

FILED DISTRICT COURT
Third Judicial District

MAR 11 2010

SALT LAKE COUNTY

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IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH, : Bail \$ _____
 :
Plaintiff, :
 : **WARRANT OF ARREST**
vs. :
 :
FASI M. FILIAGA, : Case No 101901034
DOB: November 14, 1961 :
 : Judge _____
Defendant. :

THE STATE OF UTAH TO ANY PEACE OFFICER IN THE STATE OF UTAH,

GREETINGS:

An Information, upon oath, having been this day made before me by Investigator Jonathan Stewart, and it appearing from the Information, or affidavit filed with the Information, that there is probable cause to believe that the public offense(s) of: **Securities Fraud, a second degree felony, 4 counts**, has been committed, and that the defendant, FASI M. FILIAGA, has committed these offenses,

YOU ARE THEREFORE COMMANDED to arrest the above named defendant forthwith and bring the defendant before this court, or before the nearest or most accessible magistrate for setting bail. If the defendant has fled justice, you shall pursue the defendant into any other county of this state and there arrest the defendant. The offenses listed above are felonies.

Bail is set in the amount of \$ 5,000.⁰⁰

DATED this 11th day of March, 2010.


HONORABLE,
JUDGE, THIRD DISTRICT COURT

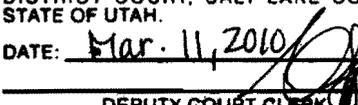


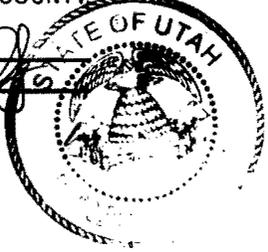
Defendant's Last Known Address:

1330 South 1300 East
Salt Lake City, UT 84105

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH.

DATE: Mar. 11, 2010


DEPUTY COURT CLERK



FILED DISTRICT COURT
Third Judicial District

MAR 11 2010

SALT LAKE COUNTY

By [Signature]
Deputy Clerk

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IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH, :
 :
 Plaintiff, : **AFFIDAVIT OF PROBABLE CAUSE**
 :
 vs. :
 :
 FASI M. FILIAGA : Case No: 101901834
 DOB: November 14, 1961 :
 :
 Defendant. : Judge: _____

STATE OF UTAH)
 :ss
 COUNTY OF SALT LAKE)

I, JONATHAN STEWART, being first duly sworn upon oath, depose and state as follows:

1. I am currently employed as a Securities Compliance Investigator for the Utah Department of Commerce, Division of Securities. Prior to my employment with the Division of Securities, I was employed by the Utah Division of Consumer Protection as an investigator. I hold a Bachelor of Science degree from the University of Utah in Sociology with a Certificate in

Criminology. I am currently investigating possible violations of securities fraud by FASI M. FILIAGA.

2. The facts set forth in this affidavit are based upon the results of an investigation during which I have collected and reviewed records from four witnesses and other sources. I have received information from Carolyn Fankhanel, Ellis Estevez, Jim Stumbo, and Michael Klockenga.

PARTIES

3. FASI M. FILIAGA, at all pertinent times, resided in Salt Lake City, Salt Lake County, Utah and his last known address was 1330 South 1300 East, Salt Lake City, Utah 84105.

BACKGROUND

4. According to the defendant's records, approximately fifty-one (51) individuals and three (3) entities invested a total of \$2,375,000.00 as part of the PT Group. Of this total, it is believed that thirteen (13) investors have been repaid, and the total amount owing to the remaining forty-one (41) investors is approximately \$2,001,000.

5. FILIAGA told Fankhanel investors would make a phenomenal return, it was the opportunity of a lifetime, he makes at least a 100% return each year, and that he was such a phenomenal trader that there was little or no risk.

6. FILIAGA told Estevez investors could see all his trades, there was very little risk because of a long put position, and that he typically has returns of 70% to over 100% per year.

7. FILIAGA told Stumbo members of Spread Trade Systems (STS) could invest with him, FILIAGA would be the Managing Partner, and FILIAGA would make all the trades.

8. FILIAGA told Klockenga he was starting an investment group, the minimum investment was \$10,000, and FILIAGA would be the Managing Partner.

9. FILIAGA told Klockenga that FILIAGA would manage all the funds, FILIAGA would make all the trades, there was reduced risks based on FILIAGA's strategies, and the return would be over 100% per year.

SECURITIES FRAUD

10. From December 5, 2003 until May 14, 2007 FILIAGA accepted \$1,103,000 from the above named investors. Although request has been made only one investor, Estevez, has received one payment for \$10,000. The transactions involve investment contracts which are securities as defined by Utah Code Ann. §61-1-13 (1953, as amended).

11. FILIAGA misrepresented material facts to one or more investors in connection with the offer or sale of a security, including, but not limited to:

- a) FILIAGA told Fankhanel he made at least 100% per year;
- b) FILIAGA told Fankhanel he was such a phenomenal trader that there was little or no risk;
- c) FILIAGA told Estevez there was very limited risk because of a long put position;
- d) FILIAGA told Estevez that he typically has returns of 70% to over 100% per year;
- e) FILIAGA told Stumbo his account had made very good returns prior to Stumbo's second investment;

- f) FILIAGA told Klockenga there was reduced risk based on FILIAGA's strategies;
- g) FILIAGA told Klockenga the return on investment would be over 100% per year;
- h) FILIAGA told Klockenga that the first year net gain for his investment after taxes was 57.4%;
- i) FILIAGA told Klockenga that the second year net gain for his investment after taxes was 66.4%;
- j) FILIAGA told Klockenga that the third year net gain after taxes was 51%.

12. FILIAGA omitted the following material facts in connection with the offer or sale of a security, including, but not limited to:

- a) FILIAGA failed to provide investors with any written disclosures;
- b) FILIAGA failed to tell investors he had filed for bankruptcy in 1988;
- c) FILIAGA failed to tell investors the previous investment statements they had received were inaccurate;
- d) FILIAGA failed to tell investors about the specific risks of the investment;
- e) FILIAGA failed to tell investors that their money may not be deposited into his investment account to be invested in options;

COUNT 1
SECURITIES FRAUD, a second degree felony
(Fankhanel)

13. Carolyn Fankhanel met FASI M. FILIAGA by attending Spread Trade Systems

(STS) seminars and classes in Salt Lake City in 2004.

14. In 2005 STS was advertising the PT Group as a “unique opportunity” and Fankhanel received an invitation to join.

15. At STS seminars in Hawaii, Las Vegas, and Salt Lake City, there were PT Group special meeting groups.

16. At the PT Group special meetings, FILIAGA told potential investors to invest with him, they would make a phenomenal return, it was the opportunity of a lifetime, he invested in options, puts, calls, covered calls, and long positions, and he made at least a 100% return each year, he was such a phenomenal trader that there was little or no risk, and it would be a five year commitment with no payments until the end of five years.

17. Fankhanel invested with FILIAGA on four separate occasions by mailing four personal checks made payable to PT Investing to FILIAGA in Salt Lake City, Utah: \$10,000 on December 20, 2005; \$15,000 on April 11, 2006; \$75,000 on September 16, 2006; and \$25,000 on May 14, 2007.

18. Even though Fankhanel made an official request on August 1, 2008 to have her principal returned to her, Fankhanel has not received any money back from FILIAGA.

COUNT 2
SECURITIES FRAUD, a second degree felony
(Estevez)

19. Ellis Estevez joined Spread Trade Systems (STS) in July or August of 2003 where he received online training from FASI M. FILIAGA.

20. STS online classes advertised a seminar in Salt Lake City, Utah in December 2003,

which Estevez attended.

21. At the seminar in Salt Lake City, Utah, FILIAGA told attendees he was starting a PT Group where people would have the opportunity to invest with him, investors could see all his trades, there was very limited risk because of a long put position.

22. FILIAGA told potential investors that he typically has returns of 70% to over 100% per year.

23. Estevez signed a partnership agreement while in Salt Lake City, Utah. The partnership said that the managing partner will receive 20% of the profits, and that the mission of the partnership is to generate profits from its investments. After returning to his home in Florida, Estevez invested on December 5, 2003 by mailing a personal check made payable to PT Investments for \$25,000 to FILIAGA's home address in Salt Lake City, Utah.

24. After investing, Estevez continued to attend online classes taught by FILIAGA. FILIAGA would update Estevez on how fantastic the portfolio was and how great the returns were.

25. Estevez decided to invest again on June 14, 2004 by mailing a personal check made payable to PT Investments for \$100,000 to FILIAGA's home address in Salt Lake City, Utah. Estevez received an agreement for this investment through the mail.

26. Estevez decided to invest again on July 20, 2006 by mailing a personal check made payable to PT Investments for \$24,000 to FILIAGA's home address in Salt Lake City Utah. Estevez received an agreement for this investment through the mail.

27. In the summer of 2008 Estevez repeatedly asked for all of his money back.

FILIAGA told Estevez several times he needed two more weeks. After asking several times for his money, Estevez finally received \$10,000 from FILIAGA on August 1, 2008.

28. Although request has been made for all principal to be returned, Estevez has only received one payment of \$10,000 from FILIAGA.

COUNT 3
SECURITIES FRAUD, a second degree felony
(Stumbo)

29. In Late 2004 or early 2005, Jim Stumbo was doing online research about options trading and discovered Spread Trade Systems (STS).

30. Stumbo had conversations with Brad Jensen and Greg Jensen about STS and was allowed to sit in on a STS online class. After attending the online class, Stumbo decided to join STS.

31. In early 2005 after an online training course with FASI FILIAGA there was a question and answer time. A member of STS asked FILIAGA why he does not trade options for other investors. FILIAGA told the members of STS that he used to have a group of investors that he traded for, but had not done it for a while. FILIAGA was then asked if he would be willing to do it again. FILIAGA told STS members he would think about it.

32. STUMBO received an email from FILIAGA prior to March 2005. The email said that FILIAGA was willing to form an investment partnership, members of STS could invest money with him, FILIAGA would be the managing partner, and FILIAGA would make all the trades.

33. Stumbo decided to invest by mailing a personal check made payable to PT

Investments for \$10,000 to FILIAGA in Salt Lake City, Utah on March 4, 2005.

34. During quarterly STS classes and conference calls FILAGA told investors about the trades he had made and that he had made very good returns thus far.

35. Because of the positive information FILIAGA provided, Stumbo invested again by mailing two personal checks made payable to PT Investments, one for \$5,000 and one for \$75,000 to FILIAGA in Salt Lake City, Utah on March 19, 2006.

36. On May 24, 2006, Stumbo received a statement from FILIAGA informing him that his account balance was now at \$95,653.44.

37. On April 16, 2007, Stumbo received an email from FILIAGA informing him that the previous year's return was 89%.

38. On April 8, 2008, Stumbo received an email from FILIAGA informing him that the previous year's return was 86%.

39. On May 14, 2008, Stumbo received an email from FILIAGA informing him that the PT Group was being discontinued and that all disbursements were being finalized and all investors will have their money back before Memorial Day.

40. Stumbo received no money by Memorial Day. Stumbo has since requested his money back from FILIAGA via email and has received no response from FILIAGA.

COUNT 4
SECURITIES FRAUD, a second degree felony
(Klockenga)

41. In 2004, Michael Klockenga saw an online advertisement for a free introductory course from Spread Trade Systems (STS), Klockenga responded and ended up joining STS.

42. Klockenga had multiple online and telephone courses as part of STS with FASI FILIAGA teaching.

43. Klockenga met FILIAGA in person while attending a STS Conference in Salt Lake City, Utah.

44. After attending the STS Conference, Klockenga received an email on February 4, 2005 from Fasi FILIAGA. The email said that FILIAGA was starting an investment group, the minimum investment per funding partner was \$10,000 and FILIAGA would be the Managing Partner.

45. In conversations Klockenga had with FILIAGA while in Salt Lake City, Utah and over the telephone, FILIAGA told Klockenga that FILIAGA would manage all funds, FILIAGA would make all the trades, there was reduced risk based on FILIAGA's strategies, the return would be over 100% per year.

46. Klockenga decided to invest by mailing three checks to FILIAGA in Salt Lake City, Utah on March 25, 2005. All three checks were from personal accounts and made payable to PT Investments, one from his wife, Crystal's personal Edward Jones account for \$5,000, one from a joint checking account at UMB Bank for \$15,000, and one from another joint checking account at Community America Credit Union for \$40,000.

47. In return for his investment, Klockenga received a Partnership Agreement that he and his wife both signed on March 23, 2005 that contained the signature of FASI FILIAGA.

48. In March 2006, FILIAGA told Klockenga that the first year net gain for his investment after taxes was 57.4%. Because of this information, Klockenga invested again by

mailing a personal Community America Credit Union check for \$100,000 made payable to PT Investments dated March 30, 2006 to FILIAGA in Salt Lake City, Utah on March 30, 2006.

49. Klockenga decided to invest again by having a Fremont National Bank check for \$250,000 made payable to PT Investments mailed to FILIAGA in Salt Lake City, Utah on April 17, 2006.

50. In March 2007, FILIAGA told Klockenga that the second year net gain for his investment after taxes was 66.4%. Because of this information, Klockenga invested again by having a Fremont National Bank check for \$230,000 made payable to PT Investments mailed to FILIAGA in Salt Lake City, Utah on March 7, 2007. The \$230,000 came from Klockenga's IRA.

51. Klockenga decided to invest again by having a Union Bank check for \$99,000 made payable to PT Investments mailed to FILIAGA in Salt Lake City, Utah on April 20, 2007.

52. Klockenga received an email update from FILIAGA on June 10, 2008 that said the third year net gain after taxes was 51% and that Klockenga's investment was now worth \$1,613,507.72.

53. Klockenga received an email from FILIAGA on October 13, 2008 that said Klockenga's investment was up another 20% since April of 2008 making Klockenga's new balance \$1,936,209.20.

54. In April 2009 Klockenga sent an email to FILIAGA requesting to withdrawal all of his money.

55. Klockenga received a letter from Mark W. Pugsley and Matthew R. Lewis dated

April 21, 2009 asking PT Group Members to fill out an Investor Claim Form, that the trading account balance was at \$0, some investment money was never placed in a trading account, and that statements about the performance of the trading account were not accurate, and that all of the funds invested in the PT Group are now gone.

56. Although request has been made to withdraw all of his money, Klockenga has not received anything back from FILIAGA or the PT Group.

SUMMARY

Based on my review of the evidence there is probable cause to believe that FASI M. FILIAGA committed the crimes of:

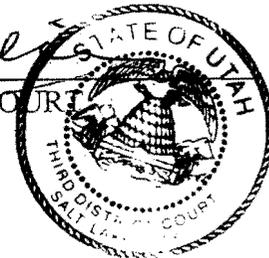
SECURITIES FRAUD a second degree felony, 4 counts

DATED this 11 day of MARCH, 2010.



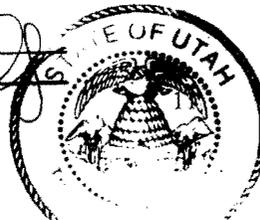
JONATHAN STEWART, Affiant

SUBSCRIBED AND SWORN before me this 11th day
of March 2010.


JUDGE, THIRD DISTRICT COURT

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH.

DATE: Mar. 11, 2010
DEPUTY COURT CLERK



FILED DISTRICT COURT
Third Judicial District

MAR 11 2010

SALT LAKE COUNTY

By _____
Deputy Clerk

CHARLENE BARLOW, Bar No. 0212
Assistant Attorney General
MARK L. SHURTLEFF, Bar No. 4666
Utah Attorney General
5272 South College Drive, #200
Murray, Utah 84123
Telephone: (801) 281-1221
Facsimile: (801) 281-1224
Attorneys for Plaintiff

IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH. : Bail \$ _____
Plaintiff, :
vs. : **CRIMINAL INFORMATION**
FASI M. FILIAGA, : Case No. 101901834
DOB: November 14, 1961 :
Defendant. : Judge _____

The undersigned, JONATHAN STEWART, upon oath, states on information and belief that the defendant has committed the following crimes:

SECURITIES FRAUD
a second degree felony, 4 counts

COUNT 1
SECURITIES FRAUD
a second degree felony

Commencing on or about 2005, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **CAROLYN FANKHANEL**, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit, in violation of Utah Code Ann. §§61-1-1 and 61-1-21. This violation is a second degree felony under Utah Law.

COUNT 2
SECURITIES FRAUD
a second degree felony

Commencing on or about December 2003, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **ELLIS ESTEVEZ**, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit, in violation of Utah Code Ann. §§61-1-1 and 61-1-21. This violation is a second degree felony under Utah Law.

COUNT 3
SECURITIES FRAUD
a second degree felony

Commencing on or about late 2004, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **JIM STUMBO**, made untrue

statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit, in violation of Utah Code Ann. §§61-1-1 and 61-1-21. This violation is a second degree felony under Utah Law.

**COUNT 4
SECURITIES FRAUD
a second degree felony**

Commencing on or about 2004, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **MICHAEL KLOCKENGA**, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit, in violation of Utah Code Ann. §§61-1-1 and 61-1-21. This violation is a second degree felony under Utah Law.

DATED this 11 day of MARCH, 2010.



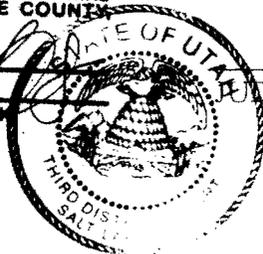
JONATHAN STEWART, Affiant

SUBSCRIBED AND SWORN to before me on this
11th day of March, 2010.

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH.

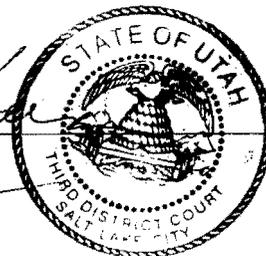
DATE: Mar. 11, 2010

DEPUTY COURT CLERK





JUDGE, Third District Court



This CRIMINAL INFORMATION is based upon evidence from the following witnesses:

1. Carolyn Fankhanel
2. Ellis Estevez
3. Jim Stumbo
4. Michael Klockenga
5. And Others.

AUTHORIZED for presentment and filing this 4th day of March,
2010.

MARK L. SHURTLEFF
Utah Attorney General

By: Charlene Barlow
CHARLENE BARLOW
Assistant Attorney General