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MONTANA FIRST JUDICIAL DISTRICT COURT

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FILED

T JOHNSON

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

MONICA J. LINDEEN, in her capacity as
STATE AUDITOR and ex-officio
COMMISSIONER OF SECURITIES

Petitioner,

RICHARD BRANDT, individually; BRANDT
& ASSOCIATES, INC.; and HOME
INVESTORS, LLC,

Respondents.

No.: CDV-2015-423

PETITION FOR INJUNCTIVE RELIEF

KATHY SEELEY
Presiding Judge

The Montana State Auditor, Commissioner of Securities and Insurance (Commissioner), by and through counsel, hereby petitions this Court to grant injunctive relief in the form of a temporary restraining order preventing the Respondents from engaging in securities business practices in the State of Montana; from engaging in further violations of the Securities Act of Montana (Act); and from transferring, encumbering, disposing of, or attempting to transfer, encumber, or dispose of, certain assets, monies, and property interests. The Commissioner additionally petitions this

Court to set a hearing for the Respondents to Show Cause why a preliminary injunction should not be granted preventing the Respondents from taking such actions. In support of this Petition, the Commissioner makes the following:

ALLEGATIONS

1. This Court has jurisdiction to hear this matter pursuant to Mont. Code Ann. §§ 30-10-201, -301, and -305.
2. The Commissioner is authorized to administer the Act, Mont. Code Ann. § 30-10-101 et seq. Mont. Code Ann. § 30-10-107(1).
3. The Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI) is a criminal justice agency. Mont. Code Ann. § 30-10-304(5).
4. The Act is to be construed to protect the investor, persons engaged in securities transactions, and the public interest. Mont. Code Ann. § 30-10-102(1).
5. If it appears that any person has engaged in or is about to engage in a violation of the Act, the Commissioner may bring an action in a court of competent jurisdiction in order to enjoin activity and to enforce compliance with the Act. Mont. Code Ann. § 30-10-305(1)(b).
6. It is a violation of the Act for anyone to transact business in the State of Montana as a securities broker-dealer or salesperson if the person is not registered under the Act. Mont. Code Ann. §30-10-201(1). Mont. Code Ann. § 30-10-306 provides criminal penalties for violations of said statute.
7. It is a violation of the Act for any person, in connection with a securities transaction, to employ any device, scheme, or artifice to defraud any person; or to engage

in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person. Mont. Code Ann. §30-10-301(1). Mont. Code Ann. § 30-10-306 provides criminal penalties for violations of said statute.

8. It is unlawful pursuant to § 52-8-325 for a person to purposely or knowingly abuse an older person.

9. It is a violation of Mont. Code Ann. § 45-6-301(7)(b) to, with the purpose to deprive another person, purposely or knowingly obtain by deception, control over another person's property which was entrusted to the person.

10. The facts establishing the necessity of injunctive relief are as follows:

a. A preliminary report of investigation was prepared by Lynne Egan (Egan), Montana's Deputy Commissioner of Securities for the CSI. Egan is a forensics accountant who has worked for the CSI for over 20 years as a Securities Examiner and Deputy Commissioner of Securities. Prior to her work at the CSI, she was an income tax compliance officer for the Montana Department of Revenue for 3 years and worked for D.A. Davidson for 10 years as an operations manager. She has served as an expert witness in many securities-related cases and has extensive training and experience relating to securities regulation. Based on Egan's report, the Petitioner is aware of the following.

b. Richard Brandt is a resident of Miles City, Montana.

c. Based on a review of the records filed with the Montana Secretary of State, Brandt is affiliated with the following entities:

- i. Brandt is the owner of Home Investors LLC, which has as its listed address: 22 Wednesday Drive, P.O. Box 459, Miles City, Montana, 59301. Home Investors LLC is a Montana corporation, ID # C219636. It was incorporated on October 26, 2011.
- ii. Brandt is the registered agent of Brandt & Associates, Inc., which has as its listed address: 22 Wednesday Drive, P.O. Box 459, Miles City, Montana, 59301. Brandt & Associates, Inc., is a Montana corporation, ID # D103450. Brandt & Associates, Inc., was incorporated on April 6, 2000, and was involuntarily dissolved on December 1, 2008.
- d. Brandt has told people that Home Investors LLC buys and “flips” houses for a profit. Brandt has claimed to have houses in Missouri he is flipping for a profit.
- e. A review of the CSI’s internal database and the Securities and Exchange Commission’s (SEC) EDGAR database, which contain securities filings for all interstate securities offerings, and the Financial Regulatory Authority’s (FINRA) Central Registration Depository (CRD), which maintains registration filings for all broker-dealer firms, shows that the foregoing entities in paragraph six are not now, nor have they ever been, registered as a broker-dealer firm, issuer, or registered in any capacity with the CSI, the SEC, or FINRA.
- f. A review of the CSI’s internal database and the CRD also shows that Brandt is not now, nor has he ever been, registered as a securities broker-dealer or salesperson with the CSI or FINRA.

- i. A note dated August 15, 2011, in the amount of \$457,000, with a 15% interest guarantee.
- ii. A note dated June 25, 2011, in the amount of \$24,000, with a 15% interest guarantee.
- iii. A note dated February 23, 2012, in the amount of \$60,000, with a 15% interest guarantee.
- iv. A note dated May 31, 2012, in the amount of \$22,000, with a 15% interest guarantee.
- q. J.F. never received a prospectus or disclosure document on Home Investors LLC.
- r. Brandt had been making monthly payments of \$5,900 to J.F., but those payments stopped after April 2014. In April 2015, Brant made an additional payment of \$10,000 to J.F. and J.F. believes the \$10,000 was a repayment of a portion of the investment's principal, but because Brandt has not provided financial statements, J.F. is not sure.

11. The facts alleged above indicate Brandt has engaged in securities transactions despite the fact that neither he, Brandt & Associates, Inc., nor Home Investors LLC are now, nor have they ever been, registered as a broker-dealer, salesperson, or issuer with the State of Montana, in violation of Mont. Code Ann. §§ 30-10-103, -201.

12. The facts alleged above indicate the Respondents engaged in a course of business which operated as a fraud upon investors, in violation of Mont. Code Ann. § 30-10-301(1).

13. The facts alleged above indicate the Respondents have possession of or control of assets and property interests acquired using fraudulently obtained investor money.

14. The facts alleged above indicate the Respondents have financially abused an elder person, in violation of § 52-8-325.

15. The Commissioner has reason to believe that the Respondents may attempt to transfer, encumber, dispose of, or alienate their interest in those monies, assets, and property interests obtained using investor funds. These actions would result in immediate and irreparable injury to the investors by depriving them of sources from which to recover their investment funds. Additionally, such actions would perpetuate the Respondents' violations of the Act.

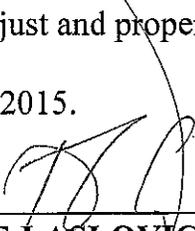
16. Because it appears the Respondents have engaged in numerous violations of the Act, the Commissioner is entitled to injunctive relief in order to restrain the Respondents from violating the Act and to enforce conformity with its provisions.

17. Pursuant to Mont. Code Ann. § 27-19-315, the Commissioner has not, and is not required to, give notice to the Respondents of this Petition. The facts alleged above demonstrate that providing the Respondents notice of the Petition prior to its filing would enable the Respondents to liquidate assets and property interests obtained using investor funds, would cause investors immediate and irreparable injury by depriving them of sources from which to recover their investment funds, and would allow the Respondents to engage in further violations of the Act, which violations the Commissioner is obligated to prevent.

WHEREFORE, the Commissioner seeks the following relief:

1. The Court issue a temporary restraining order pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b) restraining the Respondents from engaging in securities business practices in the State of Montana, including but not limited to, the collection of any monies or forms as a result their solicitations in connection with Home Investors LLC or Brandt & Associates, Inc.;
2. The Court issue a temporary restraining order pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b) restraining the Respondents from committing further violations of the Act;
3. The Court issue a temporary restraining order pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b) restraining the Respondents from transferring, encumbering, or disposing of, or attempting to transfer, encumber, or dispose of any monies, assets, and property interests which may have been obtained, in whole or in part, using investor funds. These monies, assets, and property interests include, but are not limited to, any Stockman Bank Accounts under the Respondents' control.
4. The Court set a hearing for the Respondents to Show Cause pursuant to Mont. Code Ann. §§ 27-19-201(1) and 30-10-305 why they should not be enjoined from the activities for which a temporary restraining order has been requested.
5. Any other relief this Court deems just and proper.

DATED this 12th day of June, 2015.



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