

ELEVENTH JUDICIAL DISTRICT COURT  
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**MONTANA ELEVENTH JUDICIAL DISTRICT COURT  
 FLATHEAD COUNTY**

MONICA J. LINDEEN, Montana State )  
 Auditor and Montana Securities )  
 Commissioner, )  
 )  
 ) Petitioner, )  
 )  
 v. )  
 )  
 )  
 JOHN KEVIN MOORE, GLACIER )  
 GALA, HAYSTACK LANDMARK )  
 ENTERPRISES, LLC, USA )  
 FIGHTWEAR, LLC, and BIG SKY )  
 MINERAL RESOURCES LLC, )  
 )  
 ) Respondents. )

Cause No.: DV-16-794D  
**ROBERT B ALLISON**  
**AFFIDAVIT OF LYNNE EGAN**

LYNNE EGAN, being first duly sworn, deposes and says:

1. I am employed by the state of Montana as the Deputy Securities Commissioner for the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI). I am a forensics accountant who has worked for the CSI for over 22 years as a Securities Examiner and Deputy Securities Commissioner. Prior to my work at the CSI, I was an income tax compliance officer for the Montana Department of Revenue for 2 years and worked for D.A. Davidson for 10 years as an operations manager. I have served as an expert

witness in many securities-related cases and have extensive training and experience relating to securities regulation.

2. My investigation of this matter started in May 2016 when I received a series of complaints regarding Moore. Four complainants reported that they received minimal and/or inaccurate information about Big Sky Mineral Resources LLC (BSMR) and that they believed malfeasance had occurred within the company.

3. Any person acting as a broker-dealer or securities salesperson in Montana must be registered as such. Mont. Code Ann. §§ 30-10-103(1), -103(22), -103(24), 30-10-201. My review of the Financial Industry Regulatory Authority's (FINRA) Central Registration Depository (CRD), which maintains registration filings for all broker-dealer firms and individuals associated with the firms, showed that Moore is not now, nor has he ever been, registered in any capacity with the CSI or FINRA. My review of the Securities and Exchange Commission's EDGAR database indicates that the securities offered and sold to the complainants by Moore are not now, nor have they ever been, registered with the Securities and Exchange Commission nor the CSI. None of the exemptions from the registration requirement apply to Moore or the securities he offered and sold. Mont. Code Ann. § 30-10-105.

4. It is a violation of the Montana Securities Act to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person. § 30-10-301(c).

5. It is a violation of the Montana Securities Act to operate a pyramid promotional scheme. § 30-10-325. A Ponzi scheme is a pyramid promotion scheme, wherein a person makes payments to investors from money obtained from later investors, rather than from any profits or other income of an underlying or purported underlying business venture. § 30-10-324(7)(b).

6. As a part of the investigation, I queried investors about Moore's sales practices concerning BSMR. BSMR's offering documents included a list of State of Montana mineral leases Moore claimed were owned or controlled by BSMR. The Montana Department of Natural Resources and Conservation (DNRC) determined neither BSMR nor Moore had any mineral leases on state property.

7. Complainants also indicated they never received a prospectus from Moore. The complainants demanded Moore provide information including, but not limited to, corporate governance, corporate taxation, operating agreements, leases, assets and liabilities, and bank accounts. The complainants received no response to these demands, even though the majority of this information should have been provided in a prospectus or similar disclosure document, which is

required to be provided pursuant to Mont. Code Ann. § 30-10-301 and Admin. R. Mont. 6.10.401(j).

8. The CSI obtained a copy of a letter provided to investors by Moore requesting them to deposit money into BSMR's corporate account at Glacier Bank of Kalispell. The CSI obtained an investigative subpoena which ultimately lead to the discovery of accounts related to Moore at Glacier Bank, Stockman Bank, and Wells Fargo.

9. An analysis of the accounts reveals the following:

a. 36 people or entities invested money with Moore or BSMR.

The invested money was deposited into accounts entitled John Kevin Moore, Kevin Moore, Big Sky Mineral Resources LLC, Haystack Landmark Enterprises, LLC, USA Fightwear, LLC, or Glacier Gala.

b. Upon receipt of investment proceeds from investors, Moore typically withdrew a portion of the proceeds from the local Rosauers supermarket in the form of ATM withdrawals and checks. Another portion of that money went to pay previous investors. Still another portion of that money went to pay Moore's own mortgages. Yet another portion went to purchase art for his homes and new vehicles for himself. Still another portion went to pay overdraft fees from his ATM and other cash withdrawals. A breakdown of how the money was spent on a First In – First Out (FIFO) basis is as follows:

<b>FUNDS INTO BANK ACCOUNTS</b>	
Funds in from Investors	\$ 2,763,860.00
Cash in	\$ 224,399.00
Longshot Oil	\$ 97,500.00
Uncategorized Funds in	\$ 69,220.00
Fine Art Sales Proceeds	\$ 45,245.00
Black Gold	\$ 45,000.00
Resolve Enterprises	\$ 35,500.00
Army Navy	\$ 29,000.00
Test Drill	\$ 20,000.00
Vehicle Sales	\$ 9,400.00
Square, Inc.	\$ 5,972.29
Hunting/Outfitting Applications	\$ 2,400.00
	<b>\$ 3,347,496.29</b>

<b>FUNDS OUT FROM BANK ACCOUNTS</b>	
Payments out to Investors	\$ (886,600.00)
Cash out/withdrawals by Moore	\$ (799,245.94)
Summit Oil payment	\$ (450,000.00)
Mortgage Escrow Services - Snyder Law (for 109 Blackbear, Bigfork home)	\$ (163,500.00)
Mortgage - 109 Blackbear home, Bigfork	\$ (127,600.00)
Mortgage - Lindley Court home, Bigfork	\$ (116,950.00)
Moore Personal Expenditures	\$ (126,424.60)
Anderson Stoves	\$ (2,934.80)
Lee Riddick - Stove insert	\$ (2,900.00)
Anderson Masonry	\$ (2,500.00)
Terrence Moore (tickets)	\$ (1,250.00)
RV purchase	\$ (19,000.00)
Milk River Preserve/Hunting	\$ (13,745.94)
ATV (Jesco)	\$ (5,000.00)
Old Hickory Shed (for ranch)	\$ (3,195.00)
Vehicle purchases	\$ (126,757.64)
ATM & ATM Fees	\$ (7,716.95)
Fine Art Purchases	\$ (143,653.00)
Fight Force	\$ (7,450.00)
Mauifish	\$ (5,000.00)
Travel	\$ (4,424.87)
R. Dickey (Smith River)	\$ (22,000.00)
Milk River Note (1st Interstate Bank)	\$ (50,000.00)
SK8XTC (Las Vegas Skate Park)	\$ (36,400.00)

Muldoon Law	\$	(15,650.00)
Glacier Continental	\$	(7,500.00)
Pawn/Consignment/Auction	\$	(30,390.00)
Resolve Enterprises	\$	(25,000.00)
Longshot Oil	\$	(25,000.00)
William Mehran (Lease payments)	\$	(22,500.00)
Jireh Consulting	\$	(2,207.00)
Sykes Realty (rent)	\$	(2,000.00)
Dennis Brieske	\$	(4,000.00)
Uncategorized expenditures	\$	(71,149.49)
Overdraft Fees	\$	(16,214.00)
Other Fees	\$	(2,604.00)
NSF Fees	\$	(240.00)
	\$	(3,348,703.23)

10. Moore continues to access these accounts and to use them to deposit investor money prior to withdrawing the funds for his personal use.

11. No investor authorized Moore to make payments to previous investors, to pay off his own mortgage, to purchase art, to purchase new vehicles for himself, or to pay overdraft fees among other things.

12. As recently as August 2016, Moore used these accounts to maneuver investor funds.

13. No legitimate money has been used to repay investors. Indeed, it is unclear that any money actually went to the uses for which Moore stated to investors that it would go.

14. Moore's continued access to his Glacier Bank, Stockman Bank, and Wells Fargo accounts cannot be stopped at this time without a Court Order. Given Moore's recent and continual activities involving these accounts, failure to freeze

them could result in continuing, immediate, and irreparable injury to the investors by depriving them of sources from which to recover their investment funds. Similarly, notice of this action by the Commissioner would or could result in additional violations or destruction of evidence or assets. Moore may attempt to transfer, encumber, dispose of, or alienate their interest in those monies, assets, and property interests obtained using investor funds. Based on these facts, a temporary restraining order must be granted to avoid this immediate and irreparable harm to specific victims, as well as persons engaged in securities transactions and the public generally. The temporary restraining order should not only include Moore's accounts, but any properties, either real or personal, currently under Moore's control which was gained by using investor proceeds.

DATED this 19<sup>th</sup> day of September, 2016.



LYNNE EGAN  
Deputy Securities Commissioner

Subscribed and sworn to before me this 19<sup>th</sup> day of September, 2016, by

Lynne Egan.

