

Brett W. O'Neil
Benjamin C. Tiller
 Office of the Commissioner of Securities
 and Insurance, Montana State Auditor (CSI)
 840 Helena Avenue
 Helena, MT 59601
 (406) 444-2040

COURT OF DISTRICT JUDGE
 2016 SEP 20 AM 8:10
 FILED
 BY _____
 DEPUTY

Attorneys for the Petitioner

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT
 FLATHEAD COUNTY**

MONICA J. LINDEEN, Montana)
 State Auditor and Montana)
 Securities Commissioner,)
)
 Petitioner,)
)
 v.)
)
 JOHN KEVIN MOORE,)
)
 GLACIER GALA, HAYSTACK)
)
 LANDMARK ENTERPRISES,)
)
 LLC, USA FIGHTWEAR, LLC,)
)
 and BIG SKY MINERAL)
)
 RESOURCES LLC,)
)
 Respondent.)

No.: DV-16- 794D
ROBERT BALLISON

**PETITION FOR INJUNCTIVE
 RELIEF AND SHOW CAUSE
 HEARING**

The Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), by and through counsel, petitions this Court to grant injunctive relief in the form of a temporary restraining order preventing John Kevin Moore, Glacier Gala, Haystack Landmark Enterprises, LLC, USA Fightwear, LLC, and Big Sky Mineral Resources, LLC (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, or 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 Respondent from taking such actions. In support of this Petition, the Commissioner states as follows:

1. This Court has jurisdiction to hear this matter pursuant to Mont. Code Ann. §§ 30-10-201, -301, -305 and -325.

2. The Commissioner is authorized to administer the Act, Mont. Code Ann. § 30-10-101 et seq., pursuant to Mont. Code Ann. § 30-10-107(1). 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). 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). The Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI) is a criminal justice agency. Mont. Code Ann. § 30-10-304(5).

3 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 in the attached affidavit 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.

4. The CSI's investigation is outlined in the attached affidavit of Lynne Egan (EXHIBIT A). The facts of the investigation, as well as the facts of the current situation involving the Respondents establish the necessity of injunctive relief to avoid the immediate and irreparable harm to victims if notice is given and/or delay of injunctive relief beyond immediate Court consideration. The current allegations of violation of Montana law include, but are not limited to: (1) violation of Mont. Code Ann. §30-10-201(1), which prohibits anyone from transacting business in the state of Montana as a securities broker-dealer or salesperson if she is not registered under the Act (Mont. Code Ann. § 30-10-306 provides criminal penalties for violations of this statute); (2) violation of Mont. Code Ann. § 30-10-301(1), which prohibits any person, in connection with a securities transaction, to employ any device, scheme, or artifice to defraud any person (Mont. Code Ann. § 30-10-306 provides criminal penalties for violations of

this statute); (3) violation of Mont. Code Ann. § 30-10-325, which prohibits any person from conducting or promoting a pyramid promotional scheme¹ (Mont. Code Ann. § 30-10-306 provides criminal penalties for violations of this statute); and violation of Mont. Code Ann. § 45-6-301(7)(b), which prohibits a person from obtaining or exerting control over property entrusted to her, with the purpose of depriving the victim of the property.

5. The Respondents' violations are ongoing and any notice to them would or could result in additional violations or destruction of evidence or assets. Further, the Commissioner has reason to believe that the Respondents may attempt to transfer, encumber, dispose of, or alienate 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.

WHEREFORE, the Commissioner seeks the following relief:

1. That this 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;

¹ A pyramid promotional scheme includes a Ponzi scheme, in which a person pays investors using money obtained from later investors rather than from any profits earned. Mont. Code Ann. § 33-10-324(7)(b)

2. That this 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. That this 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;

4. That this 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 held in any of the bank accounts or securities brokerage accounts owned or controlled by the Respondents at the following entities:

**Glacier Bank
202 Main Street
Kalispell, Montana 59901**

**Stockman Bank
700 Main Street
PO Box 250
Miles City, MT 59301-0550**

**Wells Fargo
840 Helena Ave.
Helena, MT 59601**

5. That this 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 held in any other accounts, not listed above, owned or controlled by the Respondents because the monies may not belong to the Respondents and may have been obtained through fraud; and

6. That this Court set a hearing for the Respondents to Show Cause pursuant to Mont. Code Ann. §§ 27-19-201(1) and 30-10-305 why the Respondents should not be enjoined from the activities for which a temporary restraining order has been requested.

DATED this 19th day of September, 2016.

BRETT W. O'NEIL
BENJAMIN C. TILLER
Attorneys for Petitioner
Office of the Commissioner of Securities
and Insurance, Montana State Auditor (CSI)
840 Helena Avenue
Helena, MT 59601
(406) 444-2040

By: 