

**MIKE WINSOR**  
Office of the Commissioner of Securities and  
Insurance, Montana State Auditor  
840 Helena Avenue  
Helena, MT 59601  
(406) 444-2040

Attorney for the Securities Department

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
OFFICE OF THE STATE AUDITOR  
STATE OF MONTANA**

IN THE MATTER OF: ) Case No.: SEC-2011-136  
DONALD L. CHOUINARD, )  
Respondent. ) **CONSENT AGREEMENT AND  
FINAL ORDER**  
)  
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)  
)  
)  
\_\_\_\_\_)

This Consent Agreement and Final Order is entered into by the Securities Department (Department) of the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Securities Act of Montana, Mont. Code Ann. § 30-10-101, et seq. (Act), and Donald L. Chouinard (Respondent).

**RECITALS**

WHEREAS, Respondent is registered the with the Department as a salesperson, and was registered as a salesperson and investment advisor representative for LPL Financial Services;

WHEREAS, LPL Financial Services terminated Respondent on May 12, 2009;

WHEREAS, Respondent was charged with and subsequently entered a plea of guilty to and was convicted of two felonies: Theft by Embezzlement (Common Scheme), Securities Fraud (Conducting a Ponzi scheme)(See attached Exhibit A, Judgment and Sentence Cause No. DC-09-576B;

WHEREAS, the Department alleges that the Respondent has been convicted of two felonies, which is grounds under Mont. Code Ann. § 30-10-201(13)(c) for his Montana securities licenses to be revoked; and

WHEREAS, the Department and the Respondent agree that the best interests of the public would be served by entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the Department and the Respondent hereby agree to resolve this matter pursuant to the following terms and conditions:

### **STIPULATIONS AND CONSENTS**

The Department and Respondent hereby stipulate and agree to the following:

1. Respondent's securities licenses as a salesperson and investment advisor representative are revoked.
2. Respondent is permanently banned from any future attempt to apply for securities licensing or registration in Montana.
3. Respondent fully and forever releases and discharges the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), the Department, and all of the Department's employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.
4. Upon execution of this Agreement, Respondent acknowledges and waives its right to appeal the Commissioner's Order.
5. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the Department or by any

member, officer, agent, or representative of the Department to induce Respondent to enter into this Agreement.

6. This Agreement may not be modified orally and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

7. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

8. This Consent Agreement shall be effective upon signing of the Final Order.

9. The Respondent further understands that, upon the signing of the Final Order by the Commissioner or her representative, this Agreement will be an order of the Commissioner and failure to comply may constitute separate violations of the Securities Act pursuant to Mont. Code Ann. § 30-10-305 and/or other applicable statutes or rules. The Department reserves the right to take subsequent legal action for failure to comply with the Final Order, including seeking fines.

10. The Respondent understands that this Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 30 day of August, 2011.

**SECURITIES DEPARTMENT**

By:   
**MIKE WINSOR**  
Attorney for the Securities Department

STATE OF MONTANA )  
County of Flathead ) :ss.

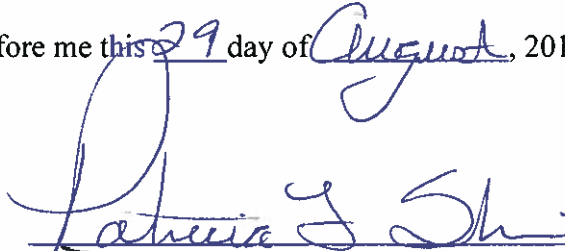
DATED this 29 day of August, 2011

  
DONALD LOUIS CHOUINARD

SUBSCRIBED and SWORN to before me this 29 day of August, 2011, by  
Donald Louis Chouinard.



PATRICIA L. SHINN  
NOTARY PUBLIC - MONTANA  
Residing at Kalispell, Montana  
My Comm. Expires 10/15/2011

  
Printed Name \_\_\_\_\_  
Notary Public for the state of \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

**FINAL ORDER**

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 30-10-101, *et seq.*,  
and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the  
Securities Department and the Respondent is adopted as if set forth fully herein.

DATED this 30<sup>th</sup> day of August, 2011.

**MONICA J. LINDEEN**  
Commissioner of Securities and Insurance  
Montana State Auditor

By:   
\_\_\_\_\_  
**LYNNE EGAN**  
Deputy Securities Commissioner

cc: Mike Winsor  
Donald L. Chouinard

CLERK OF DISTRICT COURT

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IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE  
STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

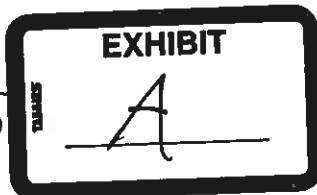
STATE OF MONTANA,	)	
	)	Cause No. DC-09-576(B)
Plaintiff,	)	
	)	
vs.	)	JUDGMENT AND SENTENCE
	)	
DONALD LOUIS CHOUINARD,	)	
	)	
Defendant.	)	

\* \* \* \* \*

On December 16, 2010, the Defendant, accompanied by  
counsel, Nick Aemisegger, pled guilty to the offenses of Theft  
by Embezzlement, a Felony Common Scheme, and Securities Fraud by  
Conducting a "Ponzi" Scheme, a felony.

A hearing in aggravation and mitigation of sentence was  
then held on February 24, 2011, where the Defendant was  
accompanied by counsel, Nick Aemisegger. In consideration of  
the nature of his offense, his prior criminal history, including  
no prior felony convictions, the amount of restitution owing,  
and his ability to maintain employment and make payments toward  
his court-ordered financial obligations, the recommendations of

JUDGMENT AND SENTENCE  
Cause No. DC-09-576(B)



1 the parties and the Pre-Sentence Investigation prepared by Keely  
2 Absalonson of the Adult Probation and Parole office,

3  
4 IT WAS THE JUDGMENT OF THIS COURT that the Defendant is  
5 sentenced for Count I to the Montana State Prison for a term of  
6 TEN (10) years, suspended, and for Count II to the Montana State  
7 Prison for a term of TEN (10) years concurrent to Count I and  
8 suspended subject to the conditions contained in the pre-  
9 sentence investigation report. Additional conditions are that  
10 the Defendant serves THIRTY (30) days in the Flathead County  
11 Detention Center on weekends for ten (10) consecutive weekends  
12 beginning on Friday at 6:00 p.m. until Monday at 6:00 a.m. with  
13 the first weekend to begin Friday, February 25, 2011.

14 As conditions of parole and probation, the Defendant must  
15 comply with the following:

16 1) He must submit to the supervision of the Montana  
17 Department of Corrections, Adult Probation and Parole Bureau,  
18 and fully comply with all requirements and regulations imposed  
19 by that agency. More specifically, and in addition to any  
20 special rules imposed by the Bureau, he:

21 a) must reside at a location approved by his  
22 supervising officer and may not change his place of  
23 residence without first obtaining his supervising officer's  
24 approval to do so, and may not refuse to open the door of  
25 his residence when requested;

1           b) may not travel outside his assigned district  
2 without the prior, written approval of his supervising  
3 officer;

4           c) must obtain gainful employment, and remain so  
5 employed, to the satisfaction of his supervising officer;

6           d) may not change his employment without the prior  
7 approval of his supervising officer;

8           e) must disclose his status as a parolee/probationer  
9 to any prospective or current employer;

10          f) must personally report to his supervising officer  
11 as directed;

12          g) must submit written monthly reports on the forms  
13 provided;

14          h) may not attempt to deceive or otherwise mislead  
15 his probation officer in any respect;

16          i) may not own, possess, or otherwise use O.C. spray  
17 or any firearm or deadly weapon, including black powder  
18 firearms, as defined by state or federal law;

19          j) must obtain his supervising officer's approval  
20 before incurring any debt or entering into any type of  
21 financial undertaking such as, but not limited to,  
22 financing an automobile, purchasing property, or engaging  
23 in business;

24          k) may not own or possess dangerous/vicious animals  
25 such as guard dogs, perimeter security doors, electronic

1 device or scanner capable of listening to law enforcement  
2 communications which could jeopardize his supervising  
3 officer's safety or interfere with his supervising  
4 officer's efforts to monitor his compliance with the  
5 conditions of his sentence;

6 1) must report any arrests or contacts with law  
7 enforcement to his supervising officer within seventy-two  
8 (72) hours.

9 2) He must pay \$210,296.05 in restitution to the victims  
10 in this case, with \$27,993.15 to be paid to A.W. in full first,  
11 and \$182,302.90 to be paid to LPL Financial (Legal Department  
12 Attn: David Freinere, One Beacon Street, 22<sup>nd</sup> Floor, Boston, MA  
13 02109-3106 (or 02108). Payments on this restitution obligation  
14 are to be made to the Department of Corrections-Restitution, at  
15 P.O. Box 201350, Helena, MT 59620 by U.S. postal money order or  
16 cashier's check according to a schedule developed by his  
17 supervising officer. (The payment must include the Defendant's  
18 name and District Court Judgment number so the payment can be  
19 credited. Per the DOC, no receipt will be sent.) Pursuant to §  
20 46-18-241, MCA, an amount equaling 10% of his restitution  
21 obligations is to be assessed to reimburse the DOC for the costs  
22 of supervising and collecting these payments. All of the  
23 methods for collection of restitution provided under § 46-18-241  
24 through § 46-18-249, MCA, apply, including garnishment of wages  
25 and interception of tax refunds. Pursuant to § 46-18-244(6)(b),

1 MCA, the Defendant shall sign a statement allowing any employer  
2 to garnish up to 25% of his wages. The Defendant must continue  
3 to make monthly restitution payments until he has paid full  
4 restitution, even after supervision has ended.

5 3) He must pay \$50.00 for the preparation of the Pre-  
6 Sentence Investigation to the Department of Corrections, at P.O.  
7 Box 201350, Helena, MT 59620 by U.S. postal money order or  
8 cashier's check, according to a schedule developed by his  
9 supervising officer. (The payment must include the Defendant's  
10 name and District Court Judgment number so the payment can be  
11 credited. Per the DOC, no receipt will be sent.)

12 4) He must pay a fine of \$20,000.00, all suspended,  
13 subject to conditions set forth herein. He must pay a surcharge  
14 of \$200.00. He must pay a surcharge of \$100.00 for victim and  
15 witness advocate programs. He must pay a surcharge of \$20.00  
16 for court information technology. Payments on these obligations  
17 are to be made through the Flathead County Clerk of District  
18 Court, 920 South Main, Kalispell, MT 59901 according to a  
19 schedule developed by his supervising officer.

20 5) Pursuant to the provisions of §§ 45-9-202(2)(d)(ii)  
21 and/or 46-23-1031, MCA, he must pay a quarterly supervision fee  
22 of not less than \$30.00 or more than \$90.00 as determined by his  
23 supervising officer. Payments on supervision fees are to be  
24 made to the Department of Corrections-Supervision Fees, at P.O.  
25 Box 201350, Helena, MT 59620 by U.S. postal money order or

1 cashier's check, according to a schedule developed by his  
2 supervising officer. (The payment must include the Defendant's  
3 name and District Court Judgment number so the payment can be  
4 credited. Per the DOC, no receipt will be sent.)

5 6) He must apply any and all tax refunds towards his  
6 Court-ordered obligations until they are paid in full.

7 7) He may not consume or possess intoxicants.

8 8) He must submit to drug and alcohol testing (breath or  
9 bodily fluid testing) on a regular or random basis as required  
10 by his supervising officer.

11 9) He must submit at any time upon reasonable suspicion  
12 to a warrantless search of his residence, person, vehicle, and  
13 place of employment, and to a chemical analysis of his blood,  
14 breath, and urine, at the request of his supervising officer.

15 10) He may not possess or use illegal drugs, nor may he  
16 possess any drug paraphernalia.

17 11) He may not possess any drugs unless prescribed by a  
18 licensed physician.

19  
20 12) He must participate in any counseling determined  
21 appropriate by the Probation and Parole Officer, including  
22 financial counseling.

23 13) He must not possess or use any electronic device or  
24 scanner capable of listening to law enforcement communications.

1 14) He may not associate with probationers, parolees,  
2 prison inmates, or persons in the custody of any law enforcement  
3 agency without the prior approval of his supervising officer. He  
4 may not associate with anyone else ordered by the Court or by  
5 his supervising officer to be inappropriate.

6 15) He may not have contact with the victims in this  
7 matter, J.M., L.S., A.W., and individuals associated with LPL  
8 Financial, by means of writing, telephone, third-party, or in  
9 person.

10 16) He must serve 100 hours of community service at the  
11 direction of his supervising officer.

12 17) He must abide by any curfew imposed by his supervising  
13 officer.

14 18) He must attend self-help meetings at the direction of  
15 the Probation and Parole Officer.

16 19) Pursuant to § 26-23-1004(9), MCA, he must disclose to  
17 any and all employers notice of his conviction involving theft  
18 from an employer.

19 20) He must remain law abiding in all respects and conduct  
20 himself as a good citizen.

21 The Defendant is hereby advised that he has 120 days from  
22 the date of filing this Judgment and Sentence to contest any  
23 perceived differences between this written Judgment and the  
24 Court's oral pronouncement of sentence.

25

1 Any bond posted in this matter is hereby exonerated and is  
2 to be released to the Defendant or his posting surety.

3 DONE IN OPEN COURT the 24th day of February, 2011.

4 DATED this 21<sup>st</sup> day of April, 2011.

5  
6   
7 District Court Judge

8 cc: Ed Corrigan, County Attorney  
9 Jesse Laslovich, Special Assistant Montana Attorney General  
10 840 Helena Ave.  
11 Helena, MT 59602

12 Nick Aemisegger, Defense Counsel

13 Donald L. Chouinard, Defendant

14 Flathead County Sheriff's Office  
15 Adult Probation and Parole

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