22 2010, storm in Bozeman. The Defendant's son had insured the vehicle through Progressive Insurance
23 until April 20, 2010, but it was uninsured at the time of the hailstorm. Under the Defendant's policy, a
24 "Newly Acquired Car" qualifies for coverage within 14 days from the date of purchase so long as the
25 named insured, in this case the Defendant, is the sole owner of the vehicle. On July 12, 2010, the
26 Defendant called his State Farm Insurance agent and misrepresented to the agent that the Defendant had
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1 purchased the Tahoe on June 29, 2010, a day before the hail storm, so that he or his son would have
2 coverage under the Defendant's policy for the hail damage and therefore receive payment from State
3 Farm. Government records indicate that the Tahoe was never owned by the Defendant as represented to
4 State Farm. The Tahoe was inspected by State Farm on July 15, 2010. On July 15, 2010, State Farm
5 issued payment to the Defendant in the amount of \$3,737.01 for hail damage to the Tahoe.
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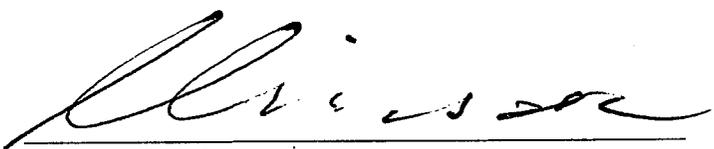
7 On or about December 9, 2010, the Defendant fabricated and faxed an invoice to State Farm
8 entitled "Certificate of Completion," and dated December 9, 2010, for the Silverado claim; and on the
9 same day fabricated and faxed an invoice to State Farm also entitled "Certificate of Completion," and
10 dated December 3, 2010, on the Tahoe claim. The business address of Ultimate Wash and Repair, Inc.
11 shown on the invoices was the Defendant's son's address, and its telephone number was the Defendant's
12 girlfriend's cell phone number. Both invoices purported that a business called Ultimate Wash and
13 Repair, Inc. had repaired the hail damage for both vehicles when, in fact, the business did not exist. As
14 a result of the invoices that the Defendant faxed to State Farm, State Farm paid the Defendant an
15 additional \$1,375 on the Silverado claim, and an additional \$1,325 on the Tahoe claim.
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18 Subsequently, on June 7, 2011, the Defendant submitted a claim, in excess of \$1,500, to State
19 Farm for hail damage to the Silverado allegedly sustained on June 6, 2011. The Defendant claimed to
20 have driven through a hail storm between Helena and Townsend. State Farm determined that the
21 National Weather Service indicated that there was not a hailstorm in that area on June 6, 2011. State
22 Farm received no other claims of hail damage for June 6, 2011. State Farm's estimator indicated that
23 much of the damage claimed in the 2011 Silverado loss appeared to be very similar to damage from the
24 2010 Silverado loss. State Farm did not pay on the 2011 claim but, instead, made a fraud referral to the
25 National Insurance Crime Bureau which in turn referred the matter to the Office of the Commissioner of
26 Securities and Insurance, Montana State Auditor.
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WHEREFORE, the undersigned moves the Court for its Order granting leave to file an
Information directly in District Court.

DATED this 11th day of December, 2012.



MIKE WINSOR
Special Assistant Attorney General
Special Assistant Gallatin County Attorney

SUBSCRIBED and SWORN to before me by Mike Winsor this 11 day of

DECEMBER, 2012.

