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DISTRICT COURT

2014 MAY -7 PM 3:32

FILED

BY                     

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9 IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF  
10 THE STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

11 **STATE OF MONTANA,** ) Cause No.: *DC. 14.196C*  
12 )  
13 Plaintiff, ) **MOTION FOR LEAVE TO FILE AN**  
14 ) **INFORMATION**  
15 vs. )  
16 )  
17 **JOE GLICKMAN, JR.,** )  
18 )  
19 Defendant. ) **HEIDI JULBRICHT**

20 =====  
21 Pursuant to Section 46-11-201, MCA, the State moves for leave  
22 to file an Information charging the Defendant with the following  
23 offenses: Count One: **FAILURE TO REGISTER AS A SECURITIES**  
24 **SALESPERSON** (common scheme), a felony; Count Two: **FAILURE TO**  
25 **REGISTER A SECURITY** (common scheme), a felony; Count Three:  
26 **FRAUDULENT PRACTICES** (common scheme), a felony; and Count Four:  
27 **THEFT** (common scheme), a felony.

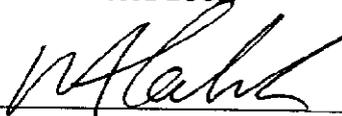
28 In support of this motion, the State has attached for this  
Court's review an affidavit setting forth the facts which establish  
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|

1 probable cause to believe that the Defendant has committed the  
2 alleged offenses.

3 DATED this 5<sup>th</sup> day of May, 2014.

4 OFFICE OF THE COMMISSIONER OF  
5 SECURITIES AND INSURANCE  
6 MONTANA STATE AUDITOR

7 

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9 IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF  
10 THE STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

11 **STATE OF MONTANA,** ) Cause No.: **DC-14-1960C**  
 )  
12 Plaintiff, ) **AFFIDAVIT IN SUPPORT OF MOTION**  
 ) **FOR LEAVE TO FILE AN**  
13 vs. ) **INFORMATION**  
 )  
14 **JOE GLICKMAN, JR.,** )  
 )  
15 Defendant. )  
16 =====

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

20 Michael A. Kakuk, a person of lawful age, after being duly  
21 sworn, deposes and states:

22 1. I am a Special Assistant Attorney General by virtue of  
23 my employment with the Office of the Commissioner of Securities and  
24 Insurance, Montana State Auditor (CSI). I am also a duly  
25 appointed, qualified, and acting Special Deputy Flathead County  
26 Attorney for the purpose of prosecuting this case. I am familiar  
27 with the investigation relating to the Defendant.  
28

1           2.    Based upon information developed through an investigation  
2 conducted by criminal justice investigators, probable cause exists  
3 to allow the State to file an Information alleging the Defendant  
4 committed several offenses in Flathead County, Montana; Lewis and  
5 Clark County, Montana; and in other states. More specifically,  
6 this Court should grant leave to file an Information directly in  
7 this Court pursuant to Mont. Code Ann. § 46-11-201, charging the  
8 Defendant with the following offenses: Count One: FAILURE TO  
9 REGISTER AS A SECURITIES SALESPERSON (common scheme), a felony in  
10 violation of § 30-10-201(1); Count Two: FAILURE TO REGISTER A  
11 SECURITY (common scheme), a felony in violation of § 30-10-202(1);  
12 Count Three: FRAUDULENT PRACTICES (common scheme), a felony in  
13 violation of § 30-10-301(1)(c); and Count Four: THEFT (common  
14 scheme), a felony in violation of § 45-6-301(2)(b).

15  
16  
17           3.    Venue is proper in Flathead County pursuant to §§ 46-3-  
18 112(2) and 46-3-115 because acts that form the basis of the charges  
19 against the Defendant occurred or continued in more than one  
20 county, and at least partly within the State of Montana, and some-  
21 if not all-of the acts that form the basis of the charges occurred  
22 in Flathead County. See e.g. *State v. Cooney*, 271 Mont. 42, 894  
23 P.2d 303 (1995).

24  
25  
26           4.    Criminal justice investigators have made a full and  
27 careful investigation of the facts and circumstances surrounding  
28 the commission of the offense, so far as they are known or

1 ascertainable, and I believe it a proper case for the filing of the  
2 information that accompanies this Motion and Affidavit.

3 5. The facts establishing probable cause are as follows:

4 a. On or about June 1, 2009, through December 28, 2011,  
5 the Defendant and others solicited potential investors to  
6 purchase shares in the entity MWM Special Group, LP (MWM).  
7 During this time the Defendant resided in and operated from  
8 Flathead County, Montana.

9 b. The Defendant stated the purpose of MWM was to  
10 complete and market the patent-pending Magic Website Maker, a  
11 web-based platform for entities to create and host their own  
12 websites. The Defendant told potential investors that:

13 "In addition to owning a limited partnership interest in  
14 the MWM Special Group, LP, every investor will be given a  
15 place near the top of one of the approximately 30 lines  
16 of descent that begin the downline of the company. The  
17 company will seek first to build out these 30 lines of  
18 descent in its marketing campaign."  
19

20 c. The Defendant convinced at least 11 persons located  
21 in Flathead County, Montana, to invest at least \$167,500.00  
22 with the Defendant or MWM for the purposes of developing that  
23 business. The Defendant, either by himself or with the  
24 assistance of others, convinced at least another 32 persons  
25 located in other states to invest at least \$484,950.00 with  
26  
27  
28

1 the Defendant or MWM for the purposes of developing that  
2 business.

3 d. A review of the CSI internal database, the  
4 Securities and Exchange Commission's (SEC) EDGAR database, and  
5 Financial Regulatory Authority's (FINRA) Central Registration  
6 Depository (CRD), which contain securities filings for all  
7 interstate securities offerings, shows that MWM is not now,  
8 nor has it ever been, registered as a broker-dealer firm,  
9 issuer, or in any capacity with the CSI, the SEC, or FINRA.

10 e. A review of the CSI's internal database and the CRD  
11 also shows that the Defendant is not now, nor has he ever  
12 been, registered as a securities broker-dealer or salesperson  
13 with the CSI or FINRA. The Defendant did not disclose this  
14 information to investors.

15 f. In a letter to the CSI dated February 22, 2012, the  
16 Defendant stated that "MWM Special Group LP raised only  
17 \$464,000 in 2009 and only \$208,000 during 2010 from a total of  
18 45 accredited investors. It raised no money in any other  
19 years. The LP ran out of money by the end of 2011 and was  
20 terminated on December 28, 2011." The Defendant also admitted  
21 that "Joe Glickman, JR as Trustee and Manager of General  
22 Partner, and Craig Glickman as Trustee and Manager of General  
23 Partner, handled all transactions for MWM Special Group LP."  
24  
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1 g. In that same letter, the Defendant also claimed that  
2 MWM qualified under the Montana Limited Offering Exemption,  
3 citing to Admin. R. Mont. 6.10.301. However, the Defendant  
4 failed to meet the following requirements: 1) not all of the  
5 investors in MWM qualified as accredited investors; 2) no form  
6 D was filed with the CSI; and 3) the Defendant did not make a  
7 reasonable inquiry into the suitability of the investment.  
8 A.R.M. 6.10.301(2), (6), and (7).  
9

10 h. On or about June 29, 2010, the Defendant obtained  
11 \$35,000.00 from Montana investor Todd Featherly. On or about  
12 September 3, 2010, the Defendant paid \$7,659.50 from those  
13 funds to "Boston College BC ePay." On or about October 6,  
14 2010, the Defendant made another payment to Boston College BC  
15 in the amount of \$5,150.00 from that same account. Those  
16 payments were not related to the business of MWM.  
17  
18

19 i. On or about September 3, 2010, the Defendant paid  
20 \$5,000.00 from Mr. Featherly's funds out of the same account  
21 by wire transfer to "Ultra Life of Inverelle" (Ultra Life).  
22 According to their website, Ultra Life "is a company developed  
23 specifically to serve Health Care Professionals and their  
24 clients. We provide the highest quality products available  
25 anywhere in the world. All products are designed to support  
26 specific metabolism as determined by the Healthexcel System of  
27  
28

1 j. Metabolic Typing®." That payment was not related to  
2 the business of MWM.

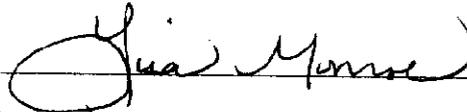
3 6. Based on the foregoing, I request the Court find that  
4 probable cause exists and allow the State to prosecute the  
5 Defendant in the manner provided by law.

6 DATED this 5<sup>th</sup> day of May, 2014.

7  
8  
9 

10 MICHAEL A. KAKUK  
11 Special Assistant Attorney General  
12 Special Deputy Flathead County Attorney

13 SUBSCRIBED AND SWORN TO before me this 5<sup>th</sup> day of May, 2014.

14  
15 

16 County Lewis & Clark  
17 City Helena, MT

