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FILED
BR. RASMUSSEN
Deputy

MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

MONICA J. LINDEEN, STATE
AUDITOR and EX-OFFICIO,
MONTANA SECURITIES
COMMISSIONER,

Petitioner,

v.

RICHARD CONVERSE and
DC TAX SERVICE, INC.,

Respondents.

Cause No.: ADV-2015-117

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER**

On May 19, 2015, the Court held a hearing addressing Petitioner Montana State Auditor and ex-officio Commissioner of Securities and Insurance Monica J. Lindeen's (CSI) request for a permanent injunction and motion to hold Respondent Richard Converse and DC Tax Service, Inc. (Converse) in contempt. The Court also heard testimony on Converse's motion to release funds and to stay proceedings. Jennifer Hudson and Brett O'Neil, counsel for the office of the Montana State Auditor, Commissioner of Securities and Insurance, represent the CSI. Converse appears *pro se*.

On behalf of the CSI, the Court heard testimony from Joyce Bowman (Bowman) and deputy securities commissioner Lynne Egan (Egan). Converse did not present witness testimony.

1 requesting another continuance so that he might procure counsel. At the
2 May 19, 2015 hearing, Counsel filed a renewed motion to continue. The Court
3 denied Converse's motion, indicating (1) the Court previously granted his motion
4 to continue, and (2) the CSI alleged Converse violated the terms of the Court's
5 March 6, 2015 preliminary injunction.

6 3. Joyce Bowman appeared via Vision Net from Great Falls,
7 Montana with her counsel, Channing Hartelius. Bowman testified as follows:

8 a. She resides in Vaughn, Montana, but owns an insurance
9 agency and receives both personal and business mail at the agency address in Great
10 Falls.

11 b. In 2011, Bowman invested in the dinar, the currency of
12 Iraq. Dinar investments are Bowman's only investment.

13 c. Although Converse prepared tax returns for her
14 husband's family, Bowman first met Converse on January 22, 2015.

15 d. On January 22, 2015, Bowman completed an application
16 to open a joint account at Victorious Financial. She gave Converse check number
17 1194 in the amount of \$300 to join Victorious Financial and be eligible to purchase
18 and sell her dinar investment.

19 e. On February 12, 2015, Bowman purchased a dinar
20 layaway program from Converse using check number 1204 in the amount of
21 \$337.50. This program was good for 45 days and could be renewed for a fee. On
22 February 14, 2015, she gave Converse check number 1205 in the amount of \$90
23 for an additional layaway.

24 f. Bowman's layaways expired as Converse was unable to
25 renew them. Bowman no longer has access to these funds.

1 g. In April 2015, Bowman allowed Converse to use her post
2 office box address. At Converse's request, investors would send application forms
3 and money orders for accounts with Victorious Financial to Bowman's post office
4 box.

5 h. Converse subsequently collected the application forms
6 and money orders from Bowman at her insurance agency.

7 i. After Bowman had contact with CSI Investigator Mark
8 Murray, on April 13, 2015, she began to photocopy the contents of the
9 correspondence she received for Victorious Financial.

10 j. Although CSI asked Bowman not to do so, she continued
11 to collect the mail addressed to Victorious Financial and give it to Converse.
12 According to Boman, she received an e-mail from an account addressed
13 "lynn@lawlearners" in which Bowman was chastised for holding the packages
14 that had been entrusted to her without a court order.

15 k. When Bowman opened the packages she copied the
16 contents before giving it to Converse. Bowman saved three money orders that
17 were payable in her name. She did not cash these money orders, but instead gave
18 them to her counsel, along with the photocopies of the correspondence.

19 4. Deputy Securities Commissioner Egan testified as follows:

20 a. Egan is a certified public accountant who a long career in
21 the private and public sector. She worked ten years at the investment firm D.A.
22 Davidson & Co. before joining CSI in 1994. She has been the Deputy Securities
23 Commissioner since 2006.

24 b. The CSI enforces the Montana Securities Act, Mont.
25 Code Ann. § 30-10-101 et seq. (Act). The CSI regulates the securities industry

1 in Montana and investigates allegations of securities fraud.

2 c. The Act regulates investment contracts and promissory
3 notes.

4 d. Egan testified she is familiar with Victorious Financial
5 and Victorious Financial Bank, as it is also known. Through her investigation,
6 she has been unable to find any evidence of the existence of Victorious Financial
7 or Victorious Financial Bank. During her investigation, Egan discovered a
8 warning from the Central Bank of Belize indicating that Victorious Financial did
9 not have a branch located in that country.

10 e. Egan testified that Converse had an account at Prairie
11 Mountain Bank. Upon obtaining the records of his account at Prairie Mountain
12 Bank, Egan noticed a large number of withdrawal and deposits and evidence of
13 co-mingling between the various accounts. Egan indicated the accounting
14 practices evidenced by these records were unusual and raised concerns.

15 f. Egan testified Converse made a large deposit in a US
16 Bank account the day after this Court issued its Temporary Restraining Order in
17 February 2015. He began using the account at US Bank to transact his securities
18 business. This account also evidenced a suspicious pattern of activity and
19 co-mingling. Many checks deposited into the US Bank account included memos
20 indicating a purpose of purchasing Iraqi dinars.

21 g. Egan identified three promissory notes Converse issued
22 after the Court issued its Temporary Restraining Order. Two of the promissory
23 notes were issued after the Court granted its Preliminary Injunction on March 6,
24 2015. According to Egan, the promissory notes guaranteed a suspiciously high rate
25 of return (500 percent) over a very short period of time. She also indicated there

1 was little collateral to secure the notes. Egan testified the notes have come due and
2 have not been paid.

3 h. Egan testified that before Converse received the
4 Temporary Restraining Order, he had used Fidelity New Account Forms to gather
5 information of those individuals opening accounts. The form was not approved
6 by Fidelity for Converse's use and was not approved to be used for the purpose
7 Converse was using it. Although the Court issued its Temporary Restraining
8 Order, Converse continued to solicit new investors using his own account form.
9 Egan testified the form is titled "Victorious Financial," asks for personal
10 information uses a return address of Converse's business. Egan is concerned that
11 Converse is seeking confidential personal financial information from individuals,
12 but is taking no steps to protect and secure that confidential information.

13 i. After Converse's accounts at US Bank were frozen, Egan
14 received a report that investors were being asked to send blank money orders and
15 account forms to Joyce and Lon Bowman. Egan collected copies of the money
16 order packets that were recovered and produced a schedule, indicating Converse
17 obtained money orders of approximately \$19,550.00.

18 j. Egan met with Converse in March 2015 to identify the
19 source of the funds in Converse's accounts and to determine those funds Converse
20 received as payment for tax preparation and those funds he had received as
21 investments in Victorious Financial. According to Egan, the CSI allowed
22 Converse access to three accounts at US Bank in which there was no evidence
23 Converse used the accounts to deposit securities funds and no evidence of
24 co-mingling. Two accounts remained frozen because they contained investor
25 funds and had been co-mingled.

1 k. Egan testified under cross-examination that she did not
2 agree to give \$1,700.00 back to Converse and that the decision to return money
3 was not hers to make.

4 **CONCLUSIONS OF LAW**

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

8 2. This Court has jurisdiction over this matter as a district court of
9 this state.

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

12 4. An investment contract is an investment of money in a common
13 venture with reasonable expectation of profit derived through the entrepreneurial
14 or managerial efforts of others. *State v. Duncan*, 181 Mont. 382, 593 P.2d 1026
15 (1979); *Redding v. McCarter*, 2012 MT 144, 365 Mont. 316, 281 P.3d 189.

16 5. Numerous individuals invested money with Converse with the
17 expectation he would manage the money in a common venture. In turn, the
18 investor participants expected all would profit, thus making their contributions an
19 investment contract and therefore a security.

20 6. A foreign currency is a commodity. Mont. Code Ann.
21 § 30-10-103(3)(iv). A commodity investment contract means any account,
22 agreement, or contract for the purchase or sale, primarily for speculation or
23 investment purposes and not for use or consumption by the offeree or purchaser,
24 of one or more commodities. Any commodity investment contract is presumed
25 to be offered or sold for speculation purposes absent evidence to the contrary.

1 *Id.* at (6)(i). Taking physical possession of the commodity within 28 days excludes
2 its purchase from the definition of a commodity investment contract.

3 7. Commodity investment contracts are securities. Mont. Code
4 Ann. § 30-10-103(22)(5).

5 8. Investor purchases of Iraqi dinars are commodity investment
6 contracts, and therefore securities, because people were specifically purchasing the
7 dinars as an investment with the hopes that the currency would escalate in value,
8 even though they never took possession of the dinars.

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

11 10. Converse issued securities in the form of promissory notes
12 stating Converse would return to investors a 500 percent rate of return on a \$5,000
13 contribution.

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

16 12. Converse acted as a salesperson when he solicited persons to
17 invest in the Iraqi dinar without actually giving them dinar in exchange for U.S.
18 dollars within 28 days.

19 13. Converse further acted as a salesperson when he issued
20 promissory notes which promised a 500 percent rate of return.

21 14. It is a violation of the Act to sell unregistered securities. Mont.
22 Code Ann. § 30-10-202.

23 15. None of the securities sold were registered. Therefore, by
24 selling the securities Converse violated the Act.

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1 16. It is a violation of the Act to employ any device which would
2 act as a fraud or deceit upon investors. Mont. Code Ann. § 30-10-301.

3 17. Converse employed a fraud or deceit when he told investors
4 they would need to go through Victorious Financial, or any iteration thereof, to
5 cash in their dinar. Victorious Financial does not exist either in Montana, Belize,
6 or anywhere else.

7 18. Converse further employed a fraud or deceit when he promised
8 astronomical rates of return on dinar investments and promised to help consumers
9 purchase them on layaway, which he did not do.

10 19. Converse further violated the Act when he told investors he
11 would repay them an unrealistic rate of return on promissory notes when he did not
12 have the money to return even the principle.

13 20. The power to hold a person in contempt of court arises out of
14 the order of the Court. Mont. Const. Article VII, Sec. 1, *State v. Abrams*, 209
15 Mont. 508, 680 P.2d 585 (1984).

16 21. On March 6, 2015 at a show cause hearing on the CSI's petition
17 for a preliminary injunction, this Court ordered Converse to stop engaging in
18 securities business practices and to stop selling securities. As recently as
19 April 2015, however, Converse issued at least two promissory notes attempting
20 to transfer, encumber or dispose of money, assets and property by using investor
21 funds, specifically, two transactions related to promissory notes of \$5,000 for the
22 Iraqi dinar, in violation of this Court's Preliminary Injunction.

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Converse shall be permanently enjoined from engaging in
3 securities business practices in the state of Montana, including, but not limited to:

4 a. Performing any business or collection of money or
5 collecting personal financial information in connection with Victorious Financial
6 or any iteration thereof.

7 b. Engaging in the purported sale of foreign currency
8 investments including, but not limited to, the Iraqi dinar, the Vietnamese dong,
9 and the Korean wan;

10 2. Converse is held in contempt of this Court. As a consequence
11 of his contempt:

12 a. Converse shall return any and all money orders
13 encompassed by Exhibit 6 to the Office of the Montana State Auditor,
14 Commissioner of Securities and Insurance within seven (7) days of this Order; and,

15 b. Converse shall, to the best of his abilities, pay the monies
16 due on the promissory notes in Exhibit 4.

17 3. Evidence and exhibits in this case that contain confidential
18 personal information are therefore sealed.

19 DATED this 15th day of June 2015.

20
21 
22 MIKE MENAHAN
District Court Judge

23 This is to certify that a copy of the foregoing was duly served upon the following:

24 Brett O'Neil/Jennifer Hudson, State Auditor's Office,
840 Helena Ave, Helena, MT 59601

25 Richard Converse and DC Tax Services, Inc., 100 Sharon Drive,
Great Falls, MT 59405-7255

By: Judicial Assistant Denax Hartman, this 1 day of June 2015.