

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-15799

In the Matter of

MICHAEL D. MONTGOMERY,

Respondent.

ADMINISTRATIVE LAW JUDGE
BRENDA P. MURRAY

**DIVISION OF ENFORCEMENT'S MEMORANDUM IN
SUPPORT OF ITS MOTION FOR SUMMARY DISPOSITION**

The Division of Enforcement ("Division") respectfully submits this Memorandum in Support of its Motion for Summary Disposition ("Motion") pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250.

I. INTRODUCTION

This administrative proceeding was instituted following the 2012 guilty plea and criminal conviction of Respondent Michael D. Montgomery ("Montgomery"), a then-associated person of a broker-dealer and investment adviser, for fraud. Montgomery has twice failed to file a timely written answer to, or otherwise defend or contest, the allegations of the March 18, 2014 Order Instituting Administrative Proceedings ("OIP"). When he finally did respond via a "Motion to

Show Cause,” Montgomery did not deny any of the factual allegations in the OIP, and therefore has admitted those factual allegations. *See* 17 C.F.R. § 201.220(c).

Montgomery’s guilty plea and criminal conviction establish that it is in the public interest for the Commission to permanently bar him from association with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization (“NRSRO”), and from participating in an offering of penny stock. Because there is no dispute of the material facts alleged in the OIP, the Division is entitled to summary disposition as a matter of law.

II. PROCEDURAL HISTORY

The Commission instituted this proceeding on March 18, 2014. On April 10, 2014, the Court conducted a pre-hearing conference wherein Montgomery participated *pro se*. At the prehearing conference, the Division made an oral motion for summary disposition. Thereafter, on April 14, 2014, the Court issued an Order setting April 28, 2014, as the due date for Montgomery’s answer to the OIP and stating that Montgomery would be found in default if no answer was filed, but that if he did file an answer, a procedural schedule for a written motion for summary disposition from the Division of Enforcement would be issued. Montgomery did not file an answer by the due date.

On May 20, 2014, the Court issued an Order to Show Cause, which stated that an Initial Decision on Default would be issued granting the requested relief, and taking official notice of the record of Montgomery’s federal criminal conviction, unless he showed good cause by June 16, 2014, why he should not be held in default. Montgomery again did not file an answer or otherwise respond to the show cause Order by June 16, 2014. On or about June 23, 2014, the Court received

a four-page letter from Montgomery, entitled a “Motion to Show Cause” with an attached exhibit called a Neuropsychological Evaluation, dated June 5, 2011.

On June 30, 2014, the Court issued an Order construing Montgomery’s June 23 letter as his answer to the OIP, and setting a procedural schedule for a written summary disposition motion. The Court also denied Montgomery’s request for a stay of this administrative proceeding.

III. FACTS

A. Montgomery’s Indictment and Conviction

From June 2002 through July 2009, Montgomery was a registered representative of, and person associated with, Wachovia Securities Financial Network, LLC, and Mutual Service Corporation, both broker-dealers and investment advisers dually registered with the Commission. During that period, Montgomery held Series 7, 24, 63 and 65 securities licenses.¹

In March 2011, Montgomery was indicted on six counts of wire fraud and four counts of filing a false tax return.² The indictment charged that, from 2003 to 2007, while acting as an elderly client’s investment adviser, attorney-in-fact, and trustee of that client’s revocable living trust, and after his client was placed in a nursing home, Montgomery stole over \$1 million from the client’s banking and investment accounts, routinely liquidated the client’s securities and transferred the proceeds to himself, and created false “notes” and “loan papers” to conceal his theft. Montgomery

¹ A copy of the BrokerCheck Report and Investment Adviser Representative Public Disclosure Report concerning Montgomery’s associated status and licensing during the period of his misconduct are attached hereto as Exhibits A and B, respectively. Both reports are publicly available. The BrokerCheck Report, maintained by FINRA, also shows that Montgomery was permanently barred by FINRA on December 9, 2011, on a default decision, for failing to respond to requests for information and documents, and failing to appear and provide on-the-record testimony.

² A copy of the indictment is annexed hereto as Exhibit C.

also filed false income tax returns in which he omitted the income he received and took by theft from his client.

In June 2012, Montgomery pled guilty to two counts of the ten-count indictment, and on December 27, 2012, Montgomery was convicted of wire fraud in violation of 18 U.S.C. § 1343, and filing a false tax return in violation of 21 U.S.C. § 7206(1), before the United States District Court for the Western District of Washington, in United States v. Michael D. Montgomery, Case No. 3:11CR05156-RJB. He was sentenced to a prison term of 60 months followed by three years of supervised release.³ On January 25, 2013, the judgment was amended and Montgomery was also ordered to make restitution in the amount of \$995,811.⁴

IV. APPLICABLE LAW

A. Summary Disposition

Rule 250(a) of the Rules of Practice authorizes Summary Disposition after a respondent's answer has been filed and documents have been made available to the respondent for inspection and copying pursuant to Rule 230 of the Rules of Practice. Montgomery filed his "Motion to Show Cause" on or about June 23, 2014, which the Court construed as his Answer to the OIP. The Division did not conduct an investigation into the facts underlying Montgomery's conviction. The Division's investigative files consist only of the five publicly-available documents attached hereto concerning Montgomery's criminal indictment, conviction, and status as an associated person during the period of his conduct. Pursuant to Rule 230, the limited

³ A copy of the criminal judgment and the amended judgment are annexed hereto as Exhibits D and E, respectively.

⁴ Montgomery argues in his Motion that this proceeding violates due process because his criminal case is "under appeal." However, no direct appeal of Montgomery's conviction is pending before the Ninth Circuit. In any event, as the Court ruled in the June 30, 2014 Order, an appeal or a collateral challenge to his conviction is not grounds to defer decision in this administrative proceeding. *See, e.g., Jon Edelman*, 52 S.E.C. 789, 790 (1996).

investigative file has been available for inspection and copying since the filing of the OIP although Montgomery has not requested it. Regardless, the extent of the Division's non-privileged investigative record is attached to the instant motion.

Rule 250(b) provides, in part, that "[T]he hearing officer may grant the motion for summary disposition if there is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law." 17 C.F.R. § 201.250(b). See *Edward Becker*, A.P. File No. 3-11367, Initial Dec. Rel. No. 252, 82 S.E.C. Docket 3427, 3430, 2004 WL 1238256, *2 (June 3, 2004). Summary disposition under Commission Rule 250 is analogous to summary judgment under Fed. R. Civ. P. 56. Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). Once the moving party has carried its burden, its opponent must set forth specific facts showing a genuine issue for a hearing and may not rest upon the mere allegations or denials of its pleadings. *Becker*, 82 S.E.C. Docket at 3430-31, 2004 WL 1238256 at *2-3 (citations omitted). Not only does the record demonstrate that there is no genuine issue of material fact, but Montgomery's Answer does not deny any of the material allegations upon which the Division's Motion rests.

B. A Permanent Bar is in the Public Interest

As referenced above, at the time of his misconduct, Montgomery was associated with two dually registered broker-dealers and investment advisers. Under these circumstances, Montgomery's criminal conviction alone is sufficient for sanctions under Section 15(b)(6) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940. Each

statute, as amended by Section 925 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), authorizes the Commission to bar a person from associating with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, or from participating in an offering of penny stock, if the Commission finds that it is in the public interest to do so, and if such person has within 10 years of the commencement of the administrative proceeding, been convicted of, *inter alia*, a violation of 18 U.S.C. § 1343 and, at the time of the misconduct underlying the conviction, was associated with a broker, dealer, or investment adviser.⁵

Each statute, as amended by Dodd-Frank, authorizes the Commission to bar such a person if the Commission finds, on the record after notice and opportunity for hearing, that any such remedy is in the public interest. The assessment of whether a particular sanction recommended by the Division is in the public interest is derived from the Court’s analysis in *Steadman v. SEC*, 603 F. 2d 1126, 1140 (5th Cir. 1979), *aff’d on other grounds*, 450 U.S. 91 (1981), which includes the following elements: the egregiousness of the respondent’s actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the respondent’s assurances against future violations, the respondent’s recognition of the wrongful nature of his misconduct, and the likelihood that his occupation will present opportunities for future violations.⁶

⁵ Although Montgomery’s misconduct occurred prior to the 2010 enactment of Dodd-Frank, which amended Exchange Act § 15(b)(6) and Advisers Act §203(f) to authorize collateral bars from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, NRSRO, or from participating in any offering of penny stock, prospective application of an industry-wide sanction in this case is appropriate and necessary. *See Matter of John W. Lawton*, Investment Advisers Act Release No. 3513, 2012 WL 6208750 (Dec. 13, 2012).

⁶ In addition, the Commission has considered three additional factors to be considered in making the public interest determination concerning sanctions: the age of the violation; the degree of harm to investors as a result of the

The Commission may order sanctions upon summary disposition when, accepting the respondent's assertions as true, the weight of the *Steadman* factors suggests it is in the public interest to do so. See *Jeffrey L. Gibson*, Rel. No. 34-57266, 92 S.E.C. Docket 1591, 2008 WL 294717, *6 (Feb. 4, 2008) (upholding broker-dealer bar on summary disposition on the weight of the *Steadman* factors). In this case, all of the *Steadman* factors support a permanent bar against Montgomery from further association with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, and from participating in an offering of penny stock.

1. Montgomery's Conduct Was Egregious

Montgomery used his position of trust and confidence, as his client's adviser, trustee of the client's revocable living trust, and attorney-in-fact, to steal funds from his elderly client. Montgomery put his own interests ahead of his client's interests and stole over \$1 million from the client's banking and investment accounts by routinely liquidating the client's securities and transferring the proceeds to himself, and by creating false "notes" and "loan papers" to conceal his theft. Montgomery also filed false income tax returns in which he omitted the income he received and took by theft from his advisory client. He pled guilty to federal felonies for his role in this conduct. Montgomery's highly deceptive conduct was egregious – particularly given his role as a trusted advisor to an elderly customer, which trust he abused – and demonstrates that he cannot be trusted to work in the securities industry going forward.

violations, and the extent of the sanction's deterrent effect. See *Melton, et al.*, 2003 WL 21729839, *2 (July 25, 2003); *Schild Management Co. and Marshall L. Schild*, Rel. No. 34-53201, 87 S.E.C. Docket 695, 2006 WL 231642, *8 (Jan. 31, 2006). Here, the conduct occurred within the last 10 years and Montgomery's conviction was much more recent; his client's loss was over \$1 million; and a permanent bar from the securities industry will serve to deter Montgomery from future misconduct.

2. Montgomery's Violations Were Recurring

The allegations in the underlying indictment, and the counts to which Montgomery pled guilty, show that his misconduct was not an isolated event, but rather was an ongoing scheme which continued over a four-year period. This factor weighs in favor of a bar.

3. Montgomery's Actions Were Intentional

Montgomery's criminal misconduct was callous, taking advantage of his client's trust and advanced age and placement in a nursing home. He showed a high degree of scienter and a complete abrogation and disregard of his fiduciary duty to his client over a continuous period of years. The degree of scienter was further compounded by Montgomery's actions to hide his misconduct and self-enrichment, by creating false notes and loan papers and by filing false income tax returns on which he did not declare the income he received from the funds stolen from his advisory client. This factor weighs in favor of a bar.

4. Montgomery Has Offered No Assurances Against Future Violations and Has Not Recognized the Wrongful Nature of His Conduct

While he pled guilty in the underlying criminal proceedings, Montgomery gave no indication in the prehearing conference that he recognized the wrongful nature of his conduct and gave no assurances in the prehearing conference against future misconduct. In fact, Montgomery claimed during the teleconference to be unable to comprehend the import of the administrative proceedings or the prehearing conference or understand what the Court was saying to him, as a result of a head injury. In his "Motion to Show Cause" and the attached Neuropsychological Evaluation prepared June 5, 2011, Montgomery claims his mental condition is impaired and that he cannot defend himself. As the Court stated in the June 30, 2014 Scheduling Order, however, Montgomery's litigious behavior and filings in this proceeding, and in the district court and Ninth

Circuit, undercut his claim that he does not understand what is happening in this proceeding. The Court further noted that the district court rejected Montgomery's claim that the Neuropsychological Evaluation cast doubt on his competency. In light of Montgomery's conduct in this proceeding, these factors weigh in favor of a bar.

5. Opportunities for Future Violations

Given his past efforts to conceal his fraudulent conduct, there is an unacceptable risk that Montgomery would commit further misconduct if permitted to return to the securities industry upon his release from incarceration. Montgomery is presently 45 years old, and his sentence will expire before he reaches 50. It is reasonable to assume he will attempt to re-enter the securities industry given his age. Each area of the securities industry covered by the collateral bar presents continual opportunities for similar dishonesty and abuse and depends heavily on the integrity of its participants and on investors' confidence, and Montgomery's misconduct demonstrates a disregard for his fundamental responsibilities as a securities professional.

In sum, Montgomery engaged in fraudulent conduct for a number of years that violated antifraud prohibitions that apply to all securities professionals, and abused his position of trust to steal and misuse client funds. The recurrent nature of Montgomery's misconduct, the high degree of scienter in his theft and misappropriation of client funds, and the concealment of his theft and misuse from his client and tax authorities, are grounds for a finding that a collateral bar is appropriate in the public interest. Montgomery should be denied the opportunity for any future violations. There is a likelihood that Montgomery would engage in wrongful conduct if allowed to return to the securities industry upon his release from his current incarceration. A permanent industry bar is the appropriate remedial sanction in the public interest by protecting the public

from any further harm should Montgomery, upon his release after completing his term of incarceration, seek to renew or reinstate his industry licenses. *See Matter of Ross Mandell*, Exchange Act Release No. 34-71668 (Mar.7, 2014).

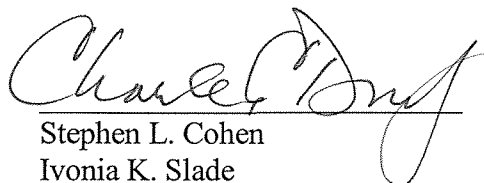
V. RELIEF REQUESTED

The Division requests that Montgomery be permanently barred from associating with any investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or NRSRO, and barred from participating in an offering of penny stock.

VI. CONCLUSION

For the foregoing reasons, the Division requests that the Court grant Summary Disposition in favor of the Division and impose the relief requested above.

Respectfully submitted,



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Securities and Exchange Commission
Division of Enforcement
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EXHIBIT

A

BrokerCheck Report

MICHAEL DENNIS MONTGOMERY

CRD# 2029289

Report #46070-54901, data current as of Monday, October 07, 2013.

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About BrokerCheck®

BrokerCheck offers information on all current-and many former-FINRA-registered securities brokers, and all current and former FINRA-registered securities firms. FINRA strongly encourages investors to use BrokerCheck to check the background of securities brokers and brokerage firms before deciding to conduct, or continue to conduct, business with them.

- **What is included in a BrokerCheck report?**

BrokerCheck reports for individual brokers include information such as employment history, professional qualifications, disciplinary actions, criminal convictions, civil judgments and arbitration awards. BrokerCheck reports for brokerage firms include information on a firm's profile, history, and operations, as well as many of the same disclosure events mentioned above.

Please note that the information contained in a BrokerCheck report may include pending actions or allegations that may be contested, unresolved or unproven. In the end, these actions or allegations may be resolved in favor of the broker or brokerage firm, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

- **Where did this information come from?**

The information contained in BrokerCheck comes from FINRA's Central Registration Depository, or CRD® and is a combination of:

- information FINRA and/or the Securities and Exchange Commission (SEC) require brokers and brokerage firms to submit as part of the registration and licensing process, and
- information that regulators report regarding disciplinary actions or allegations against firms or brokers.

- **How current is this information?**

Generally, active brokerage firms and brokers are required to update their professional and disciplinary information in CRD within 30 days. Under most circumstances, information reported by brokerage firms, brokers and regulators is available in BrokerCheck the next business day.

- **What if I want to check the background of an investment adviser firm or investment adviser representative?**

To check the background of an investment adviser firm or representative, you can search for the firm or individual in BrokerCheck. If your search is successful, click on the link provided to view the available licensing and registration information in the SEC's Investment Adviser Public Disclosure (IAPD) website at <http://www.adviserinfo.sec.gov>. In the alternative, you may search the IAPD website directly or contact your state securities regulator at <http://www.nasaa.org>.

- **Are there other resources I can use to check the background of investment professionals?**

FINRA recommends that you learn as much as possible about an investment professional before deciding to work with them. Your state securities regulator can help you research brokers and investment adviser representatives doing business in your state.

Thank you for using FINRA BrokerCheck.



Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at brokercheck.finra.org



For additional information about the contents of this report, please refer to the User Guidance or www.finra.org/brokercheck. It provides a glossary of terms and a list of frequently asked questions, as well as additional resources. [For more information about FINRA, visit www.finra.org.](http://www.finra.org)

MICHAEL D. MONTGOMERY

CRD# 2029289

This broker is not currently registered with FINRA.

Report Summary for this Broker

This report summary provides an overview of the broker's professional background and conduct. Additional information can be found in the detailed report.

Broker Qualifications

This broker is not currently registered with FINRA.

This broker has passed:

- 1 Principal/Supervisory Exam
- 1 General Industry/Product Exam
- 2 State Securities Law Exams

Registration History

This broker was previously registered with FINRA at the following brokerage firms:

MUTUAL SERVICE CORPORATION
CRD# 4806
TACOMA, WA
04/2006 - 07/2009

WACHOVIA SECURITIES FINANCIAL NETWORK, LLC
CRD# 11025
TACOMA, WA
06/1998 - 02/2006

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
CRD# 7691
NEW YORK, NY
01/1992 - 05/1998

Disclosure Events

Disclosure events are certain criminal matters; regulatory actions; civil judicial proceedings; customer complaints, arbitrations, or civil litigations; employment terminations; and financial matters in which the broker has been involved.

Are there events disclosed about this broker? **Yes**

The following types of disclosures have been reported:

Type	Count
Regulatory Event	2
Customer Dispute	1
Termination	1

Investment Adviser Representative Information

This individual previously was registered as an investment adviser representative and a broker. For more information about this individual's record as an investment adviser representative, visit SEC's Investment Adviser Public Disclosure website at: <http://www.adviserinfo.sec.gov>

Broker Qualifications



Registrations

This section provides the self-regulatory organizations (SROs) and U.S. states/territories the broker is currently registered and licensed with, the category of each registration, and the date on which the registration became effective. This section also provides, for every brokerage firm with which the broker is currently employed, the address of each branch where the broker works.

This broker is not currently registered with FINRA.

Broker Qualifications



Industry Exams this Broker has Passed

This section includes all securities industry exams that the broker has passed. Under limited circumstances, a broker may attain a registration after receiving an exam waiver based on exams the broker has passed and/or qualifying work experience. Any exam waivers that the broker has received are not included below.

This individual has passed 1 principal/supervisory exam, 1 general industry/product exam, and 2 state securities law exams.

Principal/Supervisory Exams

Exam	Category	Date
General Securities Principal Examination	Series 24	11/12/1998

General Industry/Product Exams

Exam	Category	Date
General Securities Representative Examination	Series 7	01/09/1992

State Securities Law Exams

Exam	Category	Date
Uniform Securities Agent State Law Examination	Series 63	02/06/1992
Uniform Investment Adviser Law Examination	Series 65	01/27/1993

Additional information about the above exams or other exams FINRA administers to brokers and other securities professionals can be found at www.finra.org/brokerqualifications/registeredrep/.



Registration and Employment History

Registration History

This broker previously was registered with FINRA at the following firms:

Registration Dates	Firm Name	CRD#	Branch Location
04/2006 - 07/2009	MUTUAL SERVICE CORPORATION	4806	TACOMA, WA
06/1998 - 02/2006	WACHOVIA SECURITIES FINANCIAL NETWORK, LLC	11025	TACOMA, WA
01/1992 - 05/1998	MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED	7691	NEW YORK, NY

Employment History

Below is the broker's employment history for up to the last 10 years.

Please note that the broker is required to provide this information only while registered with FINRA and the information is not updated after the broker ceases to be registered. Therefore, an employment end date of "Present" may not reflect the broker's current employment status.

Employment Dates	Employer Name	Employer Location
04/2006 - Present	MUTUAL SERVICE CORPORATION	TACOMA, WA
06/2003 - 02/2006	WACHOVIA SECURITIES FINANCIAL NETWORK, LLC	TACOMA, WA

Other Business Activities

This section includes information, if any, as provided by the broker regarding other business activities the broker is currently engaged in either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise. This section does not include non-investment related activity that is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt.

No information reported.



Disclosure Events

What you should know about reported disclosure events:

1. Disclosure events are certain criminal matters; regulatory actions; civil judicial proceedings; customer complaints, arbitrations, or civil litigations; employment terminations; and financial matters in which the broker has been involved.
2. **Certain thresholds must be met before an event is reported to CRD, for example:**
 - A law enforcement agency must file formal charges before a broker is required to report a particular criminal event.
 - A customer dispute must involve allegations that a broker engaged in activity that violates certain rules or conduct governing the industry and that the activity resulted in damages of at least \$5,000.
3. **Disclosure events in BrokerCheck reports come from different sources:**
 - As mentioned at the beginning of this report, information contained in BrokerCheck comes from brokers, brokerage firms and regulators. When more than one of these sources reports information for the same disclosure event, all versions of the event will appear in the BrokerCheck report. The different versions will be separated by a solid line with the reporting source labeled.
4. **There are different statuses and dispositions for disclosure events:**
 - A disclosure event may have a status of *pending*, *on appeal*, or *final*.
 - A "pending" disclosure event involves allegations that have not been proven or formally adjudicated.
 - A disclosure event that is "on appeal" involves allegations that have been adjudicated but are currently being appealed.
 - A "final" disclosure event has been concluded and its resolution is not subject to change.
 - A final disclosure event generally has a disposition of *adjudicated*, *settled* or *otherwise resolved*.
 - An "adjudicated" matter includes a disposition by (1) a court of law in a criminal or civil matter, or (2) an administrative panel in an action brought by a regulator that is contested by the party charged with some alleged wrongdoing.
 - A "settled" matter generally represents a disposition wherein the parties involved in a dispute reach an agreement to resolve the matter. Please note that brokers and brokerage firms may choose to settle customer disputes or regulatory matters for business or other reasons.
 - A "resolved" matter usually includes a disposition wherein no payment is made to the customer or there is no finding of wrongdoing on the part of the individual broker. Such matters generally involve customer disputes.

For your convenience, below is a matrix of the number and status of disclosure events involving this broker. Further information regarding these disclosure events can be found in the subsequent pages of this report. You also may wish to contact the broker to obtain further information regarding the disclosure events.



	Pending	Final	On Appeal
Regulatory Event	0	2	0
Customer Dispute	0	1	N/A
Termination	N/A	1	N/A



Disclosure Event Details

When evaluating this information, please keep in mind that a disclosure event may be pending or involve allegations that are contested and have not been resolved or proven. The disclosure event may, in the end, be withdrawn, dismissed, resolved in favor of the broker, or concluded through a negotiated settlement for certain business reasons (e.g., to maintain customer relationships or to limit the litigation costs associated with disputing the allegations) with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to CRD and therefore some of the specific data fields contained in the report may be blank if the information was not provided to CRD.

Regulatory - Final

This type of disclosure event may involve (1) a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, self-regulatory organization, federal regulatory such as the Securities and Exchange Commission, foreign financial regulatory body) for a violation of investment-related rules or regulations; or (2) a revocation or suspension of a broker's authority to act as an attorney, accountant, or federal contractor.

Disclosure 1 of 2

Reporting Source:	Regulator
Regulatory Action Initiated By:	FINRA
Sanction(s) Sought:	Other: N/A
Date Initiated:	07/19/2011
Docket/Case Number:	<u>2009019054401</u>
Employing firm when activity occurred which led to the regulatory action:	N/A
Product Type:	No Product
Allegations:	FINRA RULES 2010, 8210: MONTGOMERY FAILED TO RESPOND TO FINRA REQUESTS FOR INFORMATION AND DOCUMENTS. IN ADDITION, MONTGOMERY FAILED TO APPEAR AND PROVIDE ON-THE-RECORD TESTIMONY.
Current Status:	Final
Resolution:	Decision



Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct? No

Resolution Date: 12/09/2011

Sanctions Ordered: Bar (Permanent)

If the regulator is the SEC, CFTC, or an SRO, did the action result in a finding of a willful violation or failure to supervise? No

(1) willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board, or to have been unable to comply with any provision of such Act, rule or regulation?



(2) willfully aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board? or

(3) failed reasonably to supervise another person subject to your supervision, with a view to preventing the violation by such person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any such Acts, or any of the rules of the Municipal Securities Rulemaking Board?

Sanction 1 of 1

Sanction Type:	Bar (Permanent)
Capacities Affected:	ALL CAPACITIES
Duration:	N/A
Start Date:	12/09/2011
End Date:	



Summary: DEFAULT DECISION RENDERED NOVEMBER 11, 2011 WHEREIN MONTGOMERY IS BARRED FROM ASSOCIATION WITH ANY FINRA MEMBER IN ANY CAPACITY FOR FAILING TO RESPOND TO REQUESTS FOR INFORMATION, PRODUCE DOCUMENTS, AND APPEAR FOR TESTIMONY, IN VIOLATION OF FINRA RULES 8210 AND 2010. THE DECISION IS FINAL DECEMBER 9, 2011.

Disclosure 2 of 2

Reporting Source: Regulator

Regulatory Action Initiated By: WASHINGTON

Sanction(s) Sought: Revocation

Date Initiated: 09/23/2009

Docket/Case Number: S-08-129-09-FO01

Employing firm when activity occurred which led to the regulatory action: WACHOVIA SECURITIES FINANCIAL NETWORK LLC AND MUTUAL SERVICE CORPORATION

Product Type: Promissory Note

Allegations: ON SEPTEMBER 23, 2009, THE SECURITIES DIVISION ENTERED A FINAL ORDER AGAINST MICHAEL D. MONTGOMERY ("MONTGOMERY"). THE SECURITIES DIVISION HAD PREVIOUSLY ISSUED A STATEMENT OF CHARGES AND NOTICE OF INTENT TO REVOKE SECURITIES SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATION AGAINST MONTGOMERY ON JUNE 30, 2009. THE SECURITIES DIVISION FINDS THAT MONTGOMERY ENGAGED IN DISHONEST AND UNETHICAL PRACTICES WHILE WORKING AS A SECURITIES SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE. THE SECURITIES DIVISION FINDS THAT MONTGOMERY COLLECTED FEES FOR POWER OF ATTORNEY AND TRUSTEE SERVICES PROVIDED TO AN ELDERLY CLIENT; THAT MONTGOMERY SIGNED PROMISSORY NOTES IN 2003 AND 2004 IN WHICH HE BORROWED UP TO \$546,000 FROM THE SAME CLIENT; THAT BETWEEN JANUARY AND AUGUST OF 2006, MONTGOMERY WROTE \$105,070 IN CHECKS TO HIMSELF FROM THE CLIENT'S ACCOUNTS, PURPORTEDLY FOR POWER OF ATTORNEY SERVICES; THAT FOLLOWING THE CLIENT'S DEATH IN JULY 2006, MONTGOMERY WROTE \$225,982 IN CHECKS TO HIMSELF FROM THE CLIENT'S ACCOUNTS, PURPORTEDLY FOR ESTATE SERVICES; AND THAT MONTGOMERY FAILED TO DISCLOSE THESE ACTIVITIES TO HIS EMPLOYING FIRMS AS REQUIRED BY NASD CONDUCT RULE 3030. THE



SECURITIES DIVISION FINDS THAT THESE ACTIVITIES ARE DISHONEST AND UNETHICAL BUSINESS PRACTICES UNDER WAC 460-22B-090 AND RCW 21.20.110(1)(G). THE FINAL ORDER REVOKES MONTGOMERY'S SECURITIES SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATIONS. MONTGOMERY HAS A RIGHT TO JUDICIAL REVIEW OF THE FINAL ORDER.

Current Status: Final
Resolution: Order
Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct? Yes
Resolution Date: 09/23/2009
Sanctions Ordered: Revocation
Sanction 1 of 1
Sanction Type: Bar (Permanent)
Capacities Affected: ALL
Duration: PERMANENTLY
Start Date: 09/23/2009
End Date:

Summary: CONTACT: JILL VALLELY 360-902-8801

Reporting Source: Firm
Regulatory Action Initiated By: STATE OF WASHINGTON - DEPT. OF FINANCIAL INSTITUTIONS
Sanction(s) Sought: Other: TERMINATION
Date Initiated: 07/10/2009
Docket/Case Number: S-08-129-SC01
Employing firm when activity occurred which led to the regulatory action: MSC & WACHOVIA SECURITIES FINANCIAL NETWORK LLC



Product Type:

Other: SECURITIES

Allegations:

ENGAGED IN DISHONEST AND UNETHICAL PRACTICES IN THE SECURITIES
BUSINESS

Current Status:

Pending

**Customer Dispute - Settled**

This type of disclosure event involves a consumer-initiated, investment-related complaint, arbitration proceeding or civil suit containing allegations of sale practice violations against the broker that resulted in a monetary settlement to the customer.

Disclosure 1 of 1

Reporting Source:	Firm
Employing firm when activities occurred which led to the complaint:	MSC
Allegations:	SUITABILITY & MISREPRESENTATION
Product Type:	Annuity-Variable
Alleged Damages:	\$100,000.00
Is this an oral complaint?	No
Is this a written complaint?	Yes
Is this an arbitration/CFTC reparation or civil litigation?	No

Customer Complaint Information

Date Complaint Received:	07/27/2009
Complaint Pending?	No
Status:	Settled
Status Date:	07/27/2009
Settlement Amount:	\$58,000.00
Individual Contribution Amount:	\$0.00

**Employment Separation After Allegations**

This type of disclosure event involves a situation where the broker voluntarily resigned, was discharged or was permitted to resign after allegations were made that accused the broker of (1) violating investment-related statutes, regulations, rules or industry standards of conduct; (2) fraud or the wrongful taking of property; or (3) failure to supervise in connection with investment-related statutes, regulations, rules or industry standards of conduct.

Disclosure 1 of 1

Reporting Source: Broker

Employer Name: MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

Termination Type: Discharged

Termination Date: 05/06/1998

Allegations: N/A
MERRILL LYNCH ACCUSED ME OF MISMARKING MUTUAL FUNDS TICKETS. THEY SAID THE DATE WAS INCORRECT AND THE ORDER WAS SOLICITED WHEN IT WAS MARKED UNSOLICITED. THERE WAS NO CLIENT COMPLAINT OR DAMAGES.

Product Type: Mutual Fund(s)

Other Product Types:

Summary: TERMINATION
MERRILL LYNCH CONTACTED THE CLIENT AFTER I SOLD THE TWO MUTUAL FUNDS. I PERCEIVED THE ORDERS TO BE UNSOLICITED, MERRILL LYNCH THOUGHT THEY WERE SOLICITED. THE CLIENTS COMMENTS WERE INDIFFERENT, AND HE HAD NO PROBLEM, IN FACT WAS IN FAVOR OF MY HANDLING OF THE SITUATION.

End of Report



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EXHIBIT

B



Investment Adviser Representative Public Disclosure Report

MICHAEL DENNIS MONTGOMERY

CRD# [REDACTED]

Report #89358-34316, data current as of Friday, July 18, 2014.

<u>Section Title</u>	<u>Page(s)</u>
Report Summary	1
Qualifications	2 - 3
Registration and Employment History	4
Disclosure Information	5



IAPD Information about Investment Adviser Representatives

IAPD offers information on all current-and many former-Investment Adviser Representatives. Investors are strongly encouraged to use IAPD to check the background of Investment Adviser Representatives before deciding to conduct, or continue to conduct, business with them.

- **What is included in a IAPD report?**

IAPD reports for individual Investment Adviser Representatives include information such as employment history, professional qualifications, disciplinary actions, criminal convictions, civil judgments and arbitration awards.

It is important to note that the information contained in an IAPD report may include pending actions or allegations that may be contested, unresolved or unproven. In the end, these actions or allegations may be resolved in favor of the Investment Adviser Representative, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

- **Where did this information come from?**

The information contained in IAPD comes from the Investment Adviser Registration Depository (IARD) and FINRA's Central Registration Depository, or CRD®, (see more on CRD below) and is a combination of:

- information the states require Investment Adviser Representatives and firms to submit as part of the registration and licensing process, and
- information that state regulators report regarding disciplinary actions or allegations against Investment Adviser Representatives.

- **How current is this information?**

Generally, Investment Adviser Representatives are required to update their professional and disciplinary information in IARD within 30 days.

- **Need help interpreting this report?**

For help understanding how to read this report, please consult NASAA's IAPD Tips page <http://www.nasaa.org/IAPD/IARReports.cfm>.

- **What if I want to check the background of an Individual Broker or Brokerage firm?**

To check the background of an Individual Broker or Brokerage firm, you can search for the firm or individual in IAPD. If your search is successful, click on the link provided to view the available licensing and registration information in FINRA's BrokerCheck website.

- **Are there other resources I can use to check the background of investment professionals?**

It is recommended that you learn as much as possible about an individual Investment Adviser Representative or Investment Adviser firm before deciding to work with them. Your state securities regulator can help you research individuals and certain firms doing business in your state. The contact information for state securities regulators can be found on the website of the North American Securities Administrators Association <http://www.nasaa.org>.



Investment Adviser Representative Report Summary

MICHAEL DENNIS MONTGOMERY (CRD# 2029289)

The report summary provides an overview of the Investment Adviser Representative's professional background and conduct. The information contained in this report has been provided by the Investment Adviser Representative, investment adviser and/or securities firms, and/or securities regulators as part of the states' investment adviser registration and licensing process. The information contained in this report was last updated by the Investment Adviser Representative, a previous employing firm, or a securities regulator on **03/21/2014**.

CURRENT EMPLOYERS

This individual is not currently registered as an Investment Adviser Representative.

QUALIFICATIONS

This individual is not currently registered as an Investment Adviser Representative.

Note: Not all jurisdictions require IAR registration or may have an exemption from registration.

Additional information including this individual's qualification examinations and professional designations is available in the Detailed Report.

REGISTRATION HISTORY

This Investment Adviser Representative was previously registered with the following Investment Adviser firms:

FIRM (IARD#) - LOCATION	REGISTRATION DATES
MUTUAL SERVICE CORPORATION (IARD# 4806) - TACOMA, WA	05/01/2006 - 07/30/2009

For additional registration and employment history details as reported by the individual, refer to the Registration and Employment History section of the Detailed Report.

DISCLOSURE INFORMATION

Disclosure events include certain criminal charges and convictions, formal investigations and disciplinary actions initiated by regulators, customer disputes and arbitrations, and financial disclosures such as bankruptcies and unpaid judgments or liens.

Are there events disclosed about this Investment Adviser Representative? **Yes**

The following types of events are disclosed about this Investment Adviser Representative:

Type	Count
Regulatory Event	3
Criminal	1
Customer Dispute	1
Termination	1



Investment Adviser Representative Qualifications

REGISTRATIONS

This section provides the states and U.S. territories in which the Investment Adviser Representative is currently registered and licensed, the category of each registration, and the date on which the registration became effective. This section also provides, for each firm with which the Investment Adviser Representative is currently employed, the address of each location where the Investment Adviser Representative works.

This individual is not currently registered as an Investment Adviser Representative.



Investment Adviser Representative Qualifications

PASSED INDUSTRY EXAMS

This section includes all required state securities exams that the Investment Adviser Representative has passed. Under limited circumstances, an Investment Adviser Representative may attain registration after receiving an exam waiver based on a combination of exams the Investment Adviser Representative has passed and qualifying work experience. Likewise, a new exam requirement may be grandfathered based on an Investment Adviser Representative's specific qualifying work experience. Exam waivers and grandfathering are not included below.

This individual has passed the following exams:

Exam	Category	Date
Uniform Securities Agent State Law Examination (S63)	Series 63	02/06/1992
Uniform Investment Adviser Law Examination (S65)	Series 65	01/27/1993

PROFESSIONAL DESIGNATIONS

This section details that the Investment Adviser Representative has reported **0** professional designation(s).

No information reported.



Investment Adviser Representative Registration and Employment History

PREVIOUSLY REGISTERED WITH THE FOLLOWING INVESTMENT ADVISER FIRMS

This section indicates that state registration records show this Investment Adviser Representative previously held registrations with the following firms:

Registration Dates	Firm Name	IARD#	Branch Location
05/01/2006 - 07/30/2009	MUTUAL SERVICE CORPORATION	4806	TACOMA, WA

EMPLOYMENT HISTORY

Below is the Investment Adviser Representative's employment history for up to the last 10 years.

Please note that the Investment Adviser Representative is required to provide this information only while registered and the information is not updated after the Investment Adviser Representative ceases to be registered, with a state regulator. Therefore, an employment end date of "Present" may not reflect the Investment Adviser Representative's current employment status.

Employment Dates	Employer Name	Employer Location
04/2006 - Present	MUTUAL SERVICE CORPORATION	TACOMA, WA
06/2003 - 02/2006	WACHOVIA SECURITIES FINANCIAL NETWORK, LLC	TACOMA, WA

OTHER BUSINESS ACTIVITIES

This section includes information, if any, as provided by the Investment Adviser Representative regarding other business activities the Investment Adviser Representative is currently engaged in either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise. This section does not include non-investment related activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.

No information reported.



Investment Adviser Representative Disclosure Summary

Disclosure Information

What you should know about reported disclosure events:

(1) Certain thresholds must be met before an event is reported to IARD, for example:

- A law enforcement agency must file formal charges before an Investment Adviser Representative is required to report a particular criminal event.;
- A customer dispute must involve allegations that an Investment Adviser Representative engaged in activity that violates certain rules or conduct governing the industry and that the activity resulted in damages of at least \$5,000.

(2) Disclosure events in IAPD reports come from different sources:

As mentioned in the "About IAPD" section on page 1 of this report, information contained in IAPD comes from Investment Adviser Representatives, firms and regulators. When more than one of these sources reports information for the same disclosure event, all versions of the event will appear in the IAPD report. The different versions will be separated by a solid line with the reporting source labeled.

(3) There are different statuses and dispositions for disclosure events:

- A disclosure event may have a status of *pending*, *on appeal*, or *final*.
 - A "pending" disclosure event involves allegations that have not been proven or formally adjudicated.
 - A disclosure event that is "on appeal" involves allegations that have been adjudicated but are currently being appealed.
 - A "final" disclosure event has been concluded and its resolution is not subject to change.
- A final disclosure event generally has a disposition of *adjudicated*, *settled* or *otherwise resolved*.
 - An "adjudicated" matter includes a disposition by (1) a court of law in a criminal or civil matter, or (2) an administrative panel in an action brought by a regulator that is contested by the party charged with some alleged wrongdoing.
 - A "settled" matter generally represents a disposition wherein the parties involved in a dispute reach an agreement to resolve the matter. Please note that Investment Adviser Representatives and firms may choose to settle customer disputes or regulatory matters for business or other reasons.
 - A "resolved" matter usually includes a disposition wherein no payment is made to the customer or there is no finding of wrongdoing on the part of the Investment Adviser Representative. Such matters generally involve customer disputes.

(4) You may wish to contact the Investment Adviser Representatives to obtain further information regarding any of the disclosure events contained in this IAPD report.



DISCLOSURE EVENT DETAILS

When evaluating this information, please keep in mind that some items may involve pending actions or allegations that may be contested and have not been resolved or proven. The event may, in the end, be withdrawn, dismissed, resolved in favor of the Investment Adviser Representative, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to the Investment Adviser Registration Depository. Some of the specific data fields contained in the report may be blank if the information was not provided.

The following types of events are disclosed about this Investment Adviser Representative:

Type	Count
Regulatory Event	3
Criminal	1
Customer Dispute	1
Termination	1

Regulatory Event

This disclosure event may include a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, a federal regulator such as the Securities and Exchange Commission or the Commodities Futures Trading Commission, or a foreign financial regulatory body) for a violation of investment-related rules or regulations. This disclosure event may also include a revocation or suspension of an Investment Adviser Representative's authority to act as an attorney, accountant or federal contractor.

Disclosure 1 of 3

Reporting Source: Regulator

Regulatory Action Initiated By: UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Sanction(s) Sought: Other: N/A

Date Initiated: 03/18/2014

Docket/Case Number: 3-15799

Employing firm when activity occurred which led to the regulatory action: N/A

Product Type: No Product

Allegations: SEC ADMIN RELEASE 34-71738/IA RELEASE 3798/MARCH 18, 2014: THE SECURITIES AND EXCHANGE COMMISSION (COMMISSION) DEEMS IT APPROPRIATE AND IN THE PUBLIC INTEREST THAT PUBLIC ADMINISTRATIVE PROCEEDINGS BE, AND HEREBY ARE, INSTITUTED PURSUANT TO SECTION 15(B) OF THE SECURITIES EXCHANGE ACT OF 1934 (EXCHANGE ACT) AND SECTION 203(F) OF THE INVESTMENT ADVISERS ACT OF 1940 (ADVISERS ACT) AGAINST MICHAEL D. MONTGOMERY. IN JUNE 2012, MONTGOMERY PLED GUILTY TO TWO COUNTS OF THE TEN-COUNT INDICTMENT, AND ON DECEMBER 27, 2012, MONTGOMERY WAS CONVICTED OF WIRE FRAUD IN VIOLATION OF 18 U.S.C. § 1343, AND FILING A FALSE TAX RETURN IN VIOLATION OF 21 U.S.C. § 7206(1) BEFORE THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, IN UNITED STATES V. MICHAEL D. MONTGOMERY, CASE NO. 3:11CR05156. HE WAS SENTENCED TO A PRISON TERM OF 60 MONTHS FOLLOWED BY THREE YEARS OF



SUPERVISED RELEASE. ON JANUARY 25, 2013, THE JUDGMENT WAS AMENDED AND MONTGOMERY WAS ALSO ORDERED TO MAKE RESTITUTION IN THE AMOUNT OF \$995,811.

Current Status: Pending

Limitation Details: N/A

Regulator Statement IT IS ORDERED THAT THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE AN INITIAL DECISION NO LATER THAN 210 DAYS FROM THE DATE OF SERVICE OF THIS ORDER, PURSUANT TO RULE 360(A)(2) OF THE COMMISSION'S RULES OF PRACTICE.

Disclosure 2 of 3

Reporting Source: Regulator

Regulatory Action Initiated By: FINRA

Sanction(s) Sought: Other: N/A

Date Initiated: 07/19/2011

Docket/Case Number: 2009019054401

Employing firm when activity occurred which led to the regulatory action: N/A

Product Type: No Product

Allegations: FINRA RULES 2010, 8210: MONTGOMERY FAILED TO RESPOND TO FINRA REQUESTS FOR INFORMATION AND DOCUMENTS. IN ADDITION, MONTGOMERY FAILED TO APPEAR AND PROVIDE ON-THE-RECORD TESTIMONY.

Current Status: Final

Resolution: Decision

Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct? No

Resolution Date: 12/09/2011

Sanctions Ordered: Bar (Permanent)

If the regulator is the SEC, CFTC, or an SRO, did the action result in a finding of a willful violation or failure to supervise? No



(1) willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board, or to have been unable to comply with any provision of such Act, rule or regulation?

(2) willfully aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any of such Acts, or any of the rules of the Municipal Securities Rulemaking Board? or

(3) failed reasonably to supervise another person subject to your supervision, with a view to preventing the violation by such person of any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or regulation under any such Acts, or any of the rules of the Municipal Securities Rulemaking Board?

Sanction 1 of 1

Sanction Type:	Bar (Permanent)
Capacities Affected:	ALL CAPACITIES
Duration:	N/A
Start Date:	12/09/2011

**End Date:****Regulator Statement**

DEFAULT DECISION RENDERED NOVEMBER 11, 2011 WHEREIN MONTGOMERY IS BARRED FROM ASSOCIATION WITH ANY FINRA MEMBER IN ANY CAPACITY FOR FAILING TO RESPOND TO REQUESTS FOR INFORMATION, PRODUCE DOCUMENTS, AND APPEAR FOR TESTIMONY, IN VIOLATION OF FINRA RULES 8210 AND 2010. THE DECISION IS FINAL DECEMBER 9, 2011.

Disclosure 3 of 3**Reporting Source:**

Regulator

Regulatory Action Initiated By:

WASHINGTON

Sanction(s) Sought:

Revocation

Date Initiated:

09/23/2009

Docket/Case Number:

S-08-129-09-FO01

Employing firm when activity occurred which led to the regulatory action:

WACHOVIA SECURITIES FINANCIAL NETWORK LLC AND MUTUAL SERVICE CORPORATION

Product Type:

Promissory Note

Allegations:

ON SEPTEMBER 23, 2009, THE SECURITIES DIVISION ENTERED A FINAL ORDER AGAINST MICHAEL D. MONTGOMERY ("MONTGOMERY"). THE SECURITIES DIVISION HAD PREVIOUSLY ISSUED A STATEMENT OF CHARGES AND NOTICE OF INTENT TO REVOKE SECURITIES SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATION AGAINST MONTGOMERY ON JUNE 30, 2009. THE SECURITIES DIVISION FINDS THAT MONTGOMERY ENGAGED IN DISHONEST AND UNETHICAL PRACTICES WHILE WORKING AS A SECURITIES SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE. THE SECURITIES DIVISION FINDS THAT MONTGOMERY COLLECTED FEES FOR POWER OF ATTORNEY AND TRUSTEE SERVICES PROVIDED TO AN ELDERLY CLIENT; THAT MONTGOMERY SIGNED PROMISSORY NOTES IN 2003 AND 2004 IN WHICH HE BORROWED UP TO \$546,000 FROM THE SAME CLIENT; THAT BETWEEN JANUARY AND AUGUST OF 2006, MONTGOMERY WROTE \$105,070 IN CHECKS TO HIMSELF FROM THE CLIENT'S ACCOUNTS, PURPORTEDLY FOR POWER OF ATTORNEY SERVICES; THAT FOLLOWING THE CLIENT'S DEATH IN JULY 2006, MONTGOMERY WROTE \$225,982 IN CHECKS TO HIMSELF FROM THE CLIENT'S ACCOUNTS, PURPORTEDLY FOR ESTATE SERVICES; AND THAT MONTGOMERY FAILED TO DISCLOSE THESE ACTIVITIES TO HIS EMPLOYING FIRMS AS REQUIRED BY NASD CONDUCT RULE 3030. THE SECURITIES DIVISION FINDS THAT THESE ACTIVITIES ARE DISHONEST AND UNETHICAL BUSINESS PRACTICES UNDER WAC 460-22B-090 AND RCW 21.20.110(1)(G). THE FINAL ORDER REVOKES MONTGOMERY'S SECURITIES SALESPERSON AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATIONS. MONTGOMERY HAS A RIGHT TO JUDICIAL REVIEW OF THE FINAL ORDER.

Current Status:

Final

Resolution:

Order



Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?

Yes

Resolution Date:

09/23/2009

Sanctions Ordered:

Revocation

Sanction 1 of 1

Sanction Type:

Bar (Permanent)

Capacities Affected:

ALL

Duration:

PERMANENTLY

Start Date:

09/23/2009

End Date:

Regulator Statement

CONTACT: JILL VALLELY 360-902-8801

Reporting Source:

Firm

Regulatory Action Initiated By:

STATE OF WASHINGTON - DEPT. OF FINANCIAL INSTITUTIONS

Sanction(s) Sought:

Other: TERMINATION

Date Initiated:

07/10/2009

Docket/Case Number:

S-08-129-SC01

Employing firm when activity occurred which led to the regulatory action:

MSC & WACHOVIA SECURITIES FINANCIAL NETWORK LLC

Product Type:

Other: SECURITIES

Allegations:

ENGAGED IN DISHONEST AND UNETHICAL PRACTICES IN THE SECURITIES BUSINESS

Current Status:

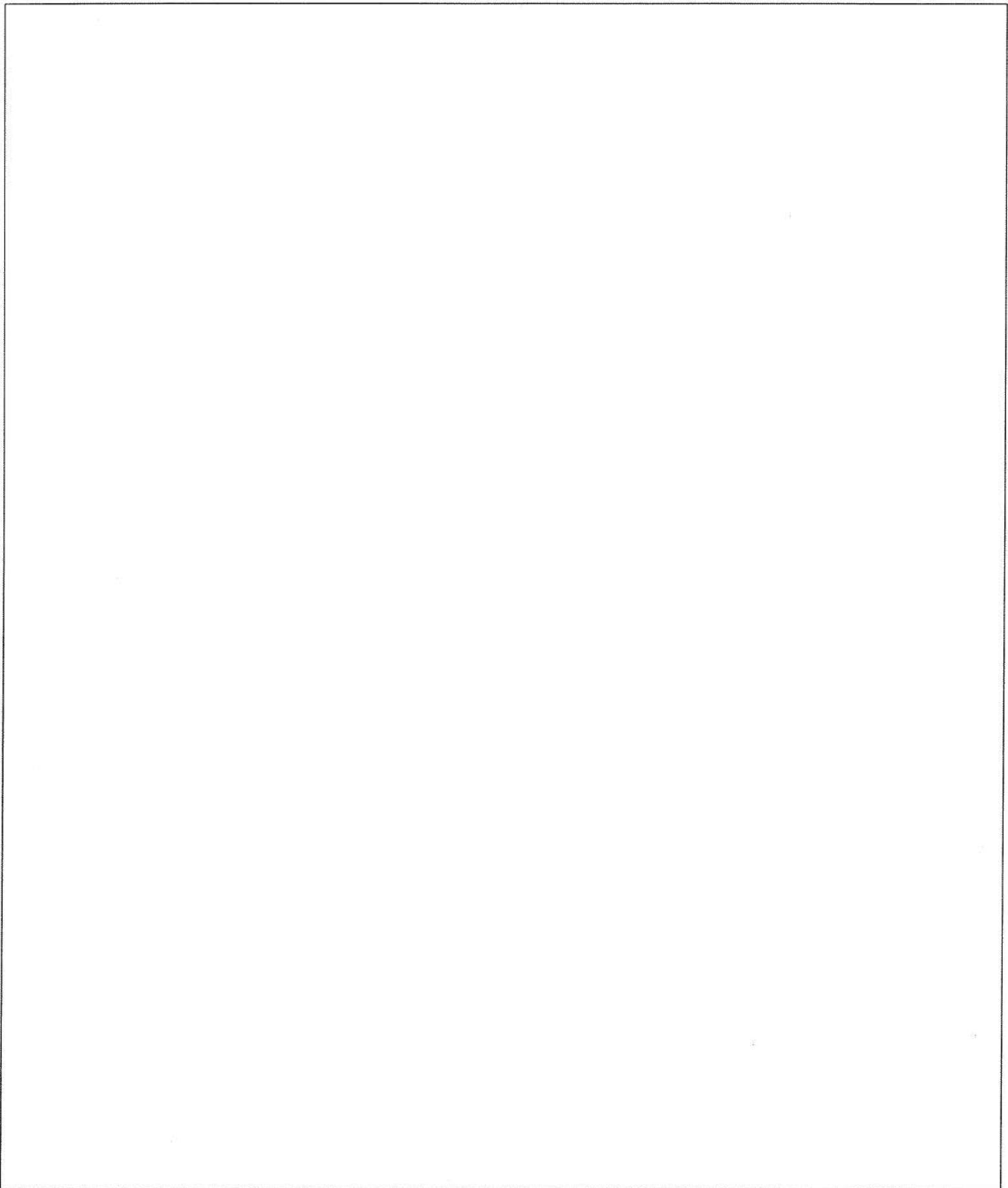
Pending

**Criminal**

This disclosure event involves a criminal charge against the Investment Adviser Representative that has resulted in a dismissal, plea, acquittal or conviction. The criminal matter may relate to any felony or certain misdemeanor offenses (e.g., bribery, perjury, forgery, counterfeiting, extortion, fraud, wrongful taking of property).

Disclosure 1 of 1

Reporting Source:	Regulator
Formal Charges were brought in:	Federal Court
Name of Court:	U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON
Location of Court:	WASHINGTON
Docket/Case #:	11-CR-5156
Charge Date:	01/26/2011
Charge(s) 1 of 3	
Formal Charge(s)/Description:	WIRE FRAUD
No of Counts:	5
Felony or Misdemeanor:	Felony
Plea for each charge:	N/A
Disposition of charge:	Dismissed
Charge(s) 2 of 3	
Formal Charge(s)/Description:	WIRE FRAUD
No of Counts:	1
Felony or Misdemeanor:	Felony
Plea for each charge:	GUILTY
Disposition of charge:	Pled guilty
Charge(s) 3 of 3	
Formal Charge(s)/Description:	FILING A FALSE TAX RETURN
No of Counts:	1
Felony or Misdemeanor:	Felony
Plea for each charge:	GUILTY
Disposition of charge:	Pled guilty
Current Status:	Final
Status Date:	01/25/2013
Disposition Date:	12/27/2012
Sentence/Penalty:	MONTGOMERY WAS SENTENCED TO BE IMPRISONED FOR A TOTAL TERM OF 60 MONTHS AND UPON RELEASE FROM IMPRISONMENT, HE SHALL BE ON SUPERVISED RELEASE FOR THREE YEARS. MONTGOMERY MUST ALSO PAY RESTITUTION IN THE AMOUNT OF \$995,811 AND PAY AN ASSESSMENT OF \$200.





Customer Dispute

This section provides information regarding a customer dispute that was reported to the Investment Adviser Registration Depository (IARD) by the Investment Adviser Representative (IAR), an investment adviser and/or securities firm, and/or a securities regulator. The event may include a consumer-initiated, investment-related complaint, arbitration proceeding or civil suit that contains allegations of sales practice violations against the individual.

The customer dispute may be pending or may have resulted in a civil judgment, arbitration award, monetary settlement, closure without action, withdrawal, dismissal, denial, or other outcome.

Disclosure 1 of 1

Reporting Source:	Firm
Employing firm when activities occurred which led to the complaint:	MSC
Allegations:	SUITABILITY & MISREPRESENTATION
Product Type:	Annuity-Variable
Alleged Damages:	\$100,000.00
Is this an oral complaint?	No
Is this a written complaint?	Yes
Is this an arbitration/CFTC reparation or civil litigation?	No

Customer Complaint Information

Date Complaint Received:	07/27/2009
Complaint Pending?	No
Status:	Settled
Status Date:	07/27/2009
Settlement Amount:	\$58,000.00
Individual Contribution Amount:	\$0.00

**Termination**

This disclosure event involves a situation where the Investment Adviser Representative voluntarily resigned, was discharged or was permitted to resign after allegations were made that accused the Investment Adviser Representative of violating investment-related statutes, regulations, rules or industry standards of conduct; fraud or the wrongful taking of property; or failure to supervise in connection with investment-related statutes, regulations, rules or industry standards of conduct.

Disclosure 1 of 1

Reporting Source: Individual

Firm Name: MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

Termination Type: Discharged

Termination Date: 05/06/1998

Allegations: N/A
MERRILL LYNCH ACCUSED ME OF MISMARKING MUTUAL FUNDS TICKETS. THEY SAID THE DATE WAS INCORRECT AND THE ORDER WAS SOLICITED WHEN IT WAS MARKED UNSOLICITED. THERE WAS NO CLIENT COMPLAINT OR DAMAGES.

Product Type: Mutual Fund(s)

Other Product Types:

Broker Statement TERMINATION
MERRILL LYNCH CONTACTED THE CLIENT AFTER I SOLD THE TWO MUTUAL FUNDS. I PERCEIVED THE ORDERS TO BE UNSOLICITED, MERRILL LYNCH THOUGHT THEY WERE SOLICITED. THE CLIENTS COMMENTS WERE INDIFFERENT, AND HE HAD NO PROBLEM, IN FACT WAS IN FAVOR OF MY HANDLING OF THE SITUATION.



End of Report

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EXHIBIT

C

1 Presented to the Court by the foreman of the
2 Grand Jury in open Court, in the presence of
3 the Grand Jury and FILED in the U.S.
DISTRICT COURT at Seattle, Washington.

4 MAR 09 20 11

WILLIAM M. MCCOOL, Clerk

5 By [Signature] Deputy

6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 **CR 11 5156 RTB**

10 UNITED STATES OF AMERICA,

NO.

11 Plaintiff,

INDICTMENT

12 v.

13 MICHAEL D. MONTGOMERY,

14 Defendant.

15
16 The Grand Jury charges that:

17
18 COUNTS ONE - SIX
(Wire Fraud)

19 Between in or about 2003, and September 6, 2007, at Tacoma, within the Western
20 District of Washington, and elsewhere, MICHAEL D. MONTGOMERY, defendant
21 herein, and others known and unknown, devised and intended to devise a scheme and
22 artifice to defraud and to obtain money and property by means of materially false and
23 fraudulent pretenses, statements, representations, promises, and by concealment of
24 material facts.
25
26
27
28

1 **I. Object of the Scheme**

2 1. The object of the scheme was to defraud, and to obtain money and property,
3 from J.S.M. ("the client"). Specifically, MICHAEL D. MONTGOMERY, a so-called
4 investment advisor and counselor, falsely claimed fees for services he did not in fact
5 provide, caused loans to be made that were never authorized or appropriate, and stole as
6 much money as possible from his client, and, in doing so, took affirmative steps to avoid
7 detection by regulators, the client's family, and others.

8 **II. Manner and Means of the Scheme**

9 2. It was part of the scheme that MICHAEL D. MONTGOMERY would and
10 did offer his services as an investment advisor to the client, an elderly gentleman in
11 Tacoma, Washington.

12 3. It was further part of the scheme that MICHAEL D. MONTGOMERY
13 would and did serve as trustee of the client's revocable living trust.

14 4. It was further part of the scheme that MICHAEL D. MONTGOMERY
15 would and did obtain a Durable Power of Attorney from the client, which named
16 MONTGOMERY as Attorney-in-Fact, and which was to become effective only upon the
17 disability or incompetence of the client, or in the event the client became incapable of
18 giving informed consent with respect to health care decisions.

19 5. It was further part of the scheme that MICHAEL D. MONTGOMERY
20 would and did obtain control of all bank accounts belonging to or benefitting the client.

21 6. It was further part of the scheme that MICHAEL D. MONTGOMERY
22 would and did steal money from his client after the client was placed in a nursing home.

23 7. It was further part of the scheme that MICHAEL D. MONTGOMERY used
24 his control over the client's bank accounts, and trust bank accounts, to make payments to
25 himself.

26 8. It was further part of the scheme that MICHAEL D. MONTGOMERY
27 would and did falsely characterize payments made to himself as payment of fees, or as
28 loans.

1 9. It was further part of the scheme that MICHAEL D. MONTGOMERY
2 would and did routinely steal money from the client's bank account at Key Bank. If there
3 were insufficient funds to steal, MONTGOMERY would and did cause securities in the
4 client's brokerage account at Charles Schwab to be liquidated, after which he would
5 cause the proceeds to be wire transferred to the client's bank account that
6 MONTGOMERY controlled and from which he could steal.

7 10. It was further part of the scheme that MICHAEL D. MONTGOMERY
8 would and did cause \$654,600 to be wire transferred--between January, 2005 and
9 September, 2007--from the client's trust brokerage account to the client's bank account.

10 11. It was further part of the scheme that MICHAEL D. MONTGOMERY
11 would and did write checks to himself, from his client's bank account, in amounts totaling
12 over \$1.2 million.

13 12. It was further part of the scheme that from sometime in 2003 to July 2006,
14 before the death of the client, MICHAEL D. MONTGOMERY would and did write
15 checks to himself in amounts totaling \$967,574.50, purportedly for "services" to his
16 client.

17 13. It was further part of the scheme that, upon the death of the client,
18 MICHAEL D. MONTGOMERY would and did continue to write checks to himself, in
19 amounts totaling \$243,745, purportedly for "estate services."

20 14. It was further part of the scheme that, in order to avoid suspicion about the
21 excessive fees he had been paying himself, and to create at least a superficial explanation
22 for the payments, MICHAEL D. MONTGOMERY would and did create false and
23 fictitious "notes" and "loan papers," each of which purported to represent that some of the
24 money he stole from the client was instead a series of "loans" from the client.

25 15. It was further part of the scheme that, to avoid detection, MICHAEL D.
26 MONTGOMERY caused some of the proceeds from the sale of his home to be repaid to
27 the client's Charles Schwab Investment account.

28

1 16. It was further part of the scheme that, after transferring the funds from the
2 sale of his home to the client's Charles Schwab Investment account, MICHAEL D.
3 MONTGOMERY would and did resume stealing the funds, falsely claiming that they
4 were expenses associated with managing the client's affairs and estate.

5 17. It was further part of the scheme that MICHAEL D. MONTGOMERY
6 would and did conceal his thefts, and would and did fail to report his actions to state and
7 local agencies, the courts, and on his individual tax returns.

8 18. It was further part of the scheme that MICHAEL D. MONTGOMERY
9 would and did make false statements to others, including regulators, about the facts and
10 circumstances of his scheme.

11 **III. Execution of the Scheme**

12 19. On or about the dates listed below, at Tacoma and elsewhere, within the
13 Western District of Washington, having devised the above-described scheme and artifice,
14 MICHAEL D. MONTGOMERY, for the purpose of executing the scheme and artifice,
15 did knowingly transmit and cause to be transmitted, by means of wire communications in
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1 interstate and foreign commerce, writings, signs, signals, and sounds, as further described
 2 below, each of which constitutes a separate Count of this Indictment.

Count	Date	Sender	Recipient	Wire Transmission
1	10/30/06	J.S.M. Living Trust account at Charles Schwab	J.S.M. account at Key Bank	\$12,500 Wire transfer
2	12/14/06	J.S.M. Living Trust account at Charles Schwab	J.S.M. account at Key Bank	\$7,000 Wire transfer
3	1/29/07	J.S.M. Living Trust account at Charles Schwab	J.S.M. account at Key Bank	\$9,000 Wire transfer
4	3/19/07	J.S.M. Living Trust account at Charles Schwab	J.S.M. account at Key Bank	\$9,000 Wire transfer
5	7/5/07	J.S.M. Living Trust account at Charles Schwab	J.S.M. account at Key Bank	\$6,000 Wire transfer
6	8/28/07	J.S.M. Living Trust account at Charles Schwab	J.S.M. account at Key Bank	\$6,000 Wire transfer

14 All in violation of Title 18, United States Code, Sections 1343 and 2.

15
 16 **COUNT SEVEN**
 17 **(Filing a False Tax Return)**

18 That on or about the 15th day of April, 2005, in the District of Western
 19 Washington, MICHAEL D. MONTGOMERY, defendant herein, a resident of Tacoma,
 20 Washington, did willfully make and subscribe a U.S. Individual Income Tax Return
 21 (Form 1040) for the year 2004, which was verified by a written declaration that it was
 22 made under the penalties of perjury and which MICHAEL D. MONTGOMERY did not
 23 believe to be true and correct as to every material matter. That federal individual tax
 24 return, which was filed with the Director, Internal Revenue Service Center, at Fresno,
 25 California, stated that he received no income other than from his brokerage business;
 26 whereas, as he then and there knew and believed, the return omitted \$307,577 in income
 27 received and taken by theft from his client.

28 All in violation of Title 26, United States Code, Section 7206(1).

COUNT EIGHT
(Filing a False Tax Return)

1
2 That on or about the 17th day of April, 2006, in the District of Western
3 Washington, MICHAEL D. MONTGOMERY, defendant herein, a resident of Tacoma,
4 Washington, did willfully make and subscribe a U.S. Individual Income Tax Return
5 (Form 1040) for the year 2005, which was verified by a written declaration that it was
6 made under the penalties of perjury and which MICHAEL D. MONTGOMERY did not
7 believe to be true and correct as to every material matter. That federal individual tax
8 return, which was filed with the Director, Internal Revenue Service Center, at Fresno,
9 California, stated that he received no income other than from his brokerage business;
10 whereas, as he then and there knew and believed, the return omitted \$204,032 in income
11 received and taken by theft from his client.

12 All in violation of Title 26, United States Code, Section 7206(1).
13

COUNT NINE
(Filing a False Tax Return)

14
15
16 That on or about the 15th day of October, 2007, in the District of Western
17 Washington, MICHAEL D. MONTGOMERY, defendant herein, a resident of Tacoma,
18 Washington, did willfully make and subscribe a U.S. Individual Income Tax Return
19 (Form 1040) for the year 2006, which was verified by a written declaration that it was
20 made under the penalties of perjury and which MICHAEL D. MONTGOMERY did not
21 believe to be true and correct as to every material matter. That federal individual tax
22 return, which was filed with the Director, Internal Revenue Service Center, at Fresno,
23 California, stated that he received no income other than from his brokerage business;
24 whereas, as he then and there knew and believed, the return omitted \$187,285 in income
25 received and taken by theft from his client.

26 All in violation of Title 26, United States Code, Section 7206(1).
27
28

COUNT TEN
(Filing a False Tax Return)

1
2 That on or about the 15th day of April, 2008, in the District of Western
3 Washington, MICHAEL D. MONTGOMERY, defendant herein, a resident of Tacoma,
4 Washington, did willfully make and subscribe a U.S. Individual Income Tax Return
5 (Form 1040) for the year 2007, which was verified by a written declaration that it was
6 made under the penalties of perjury and which MICHAEL D. MONTGOMERY did not
7 believe to be true and correct as to every material matter. That federal individual tax
8 return, which was filed with the Director, Internal Revenue Service Center, at Fresno,
9 California, stated that he received no income other than from his brokerage business;
10 whereas, as he then and there knew and believed, the return omitted \$143,768 in income
11 received and taken by theft from his client.

12 All in violation of Title 26, United States Code, Section 7206(1).

13
14 A TRUE BILL:


15 DATED: *March 9, 2011*

16 *Signature of Foreperson redacted pursuant*
17 *to the policy of the Judicial Conference*

18 FOREPERSON

19
20 
21 JENNY A. DURKAN
22 United States Attorney

23 
24 ANDREW FRIEDMAN
25 Assistant United States Attorney

26 
27 DAVID REESE JENNINGS
28 Assistant United States Attorney

EXHIBIT

D

UNITED STATES DISTRICT COURT

Western District of Washington

UNITED STATES OF AMERICA

V.

MICHAEL D. MONTGOMERY

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:11CR05156RJB-001

USM Number: 35749-013

~~Russell Leonard~~ John Henry Branne
 Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 6 and 7 of the Indictment
- pleaded nolo contendere to count(s) _____
 which was accepted by the court.
- was found guilty on count(s) _____
 after a plea of not guilty.

FILED	LODGED
RECEIVED	
DEC 27 2012	
CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
BY _____	DEPUTY

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1343	Wire Fraud	12/31/07	6
21 U.S.C. § 7206(1)	Filing a False Tax Return	12/31/07	7

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) 1 through 5 is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

David R. Jennings
 David R. Jennings, Assistant United States Attorney

27 Dec 2012
 Date of Imposition of Judgment

Robert J. Bryan
 Signature of Judge

The Honorable Robert J. Bryan
 United States District Judge

27 Dec 2012
 Date



11-CR-05156-JGM

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 60 months

The court makes the following recommendations to the Bureau of Prisons:
The court recommends placement at FDC Sheridan.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug and/or alcohol test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18 U.S.C. § 3583(d).

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit his/her person, residence, office, safety deposit box, storage unit, property, or vehicle to a search, conducted by a U.S. Probation Officer or any other law enforcement officer, at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation; the defendant shall notify any other residents that the premises may be subject to searches pursuant to this condition.

Restitution is to be determined. Any unpaid amount is to be paid during the period of supervision in monthly installments of not less than 10% of his or her gross monthly household income. Interest on the restitution shall be waived.

The defendant shall provide his or her probation officer with access to any requested financial information including authorization to conduct credit checks and obtain copies of the defendant's Federal Income Tax Returns.

If the defendant maintains interest in any business or enterprise, the defendant shall, upon request, surrender and/or make available, for review, any and all documents and records of said business or enterprise to the probation office.

The defendant shall disclose all assets and liabilities to the probation office. The defendant shall not transfer, sell, give away, or otherwise convey any asset, without first consulting with the probation office.

The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, or obtaining a loan without approval of the defendant's U.S. Probation Officer.

The defendant shall be restricted from employment in a fiduciary position.

The defendant shall cooperate with and furnish financial information and statements to the Internal Revenue Service to determine all taxes due and owing, including interest and penalties, and shall file any past tax returns in a timely manner. The defendant shall pay in full any outstanding tax liability once assessed, including interest and penalties, or enter into an installment payment plan with Collection Division of the Internal Revenue Service.

File all necessary federal income tax returns.

DEFENDANT: MICHAEL D. MONTGOMERY
 CASE NUMBER: 3:11CR05156RJB-001

CRIMINAL MONETARY PENALTIES

TOTALS Assessment Fine Restitution
 \$ ~~100~~ 200 \$ Waived \$ TBD

- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
	TBD	TBD	
TOTALS	\$ <u>0</u>	\$ <u>0</u>	

- Restitution amount ordered pursuant to plea agreement \$ TBD
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- The court finds that the defendant is financially unable and is unlikely to become able to pay a fine and, accordingly, the imposition of a fine is waived

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

PAYMENT IS DUE IMMEDIATELY. Any unpaid amount shall be paid to Clerk's Office, United States District Court, 700 Stewart Street, Seattle, WA 98101.

During the period of imprisonment, no less than 25% of their inmate gross monthly income or \$25.00 per quarter, whichever is greater, to be collected and disbursed in accordance with the Inmate Financial Responsibility Program.

During the period of supervised release, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after release from imprisonment.

During the period of probation, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program are made to the United States District Court, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified on the Criminal Monetaries (Sheet 5) page.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

EXHIBIT

E

UNITED STATES DISTRICT COURT

WESTERN

District

WASHINGTON

UNITED STATES OF AMERICA

AMENDED JUDGMENT IN A CRIMINAL

V.

MICHAEL D. MONTGOMERY

Case Number: 3:11CR05156RJB-001

USM Number: *37549-013

Date of Original Judgment: December 27, 2012

John Henry Browne

(Or Date of Last Amended Judgment)

Defendant's Attorney.

Reason for Amendment:

- Correction of Sentence on Remand (18 U.S.C.
- Reduction of Sentence for Changed Circumstances P. 35(b))
- Correction of Sentence by Sentencing Court (Fed. R.
- Correction of Sentence for Clerical Mistake (Fed. R.
- Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
- Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- Direct Motion to District Court 28 U.S.C. § 2255 or 18 U.S.C. § 3559(c)(7)
- Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

pleaded guilty to counts 6 and 7 of the Indictment

pleaded nolo contendere to _____ which was accepted by the court.

was found guilty on _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title and Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1343	Wire Fraud	12/31/2007	6
21 U.S.C. § 7206(1)	Filing a False Tax Return	12/31/2007	7

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on _____

Count(s) 1 through 5 is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

FILED
RECEIVED
LODGED
JAN 25 2013
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON AT TACOMA DEPUTY

Justin W. Arnold
Assistant United States Attorney
J. Arnold

January 25, 2013
Date of Imposition of Judgment

Robert J. Bryan
Signature of Judge
The Honorable Robert J. Bryan
United States District Judge

25 Jan 2013
Date



DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned.
total term of: 60 months

- The court makes the following recommendations to the Bureau of Prisons:
The Court recommends placement at FDC Sheridan
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a 3 years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug and/or alcohol test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18 U.S.C. § 3583(d).

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit his/her person, residence, office, safety deposit box, storage unit, property, or vehicle to a search, conducted by a U.S. Probation Officer or any other law enforcement officer, at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation; the defendant shall notify any other residents that the premises may be subject to searches pursuant to this condition.

Restitution is to be determined. Any unpaid amount is to be paid during the period of supervision in monthly installments of not less than 10% of his or her gross monthly household income. Interest on the restitution shall be waived.

The defendant shall provide his or her probation officer with access to any requested financial information including authorization to conduct credit checks and obtain copies of the defendant's Federal Income Tax Returns.

If the defendant maintains interest in any business or enterprise, the defendant shall, upon request, surrender and/or make available, for review, any and all documents and records of said business or enterprise to the probation office.

The defendant shall disclose all assets and liabilities to the probation office. The defendant shall not transfer, sell, give away, or otherwise convey any asset, without first consulting with the probation office.

The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, or obtaining a loan without approval of the defendant's U.S. Probation Officer.

The defendant shall be restricted from employment in a fiduciary position.

The defendant shall cooperate with and furnish financial information and statements to the Internal Revenue Service to determine all taxes due and owing, including interest and penalties, and shall file any past tax returns in a timely manner. The defendant shall pay in full any outstanding tax liability once assessed, including interest and penalties, or enter into an installment payment plan with Collection Division of the Internal Revenue Service.

* File all necessary federal income tax returns.

DEFENDANT: MICHAEL D. MONTGOMERY
 CASE NUMBER: 3:11CR05156RJB-001

CRIMINAL MONETARY PENALTIES

TOTALS Assessment Fine Restitution
 \$ 200 \$ Waived \$ 995,811

The determination of restitution is deferred _____ . An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Alice Moore	\$445,291.50	\$445,291.50	
Beth Ann and Robert Klar	\$445,291.50	\$445,291.50	
United States of America	\$105,228	\$105,228	
TOTALS	\$ 995,811	\$ 995,811	

Restitution amount ordered pursuant to plea agreement. \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

The court finds that the defendant is financially unable and is unlikely to become able to pay a fine and, accordingly, the imposition of a fine is waived

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MICHAEL D. MONTGOMERY
CASE NUMBER: 3:11CR05156RJB-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

PAYMENT IS DUE IMMEDIATELY. Any unpaid amount shall be paid to Clerk's Office, United States District Court, 700 Stewart Street, Seattle, WA 98101.

During the period of imprisonment, no less than 25% of their inmate gross monthly income or \$25.00 per quarter, whichever is greater, to be collected and disbursed in accordance with the Inmate Financial Responsibility Program.

During the period of supervised release, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after release from imprisonment.

During the period of probation, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program are made to the United States District Court, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified on the Criminal Monetary (Sheet 5) page.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.