EXHIBIT 1
DATE 3/4/2011
SB 57

MONTANA DEPARTMENT OF JUSTICE
SB 57: Increased Penalties for Targeting Elderly and Developmentally Disabled People under the Consumer Protection Act

Provisions of SB 57

SB 57 protects our most vulnerable citizens by providing a powerful deterrent to scammers who target elderly and developmentally disabled Montanans. The maximum civil fine, imposed at the discretion of the judge, for each violation of the Consumer Protection Act is currently $10,000. This bill allows a court to impose an *additional* penalty of $10,000 for each violation if the victim is an older person or a person with a developmental disability.

At least 17 other states[1], including Wyoming, already have provisions for increased or additional penalties for violations perpetrated against vulnerable populations.

The additional penalty is imposed if:

- the Defendant knew (or should have known) that the target of the unfair or deceptive practice was an older or developmentally disabled person.
  OR
- the older or developmentally disabled person suffers:
  - loss or encumbrance of their home
  - loss of employment or other source of income
  - loss of property set aside for retirement or for personal or family care and maintenance
  - substantial loss of payments from retirement, pension or government benefits, or
  - loss of assets essential to their health or welfare

Under SB 57, if the vulnerable consumer is awarded restitution or other money in their own private action against the scammer, payment to the consumer is prioritized over the payment of civil penalties to the State.

Montana Examples

Recent Consumer Protection cases in Montana where such a penalty would have been appropriate include:

- an elderly man who lived alone and watched a lot of late night television, who was tricked into investing $70,000 in a real estate business scam
- an 84-year-old woman who didn't drive or have a car, who was sold 15 extended warranties for $6,673
- a 78-year-old man who was sold more than $17,000 worth of "work at home" business services, despite numerous attempts to cancel his contract

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[1] Arkansas, California, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Louisiana, Minnesota, Nevada, New York, Pennsylvania, Tennessee, Texas, Wisconsin, and Wyoming

Definitions

An "older person" is 60 years old or older.

A person with a "developmental disability" means a disability that:

- is attributable to mental retardation, cerebral palsy, epilepsy, autism or any other neurologically disabling condition closely related to mental retardation
- requires treatment similar to that required by mentally retarded individuals
- originated before the individual attained age 18
- has continued or can be expected to continue indefinitely and
- results in the person having a substantial disability

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