

NANCY SWEENEY  
CLERK DISTRICT COURT

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**MONTANA FIRST JUDICIAL DISTRICT COURT  
LEWIS AND CLARK COUNTY**

MONICA J. LINDEEN, STATE  
AUDITOR and EX-OFFICIO,  
MONTANA SECURITIES  
COMMISSIONER,  
  
Petitioner,  
  
v.  
  
MATTHEW MCCLINTOCK, a/k/a  
MICHAEL WILLIS, ALBERT  
MICHAEL WILLIS, MATHEW  
CODY MCCLINTOCK, ODELL  
MCCLINTOCK, MICHAEL DEAN  
MCCLINTOCK, MICHAEL ODELL,  
MICHAEL ALBERT WILLIS, d/b/a  
BAR M FILMS,  
  
Respondents.

Cause No.: ADV-2015-380  
  
**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER ON PETITION  
FOR PRELIMINARY  
INJUNCTION**

On August 6, 2015, the Court held a hearing addressing a petition for preliminary injunction filed by Petitioner Monica J. Lindeen, State Auditor and Ex-Officio, Montana Securities Commissioner, for the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI). Jennifer Hudson represents CSI. Respondent Matthew McClintock (McClintock) did not appear.  
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1 c. The Act regulates investment contracts and promissory  
2 notes, *inter alia*.

3 d. Egan testified that she is familiar with McClintock, Bar  
4 M Films, and his alleged documentary. A Missoula County Detective referred this  
5 matter to Egan.

6 e. An investigative subpoena was issued for McClintock's  
7 account at First Interstate Bank. The account was examined by doing a first-in,  
8 first-out accounting to track funds.

9 f. Egan testified it appeared as though McClintock was  
10 using investor funds for personal expenses and to pay back money owed to other  
11 investors.

12 g. Egan testified that during her investigation she was able  
13 to determine Clint Eastwood was not in the film, PBS had not agreed to air the  
14 film, and a University of Montana history professor had not agreed to provide  
15 historical perspective, despite McClintock's representations to the contrary.

16 h. The Western Montana Breast Cancer Fund, for which  
17 McClintock was supposedly raising money with the film, was determined not to  
18 exist.

19 i. McClintock was not registered as a securities salesperson  
20 in any databases with the State of Montana or any other states. The film was  
21 similarly not registered as an investment offering.

22 j. L.A. invested \$10,000 with McClintock, who provided  
23 her with a business loan agreement to memorialize the investment and expected  
24 payments.

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1 k. Analysis of L.A.'s investment indicates the funds were  
2 used primarily for personal purposes.

3 l. L.S. invested \$4,850 with McClintock. McClintock and  
4 L.S. executed a signed investment agreement.

5 m. L.S.'s investment also appears to have been used  
6 primarily for personal reasons.

7 n. Egan testified she continued to have the same concerns  
8 as she did when the temporary restraining order was issued. Specifically, that  
9 McClintock would continue to solicit investors in potentially fraudulent and  
10 unregistered securities. Allowing McClintock to continue operating Bar M Films  
11 would likely cause irreparable harm.

### 12 CONCLUSIONS OF LAW

13 1. CSI has the authority to bring an action in any court of  
14 competent jurisdiction to enjoin any acts or practices and to enforce compliance  
15 with the Securities Act of Montana. Mont. Code Ann. § 30-10-305.

16 2. This Court has jurisdiction over this matter as a district court  
17 of this state.

18 3. The term security includes an investment contract.  
19 Mont. Code Ann. § 30-10-103(22)(xii).

20 4. An investment contract is an investment of money in a common  
21 venture with reasonable expectation of profits derived through the entrepreneurial  
22 or managerial efforts of others. *State v. Duncan*, 181 Mont. 382, 393, 593 P.2d  
23 1026, 1033 (1979); *Redding v. Mont. First Jud. Dist. Ct.*, 2012 MT 144A, ¶ 25,  
24 281 P.3d 189.

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1           5.     Persons invested money with McClintock, with the expectation  
2 he would manage the money along with others' money and, in turn, all participants  
3 would profit, thus making the documentary contributions an investment contract,  
4 and therefore a security.

5           6.     A “[s]ecurity means any evidence of indebtedness.” Mont.  
6 Code Ann. § 30-10-103(22)(a)(viii). Promissory notes are evidence of  
7 indebtedness.

8           7.     McClintock issued securities in the form of promissory notes  
9 and/or investment contracts to L.A. and L.S.

10          8.     It is a violation of the Act to act as a securities salesperson  
11 without being properly registered. Mont. Code Ann. § 30-10-201.

12          9.     McClintock acted as a salesperson when he solicited persons to  
13 invest in the production of a fictional documentary.

14          10.    McClintock further acted as a salesperson when he issued  
15 promissory notes which promised a rate of return.

16          11.    It is a violation of the Act to sell unregistered securities. Mont.  
17 Code Ann. § 30-10-202.

18          12.    The documentary being marketed was not registered, or given  
19 an exemption from registration and, therefore, McClintock's selling of the  
20 securities violated the Act.

21          13.    “It is unlawful for any person, in connection with the offer, sale,  
22 or purchase of any security, directly or indirectly, in, into, or from this state, to  
23 engage in any act, practice, or course of business that operates or would operate as  
24 a fraud or deceit upon any person.” Mont. Code Ann. § 30-10-301(1)(c).

25

1           14. Both L.A. and L.S. entered into indebtedness with McClintock  
2 with the understanding that the money would be used to fund a documentary.  
3 McClintock used the funds primarily for personal reasons and there is no evidence  
4 that a documentary was in production.

5           15. McClintock made many misrepresentations to investors and  
6 potential investors regarding celebrities involved in the documentary and various  
7 aspects of the production. McClintock also made representations that part of the  
8 money earned from the documentary would go to a fictional charity.

9           16. McClintock employed a fraud or deceit when he told investors  
10 they would be assisting in the funding of a documentary that he was producing,  
11 and made false promises regarding who was involved with the documentary.

12           **NOW, THEREFORE, IT IS HEREBY ORDERED:**

13           1. CSI's petition for a preliminary injunction is GRANTED.

14           2. McClintock is restrained from engaging in securities business  
15 practices in the State of Montana including, but not limited to, the collection of any  
16 money or forms as a result of his solicitation in connection with the documentary at  
17 issue in this matter.

18           3. McClintock is restrained from transferring, encumbering, or  
19 disposing of, or attempting to transfer, encumber, or dispose of any money, assets,  
20 and property interests which may have been obtained, in whole or in part, using  
21 investor funds. This money, assets, and property interests include, but are not  
22 limited to the following:

23           a. First Interstate Bank Account # 1400318299; and  
24           b. Any other First Interstate Bank account currently under  
25 his control.

