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Missoula County Attorney
2 **JESSE LASLOVICH**
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7
8

FILED MAY 09 2012

SHIRLEY E. FAUST, CLERK
By Casie Kragh Deputy

9 **MONTANA FOURTH JUDICIAL DISTRICT COURT,**
10 **MISSOULA COUNTY**

12 THE STATE OF MONTANA,)	Dept. No.: 1	ED McLEAN
)	Cause No.: DC-12-200	
13 Plaintiff,)		
)	MOTION & AFFIDAVIT FOR	
14 vs.)	ORDER GRANTING LEAVE TO	
)	FILE INFORMATION	
16 KEVIN W. KOLENDA,)	DIRECTLY IN DISTRICT	
)	COURT	
)		
18 Defendant.)		
)		

20 STATE OF MONTANA)
21 :SS
22 County of Missoula)
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24 JESSE LASLOVICH, being first duly sworn, upon oath, deposes and says:

25 1. That he is a duly appointed, qualified, and acting Special Deputy County
26 Attorney in and for the county of Missoula, state of Montana (State).
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1 2. That the Defendant has committed offenses in Missoula County as
2 hereinafter set forth and, based upon information developed through an investigation
3 conducted by law enforcement officers and criminal justice investigators, the Court
4 should grant leave to file an Information directly in District Court pursuant to Mont.
5 Code Ann. § 46-11-201, charging the above-named Defendant with the offenses of:
6 **COUNT ONE, INSURANCE FRAUD**, by accepting premium money knowing that
7 coverage will not be provided, a **FELONY**, in violation of Mont. Code Ann. § 33-1-
8 1202(4); and **COUNT TWO, ACTING AS AN INSURANCE PRODUCER**
9 **WITHOUT A LICENSE**, by selling, soliciting, or negotiating insurance or acting as
10 an insurance producer in Montana without being licensed, a **MISDEMEANOR**, in
11 violation of Mont. Code Ann. §§ 33-17-201, 1004.

12 3. That law enforcement officers and criminal justice investigators have
13 made a full and careful investigation of all the facts and circumstances surrounding
14 the commission of said offenses, so far as they are known or ascertainable, and Affiant
15 believes it a proper case for the filing of an Information. For this reason and pursuant
16 to Mont. Code Ann. § 46-11-201, Affiant respectfully moves the Court for leave to
17 file said Information directly in District Court.

18 4. That the following information is submitted to establish probable cause
19 for the filing of the foregoing charges:
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1 a. According to records obtained by law enforcement authorities, the
2 Defendant is President and CEO of Hole-In-Won.com, which provides
3 “insurance” to entities that host golf tournaments in which a determinable prize
4 is given to someone who hits a hole-in-one.¹
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6 b. On or around May 19, 2011, Officer Zachary Sargent (Sargent) of
7 the Missoula County Sheriff’s Office (MCSO) responded to a call from the
8 Missoula Country Club to investigate possible fraudulent activity. Skip
9 Koprivica (Koprivica), the Head Golf Professional at the Missoula Country
10 Club, told Sargent the following:
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13 (1) The Missoula Country Club hosted a golf tournament
14 sponsored by Allegiance Life & Health Insurance Company, Inc.
15 (Allegiance), on August 13, 2010 .
16
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18 (2) A hole-in-one competition existed as part of the golf
19 tournament and prior to the tournament, Allegiance purchased
20 “insurance” from the Defendant through Hole-In-Won.com in the event
21 one of the golfers got a hole-in-one. The prize for obtaining a hole-in-
22 one was a motorcycle or \$18,000 cash.
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25 (3) T.P. hit a hole-in-one and chose the cash.
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¹ A hole-in-one is achieved when it takes a golfer only one swing to get the ball in the hole.

1 c. Sargent interviewed T.P., who told him he hit a hole-in-one on
2 hole 12 which was witnessed by numerous people.

3
4 d. On or around June 1, 2011, Officer Jason Johnson (Johnson) of the
5 MCSO spoke with Ron Svien (Svien), the General Manager of the Missoula
6 Country Club. Svien told Johnson that he thought the Defendant, through his
7 company, committed fraud for not paying T.P.
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9
10 e. Subsequently, Johnson also spoke with Aaron Bay (Bay),
11 Allegiance's Regional Marketing Director. Bay informed Johnson that he was
12 the primary point of contact for Allegiance in securing "insurance" from the
13 Defendant through Hole-In-Won.com. A review of the contract signed by Bay
14 on behalf of Allegiance shows that Allegiance paid a premium of \$967 for the
15 "insurance" at or around July/August 2010.
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18 f. After T.P. hit the hole-in-one, Bay assisted T.P. in filling out the
19 paperwork to claim his \$18,000 cash prize. Bay waited over a month to receive
20 the blank witness attestation documents from the Defendant to verify the claim.
21 A review of the emails provided by Bay shows that beginning August 13, 2011,
22 Bay repeatedly tried contacting the Defendant and the Defendant never
23 responded.
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1 g. Among those completing attestations were Bay, Koprivica, T.P.,
2 Mike Peissig (Peissig), Kevin Ritchlin (Ritchlin), Burley McWilliams
3 (McWilliams), Gary Ritter (Ritter), and Roger Cowan (Cowan). Ritter and
4 Cowan were independent witnesses and T.P., Peissig, Ritchlin, and McWilliams
5 were all playing together in the same group.
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8 h. T.P. and all of the witnesses each attested that T.P. hit a hole-in-
9 one on August 13, 2010, on hole 12 that was at least 165 yards. Each of their
10 statements was notarized and returned to the Defendant on October 6, 2010.
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12 i. According to records provided by the Defendant to law
13 enforcement authorities, the Defendant and Hole-In-Won.com did not interview
14 the witnesses to verify the claim until three to six months after the tournament.
15 From October 2010 to February 2011, Bay consistently contacted the Defendant
16 and Hole-In-Won.com in an effort to resolve the claim payment issue, but did
17 not succeed.
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21 j. On February 28, 2011, Bay received a letter from Hole-In-
22 Won.com informing him that T.P.'s claim was denied. The reasons given for
23 the denial were that the distance from the hole's tee box to the pin did not meet
24 the criteria as set forth in the insurance contract of being at least 165 yards, and
25 that there were conflicting witness statements. The Defendant, through Hole-
26 In-Won.com, said that the yardage on the scorecard listed 130 yards.
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1 k. Koprivica and Svien, however, told law enforcement authorities
2 that the scorecard was incorrect because it was a standard scorecard for the
3 Missoula Country Club and did not accurately reflect the distance for the
4 tournament. Koprivica, moreover, told law enforcement authorities that he,
5 personally, set the pin and tee prior to the tournament and that it was longer
6 than 165 yards. Svien confirmed this to law enforcement authorities by
7 providing a satellite photograph of hole 12 where the tee and pin placements
8 were marked.
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12 l. A review of the witness statements to law enforcement authorities
13 shows that the witnesses consistently stated that T.P. achieved a hole-in-one and
14 that it was longer than 165 yards:
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17 (1) Cowan told law enforcement authorities that he was an
18 independent “hole judge”² and that the distance of the hole was 165 to
19 168 yards. The Defendant interviewed Cowan and Cowan subsequently
20 saw a copy of the Defendant’s notes of the conversation. Cowan said
21 statements attributed to him by the Defendant “were simply incorrect.”
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28 ² A hole judge is an independent person who sits next to the green to independently verify whether or not a hole-in-one occurred.

1 (2) Ritter told law enforcement authorities that he also was an
2 independent “hole judge” and that the distance of the hole was about 167
3 yards.
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5 (3) T.P. told law enforcement authorities that he used a 7-iron to
6 hit the ball 170 yards.
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8 (4) Peissig told law enforcement authorities that prior to T.P.
9 and the others in the group hitting their golf balls on hole 12, he used a
10 range finder to scope the distance of the hole and it measured 170 yards.
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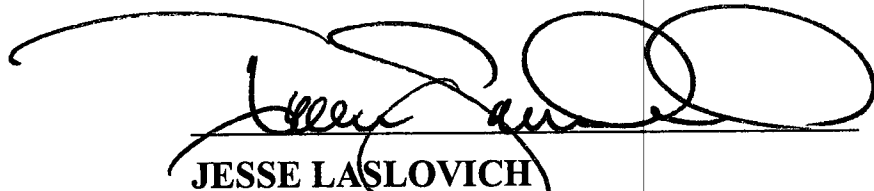
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13 m. As part of the investigation, the Office of the Commissioner of
14 Securities and Insurance, Montana State Auditor (CSI), searched the National
15 Association of Insurance Commissioners’ (NAIC) regulatory database
16 regarding the Defendant. A review of the NAIC results shows that the
17 Defendant has been the subject of repeated regulatory discipline in a variety of
18 other states³ for issuing insurance without a license and participating in unfair
19 insurance practices. In 2009, the Defendant was fined \$6 million for issuing
20 insurance without a license and failing to pay hole-in-one claims.
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28 ³ The States include at least Alabama, Connecticut, Massachusetts, Nevada, North Carolina, Oregon, Texas, Virginia,
and Washington.

1 n. As part of the investigation, the CSI reviewed its own internal
2 database and found that the Defendant is not authorized to sell insurance in
3 Montana.
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5 WHEREFORE, the undersigned moves the Court for an Order granting leave to
6 file an Information directly in District Court charging the above-named Defendant
7 with the felony offense of INSURANCE FRAUD by accepting premium money
8 knowing that coverage will not be provided, in violation of Mont. Code Ann. § 33-1-
9 1202(4); and the misdemeanor offense of ACTING AS AN INSURANCE
10 PRODUCER WITHOUT A LICENSE by selling, soliciting, or negotiating insurance
11 or acting as an insurance producer in Montana without being licensed, in violation of
12 Mont. Code Ann. §§ 33-17-201, 1004, as more particularly set forth herein.
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16 DATED this 3rd day of May, 2012.
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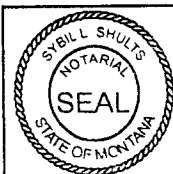
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22 JESSE LASLOVICH

23 Special Deputy Missoula County Attorney

24 SUBSCRIBED and SWORN to before me this 3rd day of May, 2012, by
25

26 Jesse Laslovich.



28 SYBIL L. SHULTS
NOTARY PUBLIC for the
State of Montana
Residing at East Helena, Montana
My Commission Expires
January 1, 2014

