

**COUNT 1
SECURITIES FRAUD
a second degree felony**

Commencing on or about March 2008, in the State of Utah, Salt Lake County, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **ANNETTE KAY DONNELL**, 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
THEFT
a second degree felony**

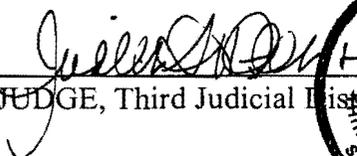
From on or about March 2008, the defendant obtained or exercised unauthorized control over the property of **ANNETTE KAY DONNELL**, with a purpose to deprive her thereof. The value of the property is or exceeds \$5,000.00. This is a violation of Utah Code Ann. § 76-6-404, a second degree felony.

DATED this 29 day of Sept., 2010.

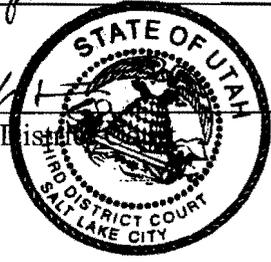


ADAM SWEET, Affiant

SUBSCRIBED AND SWORN to before me on this 29 day of Sept., 2010.



JUDGE, Third Judicial District



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

1. Annette Kay Donnell
2. Jonathan O. Hafen
3. And Others

AUTHORIZED for presentment and filing this 28th day of September,
2010.

MARK L. SHURTLEFF
Utah Attorney General

By: Charlene Barlow
CHARLENE BARLOW
Assistant Attorney General

and a minor in Psychology in December 2009. I am currently investigating possible violations of securities fraud statutes and related criminal code violations by Richard T. Smith.

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 the investor, Annette Kay Donnell, and her attorney, Jonathan O. Hafen.

PARTIES

3. Richard T. Smith, at all pertinent times, resided in Utah. Smith's last known address is 443 North 750 East, Orem, Utah 84097. Smith has never held a securities license.

4. Ascendus Capital Management registered with the Utah Division of Corporations January 21, 2003. Ascendus has not held a securities license since 2003.

5. Superwire Inc., is a California corporation registered on February 20, 2004, with an address listed as 5015 Birth Street, Newport Beach, California. Richard T. Smith and J. Michael Heil are listed as directors for Superwire. Superwire, Inc. is advertised as a multi-media management group offering interactive television, telephone, broadband services and Cable TV ad insertion to high income Retirement, Educational and Hotel/Recreational communities throughout the United States.

6. Ad Systems Communications, Inc., is an Oregon corporation registered on November 20, 2009, with an address listed as 495 State Street, Suite 500, Salem, Oregon. A second address for technical support is listed as 772 North Main Street, Suite 199, Tooele, Utah. Joseph Michael Heil is listed as the CEO and Registered Agent for Ad Systems.

BACKGROUND

7. An entity search through the Utah Division of Corporations showed Ascendus Capital Management, LLC registered on January 21, 2003. Richard T. Smith is listed as the Registered Agent and Manager of Ascendus Capital. Ascendus Capital's status is expired as of May 06, 2009. A search of the Financial Industry Regulatory Authority (FINRA) showed Smith has never held any securities licenses.

8. On March 19, ~~2010~~ Smith collected \$115,000 from Annette Kay Donnell. Smith offered Donnell a promissory note fee agreement and personal guarantees in return for Donnell's investment. Promissory notes are securities as defined by Utah Code Annotated §61-1-13. The issuer of the promissory note fee agreement is Smith.

MISREPRESENTATIONS and OMISSIONS

9. Smith represented that Donnell's investment would be used for an oil project in Texas, when in fact, upon receiving Donnell's wire transfer, Smith/Ascendus wrote check #1021 for \$115,000 to Superwire Inc.

10. Smith offered to pay \$30,000 in return for a \$115,000 investment in one month period. Smith signed a promissory note fee agreement and personal guarantee in return for the funds. Smith failed to disclose the following based on these statements:

a) Smith failed to disclose his April 21, 2000 bankruptcy filing (Case Number 00-20432);

b) Smith failed to disclose his March 03, 2008 guilty plea to Forgery-3rd Degree Felony (Case Number 071403512 in 4th District Court – Provo, Utah County, Utah);

c) Smith failed to disclose or provide any information or financial statements on the oil company/project;

d) Smith did not disclose the minimum capitalization needed to participate in the investment;

e) Smith did not disclose how the investment would make any money, or the track record of the company to investors;

f) Smith did not discuss if he or Ascendus had any other investors; and,

g) Smith did not discuss any risks involved with the investment.

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11. In 2003 Annette Kay Donnell attended a “Teach Me to Trade” seminar put on by Whitney Education, (it is unknown at this time to Donnell whether this seminar took place in Salt Lake City or Florida). In speaking with Donnell after the seminar, Linda Woolf, the seminar instructor, voluntarily told Donnell about Roger Taylor of Ascendus Capital Management in Salt Lake City, Utah. Woolf described Taylor as someone who would protect Donnell’s stocks and investments.

12. Donnell made contact with Taylor in 2003 and spoke with him about investing with Ascendus. Taylor arranged for Donnell to meet in Salt Lake City with Richard Smith, a

customer representative and Chief Operating Officer for Ascendus. Shortly thereafter, in June 2003, Donnell began investing with Smith/Ascendus. From that time forward Donnell only had contact with Taylor through occasional emails; the majority of her contact was with Smith.

13. In March of 2008, Smith contacted Donnell, who was living in Chicago at the time, by telephone and offered her an investment in an oil project in Texas. Smith did not tell of, nor imply, any risk(s) involved in the investment. Smith told Donnell that if she would give him \$115,000 he would promise a return of \$30,000 within 31 days. A promissory note fee agreement was signed by Smith and faxed to Donnell on an Ascendus fax letter head. The agreement was signed March 19, 2008 and promised the \$115,000 loan and \$30,000 return to be made on or before April 19, 2008.

14. On March 19, 2008 Donnell, via wire #200807903458, sent \$115,000 to Ascendus's Zions Bank Account. Ascendus as well as Zions Bank are headquartered in Salt Lake City, Utah.

15. On March 19, 2008 Ascendus, via check #1021, sent \$115,000 from Ascendus to Superwire, Inc. Smith had failed to tell Donnell that her money would go to Superwire, Inc.

16. On March 19, 2008 both Smith and Heil were directors for Superwire. Heil was also the Chief Executive Officer and a control person of Superwire. Heil had been appointed a director and CEO of Superwire by Smith.

17. To date, Donnell has not received any payments on her investment with Smith.

18. Although Donnell was in Chicago at the time of the transaction, Donnell wired the \$115,000, as requested by Smith, via wire number 124000054. The receiving bank of the wire transaction was Zions First National Bank, located at 5482 South Redwood Rd., Taylorsville, Utah 84123. A search of this wire number on the Federal Reserve Financing Services web site verifies Zions Bank in Salt Lake City receiving the wire. Smith's employer, Ascendus Capital Management, is located in Salt Lake City, Utah. Smith's residence is located in Orem, Utah.

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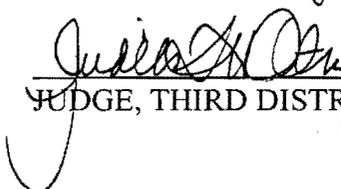
19. Smith represented to Donnell that he would use Donnell's funds for an oil project in Texas. Donnell authorized Smith to use the funds for an oil project in Texas; Donnell did not authorize funds to be used for any other purpose. Smith obtained money from Donnell and exercised unauthorized control of the money with the purpose to deprive Donnell thereof.

DATED this 29 day of Sept., 2010.

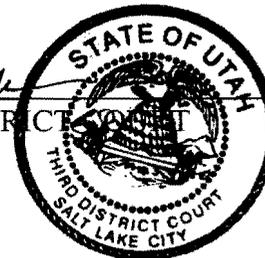


ADAM SWEET, Affiant

SUBSCRIBED AND SWORN before me this 29
day of Sept., 2010.



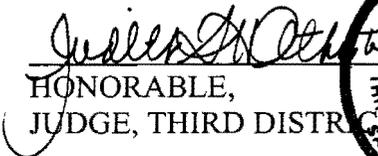
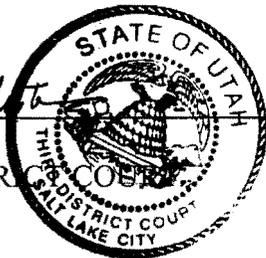
JUDGE, THIRD DISTRICT



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 \$ 25,000-

DATED this 29 day of Sept, 2010.


HONORABLE,
JUDGE, THIRD DISTRICT COURT


Defendant's Last Known Address:

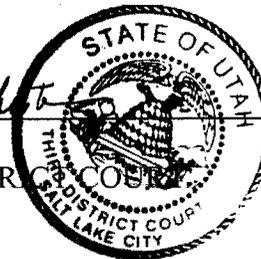
443 North 750 East
Orem, UT 84097

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 \$ 25,000-

DATED this 29 day of Sept., 2010.

Julien W. White
HONORABLE,
JUDGE, THIRD DISTRICT COURT



Defendant's Last Known Address:

443 North 750 East
Orem, UT 84097

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:

September 29, 2010
Megan [Signature]
DEPUTY COURT CLERK

