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

MONICA LINDEEN, STATE AUDITOR and )  
Ex-Officio, Securities Commissioner of )  
Montana )  
) )  
Petitioner, )  
vs. )  
) )  
FUNKY SHARK LLC, Scott R. Wacker, )  
Jennifer M. Wacker, and 677192 BC LLC )  
) )  
Respondents. )  
\_\_\_\_\_ )

Cause No. DDV-2012-951

**TEMPORARY RESTRAINING ORDER  
AND ORDER TO SHOW CAUSE**

On October 31, 2012, the Office of the Commissioner of Security and Insurance, Montana State Auditor (CSI), filed a Petition for Injunctive Relief seeking a temporary restraining order and order to show cause. The CSI did not provide notice to the Respondents. The Court, having considered the CSI's Petition for Injunctive Relief, supporting affidavit, and other evidence provided, finds good cause to believe that a delay in the issuance of a temporary restraining order would cause the CSI to suffer immediate and irreparable injury. Specifically, a delay would (1) enable the Respondents to further liquidate investor funds, thus permanently depriving investors of funds the Respondents received in violation of the Securities Act of Montana (Act), Mont. Code Ann. § 30-10-101 et seq.; and (2) allow the Respondents to engage

in further violations of the Act, which the CSI is legally obligated to prevent. Furthermore, finding good cause to believe the CSI is entitled to the requested relief, this Court enters the following:

**ORDER**

1. Pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b), the Respondents are temporarily restrained from operating the Funky Shark LLC (Funky Shark) promotional plan. “Operating” includes, but is not limited to, sending solicitation emails, conducting webinars, advertising, or otherwise promoting Funky Shark; selling bids or shares to, or collecting funds from, current or prospective participants; and conducting penny auctions.
2. Pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b), the Respondents are temporarily restrained from engaging in securities business practices in the state of Montana. “Securities business practices” include, but are not limited to, offering, soliciting, or selling subscriptions, memberships, shares, bids, or other interests in or relating to Funky Shark and its promotional plan; and encouraging Funky Shark participants to do the same.
3. Pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b), the Respondents are temporarily restrained from committing further violations of the Act.
4. Pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b), the Respondents are temporarily restrained from transferring or disposing of, or attempting to transfer or dispose of any monies or assets the Respondents possess or control that may have been obtained, in whole or in part, from investors or using investor funds. These monies and assets include, but are not limited to:
  - a. any shares or ownership interest the Respondents hold in Funky Shark or 677192 BC LLC (677192 BC);

- b. any proceeds derived from the sale of such shares or ownership interest;
  - c. any profits attributable to the Respondents and derived from Funky Shark or 677192 BC;
  - d. any payments to the Respondents from Funky Shark or 677192 BC; and
  - e. any funds or assets held by Funky Shark or 677192 BC.
5. Pursuant to Mont. Code Ann. §§ 27-19-314 and 30-10-305(1)(b), the Respondents are temporarily restrained from transferring or disposing of, or attempting to transfer or dispose of any monies held in any of the bank accounts owned or controlled by any of the Respondents, listed as follows, because the monies may not belong to any of the Respondents and may have been obtained through fraud or through violations of the Act:
- a. Wells Fargo Bank Account #3294991066 in the name of Funky Shark;
  - b. Wells Fargo Bank Account #9920003457 in the name of Funky Shark;
  - c. Wilmington Savings Fund Society Bank Account # 209073634 in the name of 677192 BC;
  - d. Monies held in any other bank accounts, not listed above, owned or controlled by any of the Respondents. For those accounts not listed above, the Petitioner shall provide a copy of this Order to the bank in which the account is held and the bank shall freeze the account, the same as if the account number and identifying information for the account were listed in paragraph 5(a)-(c) above.
6. This matter shall be set for a Show Cause hearing on the \_\_\_ day of \_\_\_\_\_, 2012, at \_\_\_\_\_ am/pm at the Lewis and Clark County District Courthouse, 228 Broadway, Helena, Montana.

SO ORDERED this 1 day of Nov, 2012.

  
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DISTRICT COURT JUDGE