

FRED VAN VALKENBURG

Missoula County Attorney

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Attorneys for the Plaintiff

**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

STATE OF MONTANA,)

Dept. No.: 4

)

Cause No.: DC-10-371

Plaintiff,)

)

vs.)

MOTION & AFFIDAVIT FOR ORDER

GRANTING LEAVE TO FILE

TERRY D. PARKS,)

AMENDED INFORMATION DIRECTLY

)

IN DISTRICT COURT

Defendant.)

)

STATE OF MONTANA)

:ss

County of Missoula)

)

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 Missoula, state of Montana (State).

2. That the Defendant has been contacted regarding this motion and has no objections;

3. That the Defendant has committed offenses in Missoula 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 Amended Information directly in District Court pursuant to Mont. Code Ann. § 46-11-201, charging the above named Defendant with the offenses of: **COUNT ONE**, THEFT, by purposely or knowingly obtaining or exerting unauthorized control over R.C.'s property and using, concealing, or abandoning the property knowing that the use, concealment, or abandonment probably would deprive R.C. of his property, a FELONY, in violation of Mont. Code Ann. § 45-6-301(1)(c); **COUNT TWO**, SECURITIES FRAUD, by directly and/or indirectly making untrue statements of a material fact and/or omitting a material fact, a FELONY, in violation of Mont. Code Ann. § 30-10-301(1)(b); **COUNT THREE**, SECURITIES FRAUD, by directly and/or indirectly making untrue statements of a material fact and/or omitting a material fact, a FELONY, in violation of Mont. Code Ann. § 30-10-301(1)(b); and **COUNT FOUR**, SECURITIES FRAUD, by directly and/or indirectly making untrue

statements of a material fact and/or omitting a material fact, a FELONY, in violation of Mont. Code Ann. § 30-10-301(1)(b);

4. That on August 19, 2010, an Information was filed charging the Defendant with the aforementioned offenses;

5. That upon subsequent review, it was determined that the Information and supporting Motion and Affidavit for Order Granting Leave to File Information Directly in District Court contained typographical errors which referenced statutory provisions not accurately corresponding to three of the charged offenses;

6. That as a result of these typographical errors the State finds it necessary to file an Amended Information;

7. That the Defendant has stipulated to the following: the proposed amendments are to form and not to substance, the amendments do not change the factual allegations of the Information, the Defendant was aware of the typographical errors prior to the motion and prior to the previous omnibus hearing, the Defendant was aware of the actual statute upon which the charges were based from the facts alleged in the Information, and the amendments do not affect the Defendant's defenses or pretrial motions;

8. That the parties stipulate and agree that filing of the Amended Information does not require a new omnibus hearing;

9. That the parties stipulate and agree to conduct the arraignment for the Amended Information at the final status conference on August 9, 2011, at 9:00 a.m.;

10. 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 offenses, so far as they are known or ascertainable and Affiant believes it a proper case for the filing of an Amended Information. For this reason and pursuant to Mont. Code Ann. § 46-11-201, Affiant respectfully moves the Court for leave to file said Amended Information directly in District Court.

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

a. An investigation into the activities of the Defendant was initiated by the office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI) because of a written complaint received from R.C. regarding investments totaling \$55,000 he made through the Defendant and Tower Trust Two (Tower).

b. The Defendant is the trustee for Tower which is purported to be a Nevada private trust. Tower has not registered with the CSI nor has it registered with the Montana Secretary of State.

c. On March 30, 2007, the Defendant placed an advertisement in the Missoulian daily newspaper, which stated “24% well-secured fixed 1yr yield w/ Go Zone trusts. Help rebuild booming Gulf Coasts.” See Exhibit A attached hereto.

d. R.C. read the advertisement and contacted the Defendant. The Defendant met with R.C. and solicited funds from R.C. to invest in Tower.

e. Based on the information in the advertisement and representations made by the Defendant, R.C. gave the Defendant a cashier’s check in the amount of \$10,000 dated April 19, 2007, a cashier’s check in the amount of \$35,000 dated August 27, 2007, a cashier’s check in the amount of \$5,000 dated February 12, 2008, and a personal check in the amount of \$5,000 dated on or about July 15, 2008.¹ See Exhibit B attached hereto.

f. For each check the Defendant received, he issued R.C. a “Business Purpose Note.” The first Note was dated April 16, 2007, and stated that R.C. would pay the Defendant \$10,000, and R.C. would receive a 24 percent interest rate. The second Note was dated August 28, 2007, and

¹ CSI does not have a copy of the personal check issued on or about July 15, 2008; however, the Defendant acknowledged in a hand written note that the check was issued by R.C. See Exhibit C attached hereto.

stated that R.C. would pay the Defendant \$35,000, and R.C. would receive a 24 percent interest rate. The third Note was dated February 15, 2008, and stated that R.C. would pay the Defendant \$5,000, and R.C. would receive a 24 percent interest rate. The fourth Note was dated July 15, 2008, and stated that R.C. would pay the Defendant \$5,000, and R.C. would receive a 24 percent interest rate. The total amount paid for the four Notes was \$55,000. See Exhibits D, E, F, and G attached hereto.

g. The Defendant left the state of Montana and as of May 4, 2009, claimed to be a resident of the state of Texas.

h. R.C. has not received any interest payments from the Defendant nor has he recovered any of the \$55,000.

i. The Defendant never informed R.C. that he was not registered with the CSI to offer or sell securities.

j. The Defendant never informed R.C. that Tower had not registered its securities in the state of Montana, nor had it applied for any type of an exemption from registration.

k. The Defendant never provided R.C. with any disclosure information regarding R.C.'s investments in Tower "Business Purpose Notes."

WHEREFORE, the undersigned moves the Court for an Order granting leave to file an Amended Information directly in District Court charging the above named Defendant with the felony offenses of THEFT by purposely or knowingly obtaining or exerting unauthorized control over R.C.'s property and using, concealing, or abandoning the property knowing that the use, concealment, or abandonment probably would deprive R.C. of his property; SECURITIES FRAUD by making untrue statements or omitting material facts; SECURITIES FRAUD by making untrue statements or omitting material facts; and SECURITIES FRAUD by making untrue statements or omitting material facts, as more particularly set forth herein.

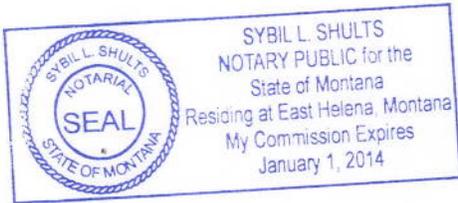
DATED this 21st day of July, 2011.



JESSE LASLOVICH
Special Deputy Missoula County Attorney

SUBSCRIBED and SWORN to before me this 21st day of July, 2011, by

Jesse Laslovich.



Sybil L. Shults