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ANGIE SPARKS, Clerk of District Court
By STEVE EMGE Deputy Clerk

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

STATE OF MONTANA,

Plaintiff,

v.

ROBERT McKAY,

Defendant.

Cause No. DDC-2013-267

JUDGMENT

Plaintiff State of Montana (State) filed an Information on August 30, 2013, charging Defendant Robert McKay (McKay) with Fraudulent Practices (common scheme), a felony, in violation of Mont. Code Ann. § 30-10-301 (1)(b), alleged to have occurred on or about 2009.

On October 3, 2013, there was an initial appearance, an entry of plea, and sentencing hearing, at which McKay was present with his attorney, K.D. Feeback, and the State was represented by Jesse Laslovich and Brett O'Neil, Special Deputy County Attorneys for Lewis and Clark County and Special Montana Attorneys General. McKay submitted a document entitled "Acknowledgement of Waiver of Rights by Plea of Nolo Contendre and Plea Agreement." McKay entered a plea of *nolo contendere*.

The Court determined from McKay and his attorney that McKay understood the constitutional and statutory rights he gave up because of his plea, including the right to a trial by judge or jury, the right to have witnesses testify on his behalf, the right to confront and cross-examine witnesses against him, the right not to be compelled to incriminate himself and the right to appeal any finding of guilt and that McKay agreed to the conditions below. Moreover, the Court determined there was sufficient evidence that McKay had committed the offenses charged. The Court accepted McKay's plea of *nolo contendere*.

On October 3, 2016, the State filed a Petition to Revoke, noting that McKay had not fulfilled his commitments under the original judgment. The Court held an evidentiary hearing regarding the State's Petition on February 8, 2017, at which time the Court determined McKay had violated his previous sentence. The Court held a sentencing hearing regarding this violation on March 23, 2017. As stated at that sentencing hearing the Court concluded that McKay had violated the previous judgment and sentence of the Court, revoked that judgment and sentence and entered the following:

JUDGMENT AND SENTENCE

IT IS ORDERED, ADJUDGED and DECREED that for the offense of Fraudulent Practices (common scheme), a felony, in violation of Mont. Code Ann. § 30-10-301 (1)(b), the Court sentences Defendant Robert McKay to the Department of Corrections for a period of ten (10) years, with all that time suspended, subject to the following conditions:

1. McKay shall remain law abiding.
2. McKay shall pay total restitution in the amount of \$702,813.01, less moneys already paid, broken down as follows:

a. \$379,750 of the proceeds he received and did not turn over to Highlander Holdings, LLC (Highlander), will be paid to Highlander or its successor(s);

b. \$175, 658.59 in promissory note payments paid by Highlander to McKay will be paid to Highlander or its successor(s);

c. \$147,404.42 in promissory note interest paid by Highlander to McKay will be paid to Highlander or its successor(s);

d. In the event Highlander or its successor(s) closes, payments shall be calculated annually and distributed to investors.

3. McKay shall:

a. Pay, at a minimum, \$500.00 per month towards restitution;

b. Pay any earning over \$4,000 per month towards restitution.

This amount includes social security and any wages, consulting fees, or other income by whatever name called received by McKay;

c. McKay shall provide copies of all pay stubs to his probation officer within ten days of receipt of such funds.

4. McKay is sentenced to the Department of Corrections under the supervision of Officer Michael Touchette, his successor(s) or designee(s).

5. McKay shall comply with the standard conditions of probation and parole.

6. McKay shall pay the mandatory surcharges and court costs of \$80.

7. McKay shall pay his financial obligation to the Court's restitution finance officer located in the Courthouse, 228 Broadway, Helena, MT 59601 (Phone: 406-447-8231), on a schedule which he shall arrange with the officer. McKay shall advise the officer of any factors which may affect his ability to pay his financial obligation or the officer's ability to contact him.

8. If McKay has not already done so, he shall report to the Lewis and Clark County Jail for purpose of getting processed (booked/fingerprinted).

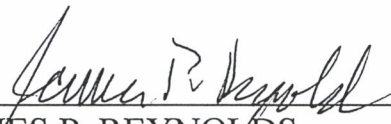
9. Any bond posted in the matter is exonerated.

NOTICE

Pursuant to § 46-18-116(2), MCA, the parties are advised that if a written judgment and an oral pronouncement of sentence or other disposition conflict, McKay or the State may, within 120 days after filing of the written judgment, request that the Court modify the written judgment to conform to the oral pronouncement. The Court shall modify the written judgment to conform to the oral pronouncement at a hearing, and McKay must be present at the hearing unless he waives the right to be present or elects to proceed pursuant to § 46-18-115, MCA. McKay and the State waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written judgment in the sentencing court.

DONE IN OPEN COURT the 20th day of April, 2017.

DATED this 30 day of October, 2018.



JAMES P. REYNOLDS
District Court Judge

C: Brett Olin/Nick Mazanec, 840 Helena Avenue, Helena, MT 59601
KD Feedback, PO Box 907, Lincoln, MT 59639