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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR
DAVIS COUNTY, STATE OF UTAH

THE STATE OF UTAH. : Bail \$ _____
 :
Plaintiff, :
 : **CRIMINAL INFORMATION**
vs. :
 :
THOMAS JAMES SCHULTZ, : Case No. 101701492
DOB: August 10, 1956 :
 :
SHAWN RICKS, : Case No. 101701491
DOB: August 12, 1964 :
 :
 : Judge Connors
Defendants

The undersigned, DIANA PARRISH, upon oath, states on information and belief that the defendants have committed the following crimes:

THOMAS JAMES SCHULTZ

**THEFT BY DECEPTION
a second degree felony, 3 counts**

SHAWN RICKS

**THEFT BY DECEPTION
a second degree felony, 5 counts**

**COUNT 1
THEFT BY DECEPTION
a second degree felony**

Commencing on or about October 2006, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant SCHULTZ, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

**COUNT 2
THEFT BY DECEPTION
a second degree felony**

Commencing on or about November 2006, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant RICKS, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

COUNT 3
THEFT BY DECEPTION
a second degree felony

Commencing on or about November 2006, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant RICKS, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

COUNT 4
THEFT BY DECEPTION
a second degree felony

Commencing on or about January 2007, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant SCHULTZ, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

COUNT 5
THEFT BY DECEPTION
a second degree felony

Commencing on or about January 2007, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant RICKS, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive

her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

COUNT 6
THEFT BY DECEPTION
a second degree felony

Commencing on or about February 2007, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant RICKS, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

COUNT 7
THEFT BY DECEPTION
a second degree felony

Commencing on or about February 2007, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the defendant RICKS, obtained or exercised control over the property of **Pauline Molenaar**, by deception and with a purpose to deprive her thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

COUNT 8
THEFT BY DECEPTION
a second degree felony

Commencing on or about March 2007, in Davis County and elsewhere, and in violation of Utah Code Ann. § 76-6-405, the

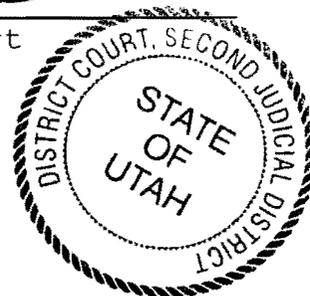
defendant SCHULTZ, obtained or exercised control over the property of **Jarrold Mallinger**, by deception and with a purpose to deprive him thereof. The value of the property, money or thing obtained is more than \$5,000.00, a second degree felony.

DATED this 8 day of September, 2010.

Diana Parrish
DIANA PARRISH, Affiant

SUBSCRIBED AND SWORN to before me on this 8th day of Sept., 2010.

Michael S. [Signature]
JUDGE, Second District Court



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

1. Jarrod Mallinger
2. Pauline Molenaar
3. Emily Murphy
4. And Others.

AUTHORIZED for presentment and filing this 1st day of September, 2010.

MARK L. SHURTLEFF
Utah Attorney General

By: Charlene Barlow
CHARLENE BARLOW
Assistant Attorney General

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IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR
DAVIS COUNTY, STATE OF UTAH

THE STATE OF UTAH, :
 :
 Plaintiff, : **AFFIDAVIT OF PROBABLE CAUSE**
 :
 vs. :
 :
 THOMAS JAMES SCHULTZ, : Case No. _____
 DOB: August 10, 1956 :
 :
 SHAWN RICKS, : Case No. _____
 DOB: August 12, 1964 :
 :
 Defendants. : Judge _____

STATE OF UTAH)
 :ss
 COUNTY OF DAVIS)

I, DIANA PARRISH, being first duly sworn upon oath, depose and state as follows:

1. I was a certified law enforcement officer for 28 years and am currently employed under contract as a Securities Compliance Investigator for the Utah Department of Commerce,

Division of Securities. Prior to my contract employment with the Division of Securities, I was employed by the Division of Securities as an investigator, the Utah Attorney General's Office as an investigator and the South Salt Lake Police Department in various capacities. I am currently investigating possible violations of securities fraud statutes and related criminal code violations by THOMAS JAMES SCHULTZ and SHAWN RICKS.

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 witnesses and other sources. I have received information from Jarrod Mallinger, Pauline B. Molenaar, Emily Murphy and others.

PARTIES

3. THOMAS JAMES SCHULTZ all pertinent times maintained a residence in Utah.
4. SCHULTZ was licensed as a real estate agent with the Utah Division of Real Estate on July 8, 2002 but his license (No. 5498566-SA00) was administratively revoked on September 16, 2009 by Stipulation and Order (Before the Utah Real Estate Commission, Case No. RE 42893). In the order, SCHULTZ admitted:
 - a. [He] participated in the gross misrepresentation to members of the public of the actual terms of a real estate private financing scheme that [he] helped initiate.
(Paragraph 9)
 - b. [He] brokered the real estate private financing as an investment in a real estate broker and house builder's construction company . . . [and] issued personally

- promissory notes and personally guaranteed each separate investment. (Paragraph 10)
- c. [He] did not verify their veracity or results of the investment he promoted and misrepresented causing substantial financial loss to all of the participants. (Paragraph 11)
- d. . . . that the above act and practice constitute violation of Utah Code Annotated, Section 61-2-11 . . . Specifically [he] admits [he] has violated: Subsection [1, 2, 3, 8, and 17] . . . (Paragraph 13)
5. Tom Schultz Real Estate Inc. (TSRE) is a Utah corporation. TSRE registered with the Utah Department of Commerce, Division of Corporations on December 20, 2006. TSRE's status is "Delinquent" for "Failure to File Renewal" as of January 27, 2009. TSRE's business address is not listed. Thomas J. Schultz is listed as the registered agent and director.
6. Thomas J. Schultz Real Estate-1, LC, (TSRE-1) is a Utah Limited Liability Company. TSRE-1 registered with the Utah Department of Commerce, Division of Corporations on April 5, 2006. TSRE-1's status is "Expired" for "Failure to File Renewal" as of August 6, 2008. TSRE-1's business address is listed as 748 Heritage Park Blvd., Suite 202, Layton, Utah. TSRE-1's registered agent and manager is SCHULTZ.
7. Thomas J. Schultz Real Estate-2, LC, (TSRE-2) is a Utah Limited Liability Company. TSRE-1 registered with the Utah Department of Commerce, Division of Corporations on

November 30, 2006. TSRE-2's status is "Expired" for "Failure to File Renewal" as of February 20, 2008. TSRE-2's business address is listed as 3751 South 3750 West, West Haven, Utah. TSRE-2's manager is SCHULTZ.

8. SHAWN F. RICKS is an individual who at all pertinent times resided in Utah. RICKS was licensed on January 4, 2008 with the Utah Division of Real Estate as an Associate Broker; his license (#5484877-AB00) expired on January 31, 2009. RICKS has been sued in Utah courts 38 times since 2002. Of those suits, several were dismissed or the judgment satisfied. In at least 19 cases more than \$400,000 in judgments remain unsatisfied. June 10, 2010, RICKS was charged with Communications Fraud, a second degree felony and Theft, a second degree felony. The charges were filed in Utah's 2nd District Court, Davis County (case number 101700964).
9. Keepsake Homes, Inc. is a Utah corporation. Keepsake registered with the Utah Department of Commerce, Division of Corporations on January 31, 2002. Keepsake's status as of July 27, 2009 is "Expired" and "Voluntarily Dissolved." Shawn F. Ricks is listed as Keepsake's registered agent, director and president. Carol A. Ricks is listed as secretary and director. Keepsake's address is listed as 391 Primrose Ct., Farmington, Utah.
10. Keepsake Home, Inc. was the subject of an investigation by the Utah Division of Occupational and Professional Licensing (DOPL), Department of Commerce, which resulted in an agency action. The verified petition dated July 1, 2009 claimed "unlawful

or unprofessional conduct” for failure to maintain financial responsibility based upon
\$118,480.81 in unsatisfied judgments. On August 26, 2009, a Default Order revoking
Keepsake’s license was entered by the Constructions Services Commission of the Utah
Department of Commerce.

11. Between July 2006 and March 2007, SCHULTZ and / or RICKS raised at least \$387,000
from five Utah investors with the intent to permanently deprive them of their money.

BACKGROUND MOLENAAR

12. On or about September 2006, Pauline Molenaar was at work at Hill Air Force Base
(Davis County) when she heard a co-worker, Teri Black, mention an investment
opportunity with Keepsake Homes. Black said she would have SCHULTZ and RICKS
explain the investment to Molenaar.
13. On or about October 10, 2006, SCHULTZ and RICKS met with Molenaar at her home in
Far West, Weber County, Utah. Also present at the meeting were Ed Molenaar, Kristen
Stephenson, and Stephanie Piper. SCHULTZ introduced RICKS, a home builder, and
then SCHULTZ made his presentation about the investment opportunity.
14. SCHULTZ said, among other things, that money invested with his company, TSRE,
would be lent to RICKS / Keepsake Homes and RICKS would then lend the money to his
subcontractors. SCHULTZ said TSRE investors would earn interest on their investment
every 30 days and that the investment was secure because SCHULTZ owned rent-to-own
homes which would back up the notes the investors received.

15. Molenaar and her daughters, Stephanie Piper and Pauline Stevenson, decided to invest.
16. Molenaar and her daughters invested \$367,414 from November 2006 to January 2007:
 - a. \$60,000 on October 10, 2006;
 - b. \$60,000 on November 2, 2006;
 - c. \$80,000 on November 23, 2006;
 - d. \$38,000 on January 12, 2007;
 - e. \$40,000 on January 25, 2007;
 - f. \$29,414 on February 16, 2007;
 - g. \$60,000 on February 23, 2007.
17. Molenaar said she wanted to pull the interest but SCHULTZ kept rolling the interest and late fees into the investment. Molenaar received multiple notes because each time a note matured, SCHULTZ was supposed to take back the expiring note and issue a new note showing the principal and interest earned to date. However, SCHULTZ failed to take back the matured notes.
18. Molenaar said she and her daughters invested because “We were guaranteed a large return” and “We were told that the notes were secured by work that was being done by the subcontractors for Keepsake Homes . . . ”
19. On or about May 17, 2007, SCHULTZ held an investor meeting. At the meeting SCHULTZ said “the subcontractors had contacted an attorney and RICKS was in

violation of the SEC [sic] for withholding payment for work done by the subcontractors.

..” He said the subcontractors did not have to pay RICKS.

20. Molenaar received two interest payments from SCHULTZ: on May 19, 2007 she received \$14,453 and on June 6, 2007 she received \$26,095.

21. On or about September 2007, Molenaar said SCHULTZ asked her to sign a release agreement containing the following wording:

Holder hereby releases, indemnifies, and holds Maker, his employees, representatives, agents, successors, assigns, and the following entities which Maker is affiliated . . . harmless from the terms of any and all promissory notes previously executed by Maker . . .

Holder hereby represents and warrants that during the term of said previously executed promissory notes and lending by Holder to Maker, Holder, at all times, was: A. Sufficiently secured for any funds loaned to Maker; B. Treated fairly, and C. Received benefit from entering into said promissory notes with Maker.

22. Molenaar refused to sign the release.

**COUNT 1
THEFT BY DECEPTION
a second degree felony
(SCHULTZ)**

23. Bank records reveal Molenaar’s first \$60,000 investment (three \$20,000 checks) were deposited into Tom Schultz Real Estate account at Wells Fargo Bank on October 11, 2006 increasing the account balance to \$82,729.98. The same day a cash withdrawal of \$60,000 was made.

COUNT 2
THEFT BY DECEPTION
a second degree felony
(RICKS)

24. Molenaar's second \$60,000 investment was made with a single check. Molenaar obtained a copy of check 8007 from her bank, Wells Fargo. The check dated November 2, 2006 was negotiated at Wells Fargo Bank. It was endorsed, "Keepsake Homes by Shawn Ricks." A teller's notation on the front of the check indicates the check was exchanged for a cashier's check.
25. On November 2, 2006, a \$60,000 Wells Fargo cashier's check payable to Keepsake Homes was deposited into Keepsake Homes account at First National Bank of Layton increasing the balance to \$60,657.34. On November 5, 2006, charges to the account had reduced the balance to \$7,515.74.
26. The \$53,141.60 in charges to the account include: \$6,000 transferred to an unknown account; \$35,301.07 paid to what appears to be subcontractors;¹ \$1,593.37 in payroll;² \$550.00 interest payment to a prior investor;³ \$100 to Real Solutions; \$5,837.10 to the

¹Yolanda Barnaby, Shawn Rick's receptionist and bookkeeper, was interviewed by Special Agent Scott Hansen of the FBI's mortgage fraud task force on September 3, 2009. Barnaby told Agent Hansen that subcontractors were paid by Ricks or Howard Kent. She said many subs were not paid at all and that Ricks strung them along or ignored them.

²Yolanda Barnaby and Wendy N. Alberts.

³"October interest" to Yolanda Barnaby.

United States Treasury; \$196.06 to Qwest; and \$3,564.00 paid to Tom Schultz Real Estate.

COUNT 3
THEFT BY DECEPTION
a second degree felony
(RICKS)

27. Molenaar's third investment was \$80,000. Molenaar obtained a copy of check 8016 from her bank, Wells Fargo. The check dated November 23, 2006 shows it was negotiated at Wells Fargo. The endorsement on the back of the check reads, "Shawn Ricks for Keepsake Homes." A teller's notation on the front of the check indicates it was exchanged for two cashiers' checks.
28. On November 24, 2006, two Wells Fargo cashiers' checks payable to Keepsake Homes totaling \$80,000 (\$17,485 & \$62,515) were deposited into Keepsake's First National Bank of Layton (acct. # ending 701) increasing the balance to \$134,934.70. By November 27, 2006 the account had a negative balance of \$9,628.68.
29. The \$144,563.38 in charges to the account include: \$2,000 to RICKS; \$40,000 to Bonneville Title Company; \$2,288 to what appears to be subcontractors; \$62,515 to Thomas Schultz; \$38 in overdraft fees; \$9,909.42 to the IRS; \$200 credit card payment; \$729.96 auto loan payment; and \$26,883 to The Mortgage Shop.⁴

⁴The Mortgage Shop, Inc. is a Utah corporation located in North Ogden. John Gill is president of The Mortgage Shop.

COUNT 4
THEFT BY DECEPTION
a second degree felony
(SCHULTZ)

30. Molenaar's fourth investment was \$38,000. Molenaar wrote the check to SCHULTZ. Molenaar obtained a copy of check #8026 from Wells Fargo Bank. Markings on the back of the check show the check was negotiated at Wells Fargo on January 16, 2007. The check was endorsed, "Tom Schultz."

COUNT 5
THEFT BY DECEPTION
a second degree felony
(RICKS)

31. Molenaar's fifth investment was \$40,000 on January 25, 2007. Molenaar obtained a copy of check #08437 from USB Financial Services Inc. The check was endorsed "Shawn Ricks."
32. Bank records reveal the check was deposited into Keepsake Homes at First National Bank of Layton on January 25, 2007 increasing the balance to \$38,721.80. Charges of \$40,703.94 and one \$3,000 deposit left the account balance at \$1,017.86 the following day.
33. The charges to the account include: \$5,606.29 to attorney, Richard J. Carling; \$23,564.17 to what appears to be subcontractors; \$133 in bank overdraft charges; \$5,250 to investors;⁵

⁵Investors Yolanda Barnaby and Dustin Knell.

\$296.42 miscellaneous expenses; \$854.06 to employees;⁶ and \$5,000 earnest money returned to Roger Gill.

COUNT 6
THEFT BY DECEPTION
a second degree felony
(RICKS)

34. Molenaar invested a sixth time on February 16, 2007. Molenaar obtained a copy of check #08458 in the amount of \$29,414 from USB Financial Services. The check was endorsed "Keepsake Homes Shawn Ricks."
35. Bank records reveal the check was deposited into Keepsake Homes account at First National Bank of Layton on February 16, 2007 increasing the account balance to \$32,368.01. Four days later, on February 20, 2007, \$30,710.85 in charges to the account had reduced the balance to \$1,659.96.
36. The charges to the account include: \$5,660 transferred / withdrawn by RICKS; \$13,756.78 to what appears to be subcontractors; \$5,450 in payments to investors;⁷

⁶Employees Kathryn Ricks and Carol A. Ricks.

⁷Investors Otomamay Inc (Carol Ann Yamamoto), Yolanda Barnaby, and Strategic Land Holdings.

\$1,638 to Yammie Inc.; \$339 in miscellaneous expenses; \$1,492.18 to NCO Financial;⁸ \$1,280.71 to an employee;⁹ \$991.18 to Bonnie Burris;¹⁰ and \$103 to Diane Soto.

COUNT 7
THEFT BY DECEPTION
a second degree felony
(RICKS)

37. Molenaar last investment of \$60,000 occurred February 23, 2007. Molenaar obtained a copy of check #8042 from Wells Fargo Bank. The back of the check shows it was negotiated at the First National Bank of Layton for deposit into Keepsake's account.
38. Bank records reveal the \$60,000 check was deposited into Keepsake's account on February 23, 2007 increasing the balance of the account to \$60,568.12. The following day \$54,817.40 in charges had reduced the account balance to \$5,750.72.
39. The charges to the account include: \$19 for an overdraft; \$34,703.40 in payment to what appear to be subcontractors; \$1,500 to Koll / Per Woodland; \$225 in miscellaneous expenses; \$7,870 to what appear to be investors;¹¹ \$5,300 withdrawn or transferred by RICKS; and \$5,200 to Dennis Ricks.

⁸NCO Financial appears to be a debt collection company.

⁹Yolanda Barnaby.

¹⁰Burris is an associate broker with McArthur Realty.

¹¹Investors include Lorin Wilde, John Lish, and Jeff Barnaby.

BACKGROUND
MURPHY AND MALLINGER

40. Emily Murphy first heard about the investment opportunity with SCHULTZ from her sister, Jeanne Hough. Hough said Murphy should talk directly to SCHULTZ. Murphy said she spoke to her friend, Jerrod Mallinger, about the investment and together they decided to phone SCHULTZ.
41. On or about March 2007, Murphy and Mallinger phoned SCHULTZ for a three-way conference call. Murphy and Mallinger were in St. George (Washington County) and Parowan (Iron County), respectively, and SCHULTZ was in Layton, Utah. During the phone call, SCHULTZ said, among other things that:
- a. He was accepting investments and that he paid his investors 4% per month;
 - b. Each investor would receive a promissory note;
 - c. Money invested with SCHULTZ would be pooled with other investors' money and placed with Keepsake Homes and RICKS;
 - d. RICKS was a successful home builder who sold 12 homes a month;
 - e. The money invested with RICKS would be lent to RICKS' subcontractors;
 - f. The subcontractor, when they were able to take a construction draw, would pay RICKS back with interest;
 - g. RICKS then paid SCHULTZ and SCHULTZ then paid his investors;
 - h. The investment was safe.

42. After the phone call, Murphy and Mallinger discussed the investment opportunity and decided to invest.
43. On March 29, 2007, Mallinger wired \$20,000 to SCHULTZ: \$10,000 for himself and \$10,000 for Murphy.
44. Three months after investing, on or about June 28, 2007, Mallinger said he received one interest payment of \$800 from SCHULTZ.
45. Mallinger complained to SCHULTZ about the late interest payment. SCHULTZ said RICKS was in financial trouble and RICKS' subcontractors were slow making payments. SCHULTZ said RICKS was going to take over all SCHULTZ investors.
46. Mallinger said he received a promissory note from RICKS. Mallinger spoke to RICKS who said he was trying to get the money to pay everyone back and mentioned a potential Texas investor who might buy him out.
47. Murphy and Mallinger's loss is \$19,200.

COUNT 8
THEFT BY DECEPTION
a second degree felony
(SCHULTZ)

48. Bank records reveal Mallinger's \$20,000 wire was deposited into T. J. Schultz' account on March 29, 2007 increasing the account balance to \$46,931.04. The same day \$19,748.000 was transferred into the account from an unknown source increasing the balance to \$66,679.04. By April 16, 2007, debits and one deposit of \$5,674.17 to the account reduced the balance to \$18,740.04. None of Mallinger and Murphy's money was

invested with RICKS. Instead the money was used by SCHULTZ for ordinary living expenses (dining, groceries, and gas), paid to prior investors, taken out in cash, and other expenses.

SUMMARY

Based on my review of the evidence there is probable cause to believe that SHAWN RICKS committed the crimes of:

THEFT BY DECEPTION
a second degree felony, 5 counts

Based on my review of the evidence there is probable cause to believe that THOMAS SCHULTZ committed the crimes of:

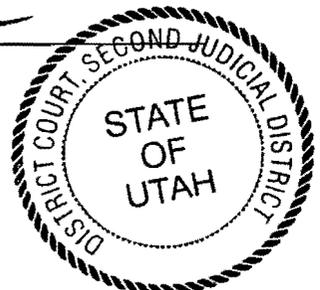
THEFT BY DECEPTION
a second degree felony, 3 counts

DATED this 8 day of September, 2010.

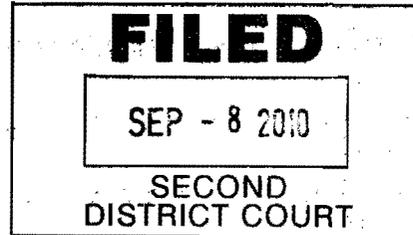
Diana Parrish
DIANA PARRISH, Affiant

SUBSCRIBED AND SWORN before me this 8th day of Sept., 2010.

Michael Salzman
JUDGE, SECOND DISTRICT COURT



CHARLENE BARLOW, Bar No. 0212
Assistant Attorney General
MARK L. SHURTLEFF, Bar No. 4666
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IN THE SECOND JUDICIAL DISTRICT COURT IN AND FOR
DAVIS COUNTY, STATE OF UTAH

THE STATE OF UTAH,

:

Bail \$ 30,000.00

Plaintiff,

:

WARRANT OF ARREST

vs.

:

THOMAS JAMES SCHULTZ,
DOB: August 10, 1956

:

Case No 101701492

:

Judge Connors

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 Diana Parrish, 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: **Theft by Deception, a second degree felony, 3 counts**, has been committed, and that the defendant, THOMAS JAMES SCHULTZ, has committed these offenses,

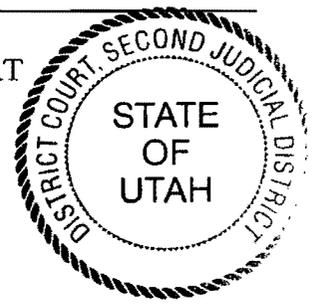
YOU ARE THEREFORE COMMANDED to arrest the above named defendant forthwith and bring the defendant before this court, or before the nearest or most accessible magistrate for setting bail. If the defendant has fled justice, you shall pursue the defendant into any other county of this state and there arrest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

Bail is set in the amount of \$ 30,000.00

DATED this 8th day of Sept., 2010.

Michael S. [Signature]

HONORABLE,
JUDGE, SECOND DISTRICT COURT



Defendant's Last Known Address:

6348 So. Dry Wind Drive
West Jordan, UT
OR
12756 Quail Summit Road
Apple Valley, CA 92308