MIKE WINSOR
Office of the Commissioner of Securities and
Insurance, Montana State Auditor
840 Helena Avenue
Helena, MT 59601
(406) 444-2040

Attorney for the Securities Department

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA

IN THE MATTER OF:	Case No.: SEC-2011-136
DONALD L. CHOUINARD,	**CONSENT AGREEMENT AND FINAL ORDER**
Respondent.	

This Consent Agreement and Final Order is entered into by the Securities Department (Department) of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Securities Act of Montana, Mont. Code Ann. § 30-10-101, et seq. (Act), and Donald L. Chouinard (Respondent).

RECITALS

WHEREAS, Respondent is registered the with the Department as a salesperson, and was registered as a salesperson and investment advisor representative for LPL Financial Services;

WHEREAS, LPL Financial Services terminated Respondent on May 12, 2009;

WHEREAS, Respondent was charged with and subsequently entered a plea of guilty to and was convicted of two felonies: Theft by Embezzlement (Common Scheme), Securities Fraud (Conducting a Ponzi scheme)(See attached Exhibit A, Judgment and Sentence Cause No. DC-09-576B;

WHEREAS, the Department alleges that the Respondent has been convicted of two felonies, which is grounds under Mont. Code Ann. § 30-10-201(13)(c) for his Montana securities licenses to be revoked; and

WHEREAS, the Department and the Respondent agree that the best interests of the public would be served by entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the Department and the Respondent hereby agree to resolve this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

The Department and Respondent hereby stipulate and agree to the following:

1. Respondent's securities licenses as a salesperson and investment advisor representative are revoked.

2. Respondent is permanently banned from any future attempt to apply for securities licensing or registration in Montana.

3. Respondent fully and forever releases and discharges the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the Department, and all of the Department's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

4. Upon execution of this Agreement, Respondent acknowledges and waives its right to appeal the Commissioner's Order.

5. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the Department or by any

member, officer, agent, or representative of the Department to induce Respondent to enter into this Agreement.

6. This Agreement may not be modified orally and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

7. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

8. This Consent Agreement shall be effective upon signing of the Final Order.

9. The Respondent further understands that, upon the signing of the Final Order by the Commissioner or her representative, this Agreement will be an order of the Commissioner and failure to comply may constitute separate violations of the Securities Act pursuant to Mont. Code Ann. § 30-10-305 and/or other applicable statutes or rules. The Department reserves the right to take subsequent legal action for failure to comply with the Final Order, including seeking fines.

10. The Respondent understands that this Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 30 day of August, 2011.

SECURITIES DEPARTMENT

By: _____
MIKE WINSOR
Attorney for the Securities Department

STATE OF MONTANA)
:ss.
County of Flathead)

DATED this 29 day of August, 2011

DONALD LOUIS CHOUINARD

SUBSCRIBED and SWORN to before me this 29 day of August, 2011, by Donald Louis Chouinard.

PATRICIA L. SHINN
NOTARY PUBLIC - MONTANA
Residing at Kalispell, Montana
My Comm. Expires 10/15/2011

Printed Name _____
Notary Public for the state of _____
Residing at _____
My Commission expires _____

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 30-10-101, *et seq.*, and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the Securities Department and the Respondent is adopted as if set forth fully herein.

DATED this 30th day of August, 2011.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: Lynne Egan
LYNNE EGAN
Deputy Securities Commissioner

cc: Mike Winsor
Donald L. Chouinard

CLERK OF DISTRICT COURT
2011 APR 21 AM 11:35
FILED
BY AC DEPUTY

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

EXHIBIT A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7) He may not consume or possess intoxicants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DATED this 21st day of April, 2011.

Katherine R Curtis
District Court Judge

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

Nick Aemisegger, Defense Counsel

Donald L. Chouinard, Defendant

Flathead County Sheriff's Office
Adult Probation and Parole

emailed 4/25/11 DC