

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

STATE OF MONTANA,	)	Docket No. <u>ADC-2013-277</u>
Plaintiff	)	
vs.	)	
WILLIAM R. NOONEY	)	AFFIDAVIT IN SUPPORT OF PETITION FOR REVOCATION OF
Defendant.	)	ORDER DEFERRING IMPOSITION OF JUDGMENT

ON MARCH 27, 2020, THE MONTANA SUPREME COURT ORDERED THAT DURING THE COVID-19 PANDEMIC: (15.) All courts need to apply the provisions of §1-6-105, MCA, that provide for the use of declarations rather than requiring notarized affidavits in both civil and criminal matters. Attorneys are also allowed to make waivers and acknowledgments on behalf of their clients.

I declare under penalty of perjury that the foregoing is true and correct.

_____	Signature
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STATE OF MONTANA )  
 )  
 County of Missoula ) : SS.

- I, Melissa Strecker, am employed as a Probation & Parole Officer by the Montana Department of Corrections.
- I have made investigation of the facts found in the attached Report of Violation and find them to be true and accurate to the best of my knowledge and belief. I believe that the above-named defendant has violated the terms of his probation previously imposed by this Court.
- Further support for this Affidavit is contained in the actual Report of Violation made a part hereof and attached as Exhibit A.

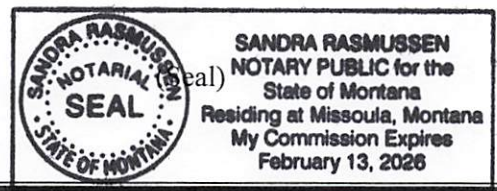
Dated this 17th day of February, 2023.

Melissa Strecker  
Probation & Parole Officer Signature

Probation & Parole Officer Name: Melissa Strecker  
 Address: 1801 Stephens Ave, Missoula, MT 59801  
 Telephone Number: 406-542-7147

State of: Montana  
 County of: Missoula

On this 17th day of February, 2023 personally appeared Melissa Strecker before me a notary public for the State of Montana: Sandra Rasmussen



Sandra Rasmussen  
 Notary Public for the State of Montana  
 Residing at \_\_\_\_\_, Montana  
 My commission expires \_\_\_\_\_



**MONTANA DEPARTMENT OF CORRECTIONS  
ADULT PROBATION & PAROLE**

**REPORT OF VIOLATION**

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<b>REPORT TO:</b>	<u>Honorable Michael Menahan</u>	<b>DATE:</b>	<u>February 16, 2023</u>
<b>JUDICIAL DISTRICT:</b>	<u>First Judicial District - Lewis and Clark County</u>		
<b>NAME:</b>	<u>William R. Nooney</u>	<b>DOC ID #:</b>	<u>3014484</u>
<b>DATE OF SENTENCE:</b>	<u>June 6, 2017</u>	<b>EXPIRATION DATE:</b>	<u>August 29, 2023</u>
<b>DOCKET #:</b>	<u>ADC-2013-277</u>		
<b>OFFENSE:</b>	<u>Failure to Register as a Securities Salesperson (F)</u>		
<b>SENTENCE:</b>	<u>6 years Deferred</u>		
<b>PRESENT ADDRESS:</b>	<u>1075 Swanson Lane, Bonner, MT 59823</u>		
<b>STATUS:</b>	<u>Probation Violator</u>		

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**LEGAL AND PLACEMENT HISTORY**

On April 1, 2010, William R. Nooney appeared before the Honorable Edward P. Mclean in the Fourth Judicial District, Missoula County, Montana, in the Matter of the Conservatorship of Mr. Nooney. The Court signed off that Burke and Associates would be the Conservator of Mr. Nooney's estate. On June 12, 2012, the Court ordered the Conservatorship to pay \$1400 per month for child support, \$1400 per month to Ronald Penrose to satisfy Mr. Penrose's judgment against Mr. Nooney, and \$1400 per month to Sandra Sales to satisfy Ms. Sales judgment against Mr. Nooney. The Defendant in this case, Mr. Nooney, was receiving \$5,091 per month he had from selling his shares of Hi Noon and DJ Casinos, Inc.

On July 16, 2014, William R. Nooney appeared before the Honorable Michael Menahan in the First Judicial District, Lewis and Clark County for sentencing on ADC-13-277. The Defendant had previously appeared with counsel and pled guilty to the charge of Failure to Register as a Securities Salesperson, a Felony. The Court deferred imposition of sentence for a period of six years.

On October 6, 2016, a Report of Violation was submitted to the Court for failing to pay restitution. On August 30, 2017, the Court deferred imposition of sentence for another six years. The Court also ordered a new restitution schedule that stated by January 2018 "throughout the remainder of sentence, or until such time as this schedule is amended by order of the Court."

Since the that dated the following violations have occurred:

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**ALLEGED VIOLATION(S)/SUPPORTING EVIDENCE**

**COUNT I:** Court/Parole Condition #11 Court-ordered fines/fees/restitution      **COMPLIANCE** Violation

**SUPPORTING EVIDENCE:** As of February 10, 2023, the Defendant has failed to make any payment towards his resitution for approximately five months. His last payment was on September 29, 2022. Mr. Nooney still owes \$187,099.79.

**COUNT II:** Court/Parole Condition #6 Business/Real property/Automobile/Debt      **COMPLIANCE** Violation

**SUPPORTING EVIDENCE:** On December 7, 2022, Mr. Nooney told Probation Officer Melissa Strecker he was making money by renting out three of the four cars he owns on Turo Ride Sharing app. However, there is only one chronological note on July 12, 2021, telling his supervising officer that he had purchased a van. The Defendant did not have permission to purchase these vehicles.

**COUNT III:** Court/Parole Condition #6 Business/Real property/Automobile/Debt      **COMPLIANCE** Violation

**SUPPORTING EVIDENCE:** On December 7, 2022, Mr. Nooney told Probation Officer Melissa Strecker he was making money driving for Uber and Lyft. He also stated he was renting out vehicles. Mr. Nooney did not have permission to start a business renting out vehicles.

### CASE MANAGEMENT RESPONSES UTILIZED

- Non-Compliance Violation does not require exhaustion of the MIIG.
- Compliance Violation: The following appropriate interventions and incentives applicable to offender's individual needs were utilized on the given date(s):
- |   |              |   |         |
|---|--------------|---|---------|
| <input type="checkbox"/> Written reprimand:             | date(s) used | <input checked="" type="checkbox"/> Verbal reprimand: | 3/21/22 |
| <input type="checkbox"/> Increased reporting/contacts:  |              | <input type="checkbox"/> Increased UA/BA:             |         |
| <input type="checkbox"/> Restricted associations:       |              | <input type="checkbox"/> Curfew:                      |         |
| <input type="checkbox"/> Enhanced Supervision Program:  |              | <input type="checkbox"/> Community service:           |         |
| <input type="checkbox"/> Intensive Supervision Program: |              | <input type="checkbox"/> Day Reporting:               |         |
| <input type="checkbox"/> Electronic Monitoring:         |              | <input type="checkbox"/> Treatment Court:             |         |
| <input type="checkbox"/> 24/7 Sobriety Program:         |              | <input type="checkbox"/> Mental health TX:            |         |
| <input type="checkbox"/> Chemical dependency TX:        |              | <input type="checkbox"/> Jail sanction:               |         |
| <input type="checkbox"/> Intervention Hearing(s):       |              | <input type="checkbox"/> Other programming:           |         |

#### Brief summary:

Mr. Nooney has missed on his restitution February 2022 (made up payment in March 2022), November 2022 (made up in January 2022), and October 2021.

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### ADJUSTMENT TO SUPERVISION

- Offender is an absconder: Offender has deliberately made his/her whereabouts unknown to this Probation & Parole Officer and/or failed to report for the purposes of avoiding supervision. The following reasonable efforts were made to locate the offender and have been unsuccessful:
- Attempted contact at residence:
- Attempted employer contact:
- Attempted phone contact:
- Other attempts:

Prior to the Revocation, POII Tara Kattell had numerous discussions with Mr. Nooney and Burke & Associates regarding the restitution payments. It was not until 2016 that Burke & Associates started paying any restitution, roughly \$200 per month. After the Defendant's original sentence was revoked on August 30, 2017, the restitution payments were sporadic. He did not make the \$1400 payments ordered for July, August and September 2017; he only paid \$230.87 on September 26, 2017.

The Court ordered him to pay \$1800 per month in October, November, and December 2017; he paid a total of \$1,860. Starting in January 2018 he was to start paying \$2400 per month. He paid the following:

January 2018: \$1540.  
February 2018: \$0  
March 2018: \$1500  
April 2018: \$3200.  
May 2018: \$3000  
June 2018: \$3200  
July 2018: \$1000

It was at this time, I believe, Mr. Nooney's Conservators, Burke and Associates, started sending the Department Of Corrections Collections Unit \$2017. In a letter dating, July 9, 2019, Patrick Burke wrote, "As conservator for Mr. Nooney we had previously been issuing a check for \$2000 and Mr. Nooney had been giving the additional \$400." The amount Mr. Nooney, himself, would send in ranged from \$0 - \$925 depending on the month. Mr. Burke continued to write in the letter that, "From henceforth, the conservatorship will directly issue a check for the full \$2400." This worked out well and the payments were largely paid at the same time every month until March 2021.

In a letter dated March 15, 2021, Mr. Burke wrote that, "Mr. Nooney has recently undergone a change in his income makeup and is no longer receiving income he has historically gotten." According to Mr. Burke, the money from the sale of Hi Noon and DJ Casinos, Inc. was gone. The only money left is the money Mr. Nooney gets from Social Security and any money he "may or may not" earn from working, which, in the majority of Conservatorships is turned over to the Conservator. Mr. Burke went on to write that Mr. Nooney's "basic needs including: food, clothing, shelter, health care, and necessary costs required to employment/earnings... Additionally, Mr. Nooney has other debt obligations for which he is responsible." Mr. Burke also wrote that Mr. Nooney may or may not be able to keep making his restitution payments in the future.

To his credit, Mr. Nooney did very well keeping up on his payments until October 2022, when he came down with Covid. He was not able to work and then only work part-time due to linger fatigue into November. He stated he worked full-time in December and January so I was expecting him to resume his restitution payments.

On January 31, 2023, I received an email from Mr. Nooney stating he could not pay his restitution for January "because out of pocket expense for moving and relocation my business, and personal items due specifically to water pipes leaking in all my rooms due to Rodents eating the water pipes in the entire building and rodent event at the apartment." He went on to say that with hotel rooms and such he will have to pay \$3000-\$4000 for this. I wrote Mr. Nooney back saying that any moving, hotel charges, and lost personal items should be paid by his landlord and/or insurance so he was not out the money and could pay his restitution.

Mr. Nooney's went on to say "I had planned. My business is in its beginning of 3rd year and has been a success with income from transportation of people on 2 different applications and income from individual and group agreements and well as car rental income. However a 3 to 4000 out of pocket expense in the middle of a slow time creates hardships and delays that are very difficult."

In looking through the Defendant's records, I found no mention of him saying he was starting a "business" and I found only one reference to him purchasing a vehicle. In both cases he did not have permission of his supervising officer.

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## RECOMMENDATIONS

Street Time Credit: None

It is the recommendation of this Officer that Mr. Nooney be sent a summons to appear before the Court to answer these allegations. Should he be found guilty, I recommend he be sentenced to the Montana Department of Corrections for a period of 10 years, all suspended. Also, due to Mr. Nooney's new financial situation, I would recommend the following:

1. The Defendant will submit to his supervising officer a copy of his ledger from Burke & Associates by January 5th of each year for the previous year or any time his supervising officer requests it.
2. The Defendant shall provide yearly credit report and an itemized list of each asset he has including property, vehicles, and items valued above \$1000.
3. The Defendant will pay \$1600 / month in restitution and supervision fees.
4. The Defendant must obtain permission from his/her Probation Officer before engaging in a business, purchasing real property, purchasing an automobile, or incurring a debt. This includes any major purchases for his businesses.
5. The Defendant will sign a Wage Garnishment Authorization form so any state tax refund will be seized and applied towards his restitution. Any federal tax refund shall be applied to his restitution.
6. The Defendant shall meet with his supervising officer each month, regardless of what his risk assessment (MORRA) score is, to verify he paid the previous month's restitution. If not, he will have to provide in writing the reason why it was not paid.


In regard to Street Time Credit, I am recommending the Court does not impose it. Mr. Nooney has not shown he has been reliable in paying his restitution instead of pursuing other ventures with his money. Should the Defendant pay off his restitution early, he may then petition the court for early release.

**WITNESSES**

Melissa Strecker, Missoula Probation and Parole  
Aly Arnold, DOC Collections Unit Technician, 5 Last Chance Gulch, Helena, MT

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Respectfully submitted,



\_\_\_\_\_  
Probation & Parole Officer Signature

Probation & Parole Officer Name: Melissa Strecker  
Address: 1801 Stephens Ave, Missoula, MT 59801  
Telephone Number: 406-542-7147  
Email: mstrecker@mt.gov

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cc: Attorney General's Office  
OMIS

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## **CERTIFICATE OF SERVICE**

I, Christopher Rhodes McConnell, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Affidavit to the following on 05-31-2023:

Milton Datsopoulos (Attorney)  
201 W. Main, Ste. 201  
Missoula 59802  
Representing: William R Nooney  
Service Method: First Class Mail

William Nooney  
1075 Swanson Lane  
Bonner MT 59823  
Service Method: First Class Mail

Electronically signed by Tiffany Hoffman on behalf of Christopher Rhodes McConnell  
Dated: 05-31-2023