

FILED DISTRICT COURT
Third Judicial District

MAY 11 2012

By _____
Deputy Clerk

JACOB S. TAYLOR, Bar No. 10840
Assistant Attorneys General
MARK L. SHURTLEFF, Bar No. 4666
Utah Attorney General
5272 South College Drive, #200
Murray, Utah 84123
Telephone: (801) 707-2918
Fax: (801) 281-1224

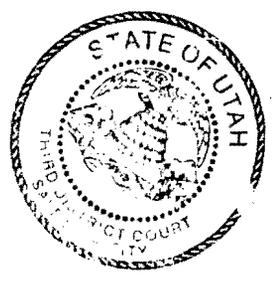
IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH,	:	
	:	
Plaintiff,	:	CRIMINAL INFORMATION
	:	
vs.	:	
	:	
JOHN TERRY TIMMERMAN	:	Case No: <u>121904496</u>
DOB: June 14, 1945	:	
	:	
JAKE DANIEL MCKITTRICK	:	Case No: <u>121904497</u>
DOB: October 28, 1977	:	
	:	Judge: _____
Defendants.	:	

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

JOHN TIMMERMAN
SECURITIES FRAUD
a second degree felony, 3 counts

SECURITIES FRAUD
a third degree felony, 3 counts



THEFT
a second degree felony, 6 counts

PATTERN OF UNLAWFUL ACTIVITY
a second degree felony, 1 count

JAKE McKITTRICK
SECURITIES FRAUD
an enhanced second degree felony, 1 count

SECURITIES FRAUD
a second degree felony, 2 counts

SECURITIES FRAUD
a third degree felony, 3 counts

PATTERN OF UNLAWFUL ACTIVITY
a second degree felony, 1 count

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

Commencing on or about June 2008, in the State of Utah, defendant Timmerman, in connection with the offer or sale of a security, directly or indirectly, to **Charles Morrison**, 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.

AND
SECURITIES FRAUD
an enhanced second degree felony
(McKITTRICK)

Commencing on or about June 2008, in the State of Utah, defendant McKittrick, in connection with the offer or sale of a security, directly or indirectly, to **Charles Morrison**, 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(4)(b)(i), and defendant McKittrick knowingly accepted funds knowing that the funds represented equity in Morrison's primary residence. This violation is an enhanced second degree felony under Utah Law.

COUNT 2
THEFT
a second degree felony
(TIMMERMAN)

From on or about June 2008, defendant Timmerman obtained or exercised unauthorized control over the property of another (**Charles Morrison**) with a purpose to deprive him thereof. The value of the property exceeds \$5,000.00. This is a violation of Utah Code Ann. § 76-6-404, a second degree felony.

COUNT 3
SECURITIES FRAUD, a third degree felony
(TIMMERMAN & McKITTRICK)

Commencing on or about Spring 2008, in the State of Utah, the defendants, in connection with the offer or sale of a security, directly or indirectly, to **Keith Bartholomew**, 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 third degree felony under Utah Law.

COUNT 4
THEFT
a second degree felony
(TIMMERMAN)

From on or about May 2008, defendant Timmerman obtained or exercised unauthorized control over the property of another (**Keith Bartholomew**) with a purpose to deprive him 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.

COUNT 5
SECURITIES FRAUD, a third degree felony
(TIMMERMAN & McKITTRICK)

Commencing on or about May 2008, in the State of Utah, the defendants, in connection with the offer or sale of a security, directly or indirectly, to **Keith Bartholomew**, 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 third degree felony under Utah Law.

COUNT 6
THEFT
a second degree felony
(TIMMERMAN)

From on or about May 2008, defendant Timmerman obtained or exercised unauthorized control over the property of another (**Keith Bartholomew**) with a purpose to deprive him 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.

COUNT 7
SECURITIES FRAUD, a second degree felony
(TIMMERMAN & McKITTRICK)

Commencing on or about June 2008, in the State of Utah, the defendants, in connection with the offer or sale of a security, directly or indirectly, to **Keith Bartholomew**, 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 8
THEFT
a second degree felony
(TIMMERMAN)

From on or about June 2008, defendant Timmerman obtained or exercised unauthorized control over the property of another (**Keith Bartholomew**) with a purpose to deprive him 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.

COUNT 9
SECURITIES FRAUD, a second degree felony
(TIMMERMAN & McKITTRICK)

Commencing on or about December 2008, in the State of Utah, the defendants, in connection with the offer or sale of a security, directly or indirectly, to **Keith Bartholomew**, 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 10
THEFT
a second degree felony
(TIMMERMAN)

From on or about December 2008, defendant Timmerman obtained or exercised unauthorized control over the property of another (**Keith Bartholomew**) with a purpose to deprive him 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.

COUNT 11
SECURITIES FRAUD, a second degree felony
(TIMMERMAN & McKITTRICK)

Commencing on or about October 2008, in the State of Utah, the defendants, in connection with the offer or sale of a security, directly or indirectly, to **Travis Holmes**, 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 12
THEFT
a second degree felony
(TIMMERMAN)

From on or about October 2008, defendant Timmerman obtained or exercised

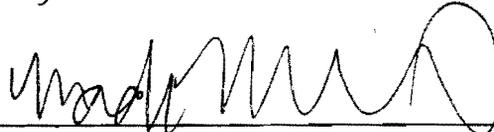
unauthorized control over the property of another (**Travis Holmes**) with a purpose to deprive him thereof. The value of the property is or exceeds \$5,000.00. This is a violation of Utah Code Ann. § 76-6-404, a second degree felony.

COUNT 13
PATTERN OF UNLAWFUL ACTIVITY
a second degree felony
(TIMMERMAN & McKITTRICK)

Commencing on or about 2008, the defendants have engaged in conduct which constituted the commission of at least three episodes of unlawful activity as defined in Utah Code Ann. § 76-10-1601. The defendants, through a pattern of unlawful activity: (1) received proceeds derived, directly or indirectly, from a pattern of unlawful activity, including but not limited to the acts as described above, in which they participated as a principal, or they used or invested, directly or indirectly, any part of that income, or the proceeds of the income, or the proceeds derived from the investment or use of those proceeds, in the acquisition of any interest in, or establishment or operation of, any enterprise; (2) through a pattern of unlawful activity, including but not limited to the acts as described above, acquired or maintained, directly or indirectly, any interest in or control of any enterprise; or (3) were employed by, or associated with any enterprise and conducted or participated, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity. The unlawful activity, including but not limited to the acts as described above, included three or more violations of

securities fraud and theft. This is a violation of Utah Code Ann. §76-10-1601 and § 76-10-1603(5) (1995), et seq. a second degree felony.

DATED this 11 day of May, 2012.

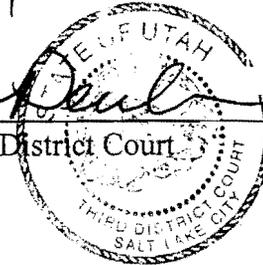


NADIA MAHALLATI, Affiant

SUBSCRIBED AND SWORN to before me on this 11 day of May, 2012.



JUDGE, Third Judicial District Court



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

DATE: May 11, 2012

DEPUTY COURT CLERK



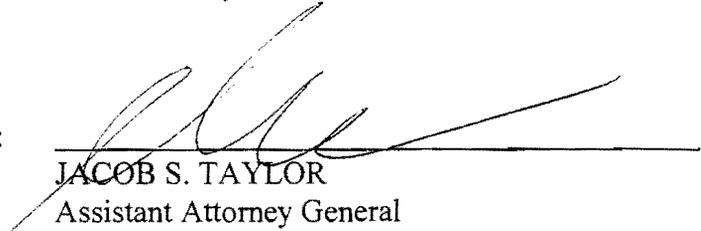
This CRIMINAL INFORMATION is based upon evidence from the following witnesses:

1. Charles Morrison
2. Keith Bartholomew
3. Travis Holmes
4. Jake McKittrick
5. John Timmerman
6. And Others

2012. AUTHORIZED for presentment and filing this 11th day of May,

MARK L. SHURTLEFF
Utah Attorney General

By:


JACOB S. TAYLOR
Assistant Attorney General

FILED DISTRICT COURT
Third Judicial District

2012

Deputy Clerk

JACOB S. TAYLOR, Bar No. 10840
Assistant Attorneys General
MARK L. SHURTLEFF, Bar No. 4666
Utah Attorney General
5272 South College Drive, #200
Murray, Utah 84123
Telephone: (801) 707-2918
Fax: (801) 281-1224

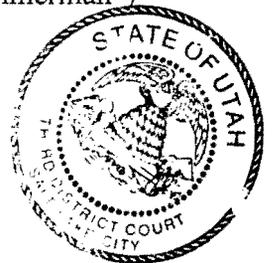
IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH, :
 :
 Plaintiff, : **AFFIDAVIT OF PROBABLE CAUSE**
 :
 vs. :
 :
 JOHN TERRY TIMMERMAN : Case No: 121904496
 DOB: June 14, 1945 :
 :
 JAKE DANIEL MCKITTRICK : Case No: 121904497
 DOB: October 28, 1977 :
 :
 Defendants. : Judge: _____

STATE OF UTAH)
 :ss
 COUNTY OF SALT LAKE)

I, NADIA MAHALLATI, being first duly sworn upon oath, depose and state as follows:

1. I am currently employed as a full time securities compliance investigator with the Utah Division of Securities. I am currently investigating possible violations of securities fraud statutes and related criminal code violations by John Terry Timmerman ("Timmerman") and Jake Daniel McKittrick ("McKittrick").



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 Charles Morrison, Keith Bartholomew, Travis Holmes, Jake McKittrick, John Timmerman, and others.

PARTIES

3. Timmerman, at all pertinent times, resided in Nevada. Timmerman's last known address is 1330 E Fifth Street, Space 6, Pahrump, NV 89048. At all pertinent times, Timmerman was a principal of Diversified Business Specialists, Inc. and other entities. Timmerman has never held a securities license.
4. McKittrick, at all pertinent times, resided in Utah and Nevada. McKittrick's last known address is 2634 E 1400 S Circle, St. George, UT 84790. McKittrick's license to sell securities expired in 2003.
5. Diversified Business Specialists, Inc. ("DBS") is a Nevada Corporation. DBS registered with the Nevada Secretary of State on July 28, 1992. Timmerman is the Registered Agent and President. DBS's current status is listed as permanently revoked, but the date is unknown. Utah Division of Securities records reveal no securities registration, exemption from registration, or any notice filing in any manner for DBS.
6. Charles Morrison ("Morrison"), at all pertinent times, resided in Utah. Morrison's last known address is 4622 Knox Drive, South Jordan, UT 84095. Morrison invested \$75,000 in the form of a DBS promissory note.

7. Keith Bartholomew (“Bartholomew”), at all pertinent times, resided in Utah. Bartholomew’s last known address is 211 E Center / HC-13 Box 300505, Fayette, UT 84630. Bartholomew invested \$95,000 in the form of DBS promissory notes.
8. Travis Holmes (“Holmes”), at all pertinent times resided in Utah. Holmes’s last known address is 1016 E Nichols Canyon Road, Cedar City, UT 84721. Holmes invested \$10000 in the form of a DBS promissory note.

BACKGROUND

9. In 2008, Timmerman and McKittrick raised no less \$477,500 from no fewer than ten investors and issued promissory notes to those investors.
10. Promissory notes are securities as defined by Utah Code 61-1-13.
11. In connection with the offer and/or sale of securities, Timmerman and McKittrick, either directly or indirectly, made material omissions and/or misrepresentations of material facts that a reasonable investor would rely on when deciding whether to invest.

COUNT I

SECURITIES FRAUD, a second degree felony

(Investor: Charles Morrison)

(Charged Defendants: Timmerman)

SECURITIES FRAUD, an enhanced second degree felony

(Investor: Charles Morrison)

(Charged Defendants: McKittrick)

12. Morrison learned of DBS in or about June 2008. Morrison is related to McKittrick through marriage; their wives are cousins. Morrison had recently taken out a home equity line of credit, which he planned to use to finance a real estate project in Park City, Utah. McKittrick knew Morrison had taken out the line of credit and told Morrison about an

opportunity to invest the money in DBS before it was needed for the real estate project.

13. McKittrick set up a three-way phone call with McKittrick, Morrison, and Timmerman. Morrison was at his home in West Jordan, Utah, and Morrison believes McKittrick and Timmerman were also in their homes—in Las Vegas and Pahrump, Nevada, respectively.
14. During this phone call, and several subsequent email exchanges, Timmerman and/or McKittrick made the following statements:
 - Timmerman had been raising money for a long time to set up a utility company and needed an additional \$105,000 to secure a bank’s lending requirements;
 - Morrison’s money would be used to pay the closing costs of the loan;
 - Morrison’s money would be repaid within six weeks;
 - Morrison would paid 300% interest if the loan was funded; and
 - If the loan was not funded, an “exit strategy” would be implemented and Morrison would be repaid 12% interest.
15. Morrison decided to invest \$75,000 after assurances from Timmerman that he would get his money back in time for his Park City deal.
16. On or about June 9, 2008, Morrison wired \$75,000 out of his checking account at Mountain America Credit Union into the DBS savings account at Nevada State Bank. Morrison received a DBS corporate note with Timmerman’s electronic signature.
17. In connection with the offer or sale of a security, Timmerman made misstatements of material facts, including but not limited to paragraphs 18 through 19.

18. Timmerman told Morrison Bear Stearns had assured Timmerman that DBS's "cash flow requirements" were "not a problem" on June 6, 2008. However, Bear Stearns had collapsed in March 2008, and was not making loans after this date.
19. Timmerman told Morrison his funds would be used to pay closing costs on the loan. However, Morrison's funds were paid to Anthony Mack¹ and Saitta Trudeau², and taken out as cash.
20. In connection with the offer or sale of a security, Timmerman made omissions of material facts, including but not limited to paragraphs 21 through 23.
21. Timmerman told Morrison the DBS plan had "Fed Approval for this special Economic Enhancement Program." Timmerman failed to adequately explain: what the "special Economic Enhancement Program" was; the proposed use of Morrison's funds; and the risks facing Morrison's investment and the project as a whole.
22. Timmerman told Morrison he would be repaid his money within 45 days of executing the note, and there was an "exit strategy" in place should anything go wrong, which would result in Morrison being repaid his principal plus 12% interest. Timmerman failed to disclose where the money would come from to pay the 12% interest if the exit strategy was implemented.
23. Timmerman told Morrison he personally guaranteed the investment. Timmerman failed

¹ According to Timmerman, Anthony Mack is like a family member, and is also a business partner.

² Saitta Trudeau is a car dealership in Pahrump, Nevada where Timmerman lives.
(www.saittatrudeauchryslerjeepdodge.com)

to disclose that the security offered was not registered and that in 2001, Timmerman was ordered to pay restitution of \$47,547.34 for unpaid child support.

24. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraph 25.
25. McKittrick told Morrison no matter which way Timmerman's deal went, Morrison would get his money back, and some amount of interest, within six weeks. McKittrick failed to disclose: the risks facing Morrison's investment and the project as a whole; how Timmerman would be able to pay Morrison 12% interest if the exit strategy was implemented; and that the security offered was not registered. McKittrick also failed to disclose Timmerman's personal financial troubles, which were evident in an email sent to investors, including Morrison, on June 30, 2008, stating Timmerman was "nearly broke."

COUNT II
THEFT, a second degree felony
(Investor: Charles Morrison)
(Charged Defendant: Timmerman)

26. Timmerman stated Morrison's funds would be used to pay closing costs on a loan.
27. Timmerman obtained money from Morrison and exercised unauthorized control of the money with the purpose to deprive Morrison thereof.
28. The value of the money obtained was in excess of \$5,000.
29. Using a first-in, first-out analysis, bank records indicate that Morrison's \$75,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on June 9, 2008, and spent in the following manner:

a.	Cash withdrawals:	\$5,680.00
b.	Transferred to Anthony Mack:	30,615.00
c.	Saitta Trudeau:	33,700.00
d.	Bank fee:	5.00
e.	Unknown withdrawal:	5,000 ³
f.	Total:	\$75,000.00

COUNT III
SECURITIES FRAUD, a third degree felony
(Investor: Keith Bartholomew)
(Charged Defendants: Timmerman and McKittrick)

30. Bartholomew learned of DBS through McKittrick; Bartholomew is McKittrick's wife's uncle. Sometime in spring 2008, McKittrick called Bartholomew to discuss an investment opportunity with DBS. Bartholomew had some money saved up which he was planning to use to pay his taxes.
31. Bartholomew said McKittrick set up a three-way phone call with McKittrick, Bartholomew, and Timmerman. Bartholomew said he was at his home in Fayette, Utah.
32. During this phone call, and several subsequent email exchanges, Timmerman and/or McKittrick made the following statements:
- Timmerman was offering a short-term investment, and there would be "no problem" getting Bartholomew's money back by the time his taxes came due;
 - DBS was raising money to complete a project, and had already raised most of the

³ Bank records indicate a \$63,000 withdrawal ticket, paired with transactions to Saitta Trudeau, Anthony Mack, and cash withdrawals. \$5,000 is unaccounted for.

money needed;

- All DBS needed was a little more money to “put [Timmerman] over the top” and start making money; and

- If Bartholomew invested \$5,000, he would be repaid \$10,000 by August 15, 2008.

33. Bartholomew decided to invest \$5,000 after assurances from Timmerman and McKittrick that he would get his money back in time for his taxes.

34. On or about May 16, 2008, Bartholomew wired \$5,000 out of his checking account at Moroni Feed Credit Union into the DBS savings account at Nevada State Bank.

Bartholomew received a DBS corporate note with Timmerman’s electronic signature.

35. In connection with the offer or sale of a security, Timmerman made omissions of material facts, including but not limited to paragraph 36.

36. Timmerman told Bartholomew he would be repaid his money, plus interest, within three months of executing the note. Timmerman failed to disclose: the risks facing Morrison’s investment and the project as a whole; how he would be able to repay Bartholomew 100% interest in three months; that the security offered was not registered; and that in 2001, he was ordered to pay restitution of \$47,547.34 for unpaid child support.

37. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraphs 38 through 39.

38. McKittrick told Bartholomew no matter what happened, Bartholomew would get his money back, and some amount of interest, in time to pay his taxes. McKittrick failed to

disclose: the risks facing Bartholomew's investment and the project as a whole; how Timmerman would be able to pay Bartholomew 100% interest; Timmerman's personal financial troubles, which were evident in an email McKittrick sent to investors, including Bartholomew, on June 30, 2008, stating that Timmerman was "nearly broke"; and that the security offered was not registered.

39. McKittrick told Bartholomew that Timmerman already had most of the money he needed, but DBS needed a little more to "put [Timmerman] over the top." McKittrick failed to disclose how much more money DBS needed, and what would happen if the company was unable to raise that amount.

COUNT IV
THEFT, a second degree felony
(Investor: Keith Bartholomew)
(Charged Defendant: Timmerman)

40. Timmerman stated Bartholomew's funds would be used by DBS to complete their immediate transaction.
41. Timmerman obtained money from Bartholomew and exercised unauthorized control of the money with the purpose to deprive Bartholomew thereof.
42. The value of the money obtained is, or is in excess of, \$5,000.
43. Using a first-in, first-out analysis, bank records indicate that Bartholomew's \$5,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on May 16, 2008, and spent in the following manner:

Cash withdrawal:	\$5,000.00
------------------	------------

COUNT V
SECURITIES FRAUD, a third degree felony
(Investor: Keith Bartholomew)
(Charged Defendants: Timmerman and McKittrick)

44. Timmerman and/or McKittrick told Bartholomew that DBS needed additional funds to help cover Timmerman's travel expenses.
45. Bartholomew decided to invest an additional \$5,000 after repeated assurances from Timmerman and McKittrick that he would get his money back in time for his taxes.
46. On or about May 22, 2008, Bartholomew wired \$5,000 out of his checking account into the DBS savings account at Nevada State Bank. Bartholomew received a DBS corporate note with Timmerman's electronic signature.
47. In connection with the offer or sale of a security, Timmerman made omissions of material facts, including but not limited to paragraph 48.
48. Timmerman told Bartholomew he would be repaid his money, plus interest, within three months of executing the note. Timmerman failed to disclose: the risks facing Morrison's investment and the project as a whole; how he would be able to repay Bartholomew with interest in three months; that the security offered was not registered; and that in 2001, he was ordered to pay restitution of \$47,547.34 for unpaid child support.
49. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraphs 50 through 51.
50. McKittrick told Bartholomew no matter what happened, Bartholomew would get his money back, and some amount of interest, in time to pay his taxes. McKittrick failed to

disclose: the risks facing Bartholomew's investment and the project as a whole; how Timmerman would be able to pay Bartholomew interest no matter what; Timmerman's personal financial troubles, which were evident in an email McKittrick sent to investors, including Bartholomew, on June 30, 2008, stating that Timmerman was "nearly broke"; and that the security offered was not registered.

51. McKittrick told Bartholomew that Timmerman already had most of the money he needed, but DBS needed a little more to "put [Timmerman] over the top." McKittrick failed to disclose how much more money DBS needed, and what would happen if the company was unable to raise that amount.

COUNT VI
THEFT, a second degree felony
(Investor: Keith Bartholomew)
(Charged Defendant: Timmerman)

52. Timmerman stated Bartholomew's funds would be used by DBS to complete their immediate transaction.
53. Timmerman obtained money from Bartholomew and exercised unauthorized control of the money with the purpose to deprive Bartholomew thereof.
54. The value of the money obtained is, or is in excess of, \$5,000.
55. Using a first-in, first-out analysis, bank records indicate that Bartholomew's \$5,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on May 22, 2008, and spent in the following manner:

a.	Cash withdrawal:	\$4,986.94
----	------------------	------------

b.	Bank fees:	13.06
c.	Total:	\$5,000.00

COUNT VII
SECURITIES FRAUD, a second degree felony
(Investor: Keith Bartholomew)
(Charged Defendants: Timmerman and McKittrick)

56. Timmerman and/or McKittrick again told Bartholomew that DBS needed additional funds, this time to pay for closing costs on DBS's transaction.
57. Bartholomew decided to invest an additional \$75,000 after repeated assurances from Timmerman and McKittrick that he would get his money back in time for his taxes.
58. On or about June 9, 2008, Bartholomew wired \$75,000 out of his checking account at Gunnison Valley Bank, in Gunnison, Utah into the DBS savings account at Nevada State Bank in Nevada. Bartholomew received a DBS corporate note with Timmerman's electronic signature.
59. In connection with the offer or sale of a security, Timmerman made misstatements of material facts, including but not limited to paragraph 60.
60. The note Timmerman gave Bartholomew says Bartholomew's funds will be used to pay closing costs. However, bank records indicate Bartholomew's money was paid to Country Roads⁴, Anthony Mack, and taken out as cash.
61. In connection with the offer or sale of a security, Timmerman made omissions of

⁴ Country Roads appears to be an RV dealership located in Pahrump, Nevada. (mainstreetbiz.com/samples/biz4/index.html)

material facts, including but not limited to paragraphs 62 through 64.

62. The note Timmerman provided to Bartholomew states Bear Stearns International Division has “committed” to fund DBS’s “Project Funding.” Timmerman failed to disclose: what the “Project Funding” was; why he believed Bear Stearns was “committed”; and the risks facing Bartholomew’s investment and the project as a whole.
63. The note Timmerman provided to Bartholomew states that an “exit strategy” was in place to protect Bartholomew’s money should anything go wrong, and if the exit strategy was implemented, Bartholomew would make 12% interest, otherwise he would be repaid \$340,000 (300% interest). Timmerman failed to disclose: how he would be able to pay 12% interest if the exit strategy was implemented; that the security offered was not registered; and that in 2001, he was ordered to pay restitution of \$47,547.34 for unpaid child support.
64. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraph 65.
65. McKittrick told Bartholomew no matter what happened, Bartholomew would get his money back, and some amount of interest, in time to pay his taxes. McKittrick failed to disclose: the risks facing Bartholomew’s investment and the project as a whole; how Timmerman would be able to pay Bartholomew 100% interest; Timmerman’s personal financial troubles, which were evident in an email McKittrick sent to investors, including Bartholomew, on June 30, 2008, stating that Timmerman was “nearly broke”; and that the security offered was not registered.

COUNT VIII
THEFT, a second degree felony
(Investor: Keith Bartholomew)
(Charged Defendant: Timmerman)

66. Timmerman stated Bartholomew's funds would be used by DBS to pay for closing costs.
67. Timmerman obtained money from Bartholomew and exercised unauthorized control of the money with the purpose to deprive Bartholomew thereof.
68. The value of the money obtained is in excess of \$5,000.
69. Using a first-in, first-out analysis, bank records indicate that Bartholomew's \$75,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on June 9, 2008, and spent in the following manner:

a.	Cash withdrawals:	\$20,980.00
b.	Bank fees:	20.00
c.	Paid to Anthony Mack:	6,885.00
d.	Check to Country Roads:	47,115.00
e.	Total:	\$75,000.00

COUNT IX
SECURITIES FRAUD, a second degree felony
(Investor: Keith Bartholomew)
(Charged Defendants: Timmerman and McKittrick)

70. Timmerman and/or McKittrick again told Bartholomew that DBS needed additional funds to complete DBS's transaction.
71. Bartholomew decided to invest an additional \$10,000 after repeated assurances from

Timmerman and McKittrick that he would get his money back in time for his taxes and it was a short-term investment.

72. On or about December 24, 2008, Bartholomew wired \$10,000 out of his checking account at Gunnison Valley Bank, in Gunnison, Utah into the DBS savings account at Nevada State Bank in Nevada. Bartholomew received a DBS corporate note with Timmerman's electronic signature.
73. In connection with the offer or sale of a security, Timmerman made omissions of material facts, including but not limited to paragraph 74.
74. The note Timmerman provided to Bartholomew states Bartholomew will be repaid \$60,000 by January 30, 2009, or, should the backup plan be implemented, his principal plus 20% interest. Timmerman failed to disclose: how he would be able to repay Bartholomew 20% interest under the backup plan; what exactly the \$10,000 would be used for; the risks facing Bartholomew's investment and the project as a whole; that the security offered was not registered; and that in 2001, he was ordered to pay restitution of \$47,547.34 for unpaid child support.
75. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraph 76.
76. McKittrick told Bartholomew no matter what happened, Bartholomew would get his money back, and some amount of interest, in time to pay his taxes. McKittrick failed to disclose: the risks facing Bartholomew's investment and the project as a whole; and how Timmerman would be able to pay Bartholomew 20% interest under the backup plan.

COUNT X
THEFT, a second degree felony
(Investor: Keith Bartholomew)
(Charged Defendant: Timmerman)

77. Timmerman stated Bartholomew's funds would be used by DBS for immediate use to complete a transaction.
78. Timmerman obtained money from Bartholomew and exercised unauthorized control of the money with the purpose to deprive Bartholomew thereof.
79. The value of the money obtained is in excess of \$5,000.
80. Using a first-in, first-out analysis, bank records indicate that Bartholomew's \$10,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on December 24, 2008, and spent in the following manner:

a.	Cash withdrawals:	\$9,972.83
b.	Bank fees:	19.00
c.	Paid to Anthony Mack:	8.17
d.	Total:	\$10,000.00

COUNT XI
SECURITIES FRAUD, a second degree felony
(Investor: Travis Holmes)
(Charged Defendants: Timmerman and McKittrick)

81. Holmes learned of DBS in or about fall 2008. Holmes went to high school with McKittrick, who had also handled Holmes's retirement account. McKittrick told Holmes about an opportunity to invest the money in DBS.

82. McKittrick told Holmes there were others interested in investing in DBS, so he needed to act quickly. McKittrick also made the following statements:
- Holmes's investment would be "safe" and there was no way he would lose his money; and
 - The investment was short-term.
83. Holmes decided to invest \$10,000.
84. On or about October 6, 2008, Holmes wired \$10,000 out of his checking account at State Bank of Southern Utah into the DBS savings account at Nevada State Bank. Holmes received a DBS corporate note with Timmerman's electronic signature.
85. In connection with the offer or sale of a security, Timmerman made omissions of material facts, including but not limited to paragraphs 86 through 88.
86. The note Timmerman provided to Holmes states that the DBS plan had "senior funding . . . through an undisclosed Trading Company." Timmerman failed to disclose: what the proposed use of Holmes's funds would be; why the trading company was undisclosed; and the risks facing Holmes's investment and the project as a whole.
87. The note Timmerman provided to Holmes states he would be repaid his money, plus some amount of interest, no later than January 10, 2009, and an exit strategy was in place should anything go wrong, which would result in Holmes being repaid his principal plus 20% interest. Timmerman failed to disclose: how he would be able to pay 20% interest under the exit strategy; that he had defaulted on notes to previous investors; that the security offered was not registered; and that in 2001, he was ordered to pay restitution of

\$47,547.34 for unpaid child support.

88. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraph 89.

89. Prior to Holmes's investment, McKittrick gave Holmes a letter that stated "I know the principals, I trust them, I am heavily involved, and **I have every reason to believe your money will be protected should you decide to invest**" (emphasis in original).

McKittrick failed to disclose: the risks facing Holmes's investment and the project as a whole; how Timmerman would be able to pay Holmes interest if the exit strategy was implemented; Timmerman's personal financial troubles, as evident in an email McKittrick sent to other investors, but not Holmes, on June 30, 2008, stating that Timmerman was "nearly broke"; and that Timmerman had defaulted on notes for past investors, including Morrison and Bartholomew.

COUNT XII
THEFT, a second degree felony
(Investor: Travis Holmes)
(Charged Defendant: Timmerman)

90. Holmes authorized his funds only be used by DBS for immediate use to complete a transaction.
91. Timmerman obtained money from Holmes and exercised unauthorized control of the money with the purpose to deprive Holmes thereof.
92. The value of the money obtained is in excess of \$5,000.
93. Using a first-in, first-out analysis, bank records indicate that Holmes's \$10,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on

\$47,547.34 for unpaid child support.

88. In connection with the offer or sale of a security, McKittrick made omissions of material facts, including but not limited to paragraph 89.

89. Prior to Holmes's investment, McKittrick gave Holmes a letter that stated "I know the principals, I trust them, I am heavily involved, and **I have every reason to believe your money will be protected should you decide to invest**" (emphasis in original).

McKittrick failed to disclose: the risks facing Holmes's investment and the project as a whole; how Timmerman would be able to pay Holmes interest if the exit strategy was implemented; Timmerman's personal financial troubles, as evident in an email McKittrick sent to other investors, but not Holmes, on June 30, 2008, stating that Timmerman was "nearly broke"; and that Timmerman had defaulted on notes for past investors, including Morrison and Bartholomew.

COUNT XII
THEFT, a second degree felony
(Investor: Travis Holmes)
(Charged Defendant: Timmerman)

90. Holmes authorized his funds only be used by DBS for immediate use to complete a transaction.

91. Timmerman obtained money from Holmes and exercised unauthorized control of the money with the purpose to deprive Holmes thereof.

92. The value of the money obtained is in excess of \$5,000.

93. Using a first-in, first-out analysis, bank records indicate that Holmes's \$10,000 investment was deposited into Timmerman's DBS account at Nevada State Bank on

THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, UTAH

OCT 31 2012

MV
Deputy Clerk

JACOB S. TAYLOR, Bar No. 10840
Assistant Attorney General
MARK L. SHURTLEFF, Bar No. 4666
Utah Attorney General
5272 South College Drive, #200
Murray, UT 84123
Telephone: (801) 281-1221
Facsimile: (801) 281-1224

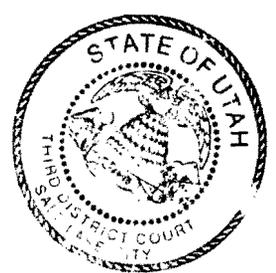
IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH,	:	Bail \$ <u>50,000⁰⁰</u>
Plaintiff,	:	WARRANT OF ARREST
vs.	:	
JAKE DANIEL MCKITTRICK,	:	Case No <u>121904497</u>
DOB: October 28, 1977	:	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 Nadia Mahallati, 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, an enhanced second degree felony, 1 count; Securities Fraud, a second degree felony, 2 counts; Securities Fraud, a third degree felony, 3 counts; and, Pattern of Unlawful Activity, a second degree felony, 1 count**, has been committed, and that the defendant, JAKE DANIEL MCKITTRICK, has committed these offenses,

YOU ARE THEREFORE COMMANDED to arrest the above named

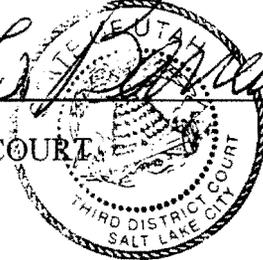


defendant forthwith and bring the defendant before this court, or before the nearest or most accessible magistrate for setting bail. If the defendant has fled justice, you shall pursue the defendant into any other county of this state and there arrest the defendant. The offenses listed above are felonies.

Bail is set in the amount of \$ 50,000⁰⁰

DATED this 11 day of May, 2012.

William C. Barrett
HONORABLE,
JUDGE, THIRD DISTRICT COURT.

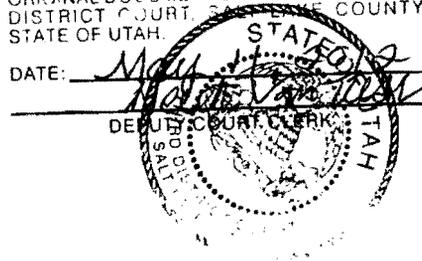


Defendant's Last Known Address:

2634 East 1400 South Circle
St. George, UT 84790

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: May 11, 2012



has been committed, and that the defendant, JOHN TERRY TIMMERMAN, 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 \$ 50,000⁰⁰.

DATED this 11 day of May, 2012.


HONORABLE,
JUDGE, THIRD DISTRICT COURT



Defendant's Last Known Address:

1330 E. Fifth Street, Space 6
Pahrump, NV 89048

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: May 18, 2012

DEPUTY COURT CLERK



October 7, 2008, and spent in the following manner:

a.	Cash withdrawals:	\$4,500.00
b.	Paid to Anthony Mack:	2,441.83
c.	Paid to Charles Morrison ⁵ :	3,058.17
d.	Total:	\$10,000.00

COUNT XIII
PATTERN OF UNLAWFUL ACTIVITY a second degree felony
(Charged Defendants: Timmerman and McKittrick)

94. Commencing in or about 2008, Timmerman and McKittrick engaged in conduct which constituted the commission of at least three episodes of unlawful activity as defined in Utah Code Ann. § 76-10-1603. The unlawful activity included three or more violations of Utah Uniform Securities Act, including selling additional promissory notes to:

- a. Craig Simmerman, a friend of McKittrick, who invested \$10,000 in summer 2008;
- b. Grant Bomsta, a friend of McKittrick, who invested \$12,500 in fall 2008;
- c. Dean Frandsen, McKittrick's now-deceased grandfather, who invested \$50,000 in winter 2009;
- d. Dan McKittrick, McKittrick's father, who invested \$50,000 in winter 2009;
- e. Clint Harris, McKittrick's friend and neighbor, who invested \$50,000 in spring 2009, whose money was partly to be paid to McKittrick, although McKittrick never received the funds;

⁵ Morrison was able to get \$10,000 of his \$75,000 returned to be used for his Park City real estate deal.

- f. Joel and Julie Harris, Clint Harris's brother and sister-in-law, who invested \$100,000 in spring 2009; and
- g. Linda Cox, McKittrick's mother-in-law, who invested \$25,000 in spring 2009.

SUMMARY

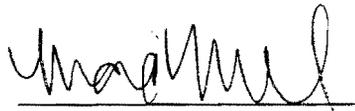
95. Based on my review of the evidence, there is probable cause to believe that Timmerman committed the crimes of:

SECURITIES FRAUD, a second degree felony, 3 counts
SECURITIES FRAUD, a third degree felony, 3 counts
THEFT, a second degree felony, 6 counts
PATTERN OF UNLAWFUL ACTIVITY, a second degree felony, 1 count

96. Based on my review of the evidence, there is probable cause to believe that McKittrick committed the crimes of:

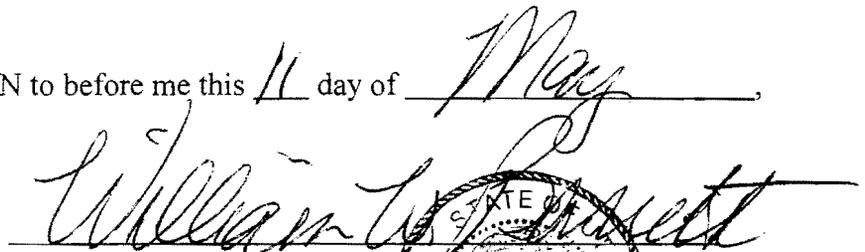
SECURITIES FRAUD, an enhanced second degree felony, 1 count
SECURITIES FRAUD, a second degree felony, 2 counts
SECURITIES FRAUD, a third degree felony, 3 counts
PATTERN OF UNLAWFUL ACTIVITY, a second degree felony, 1 count

DATED this 11th day of May, 2012.



 Nadia Mahallati, Affiant

SUBSCRIBED AND SWORN to before me this 11 day of May, 2012.



 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: May 11, 2012

 DEPUTY COURT CLERK

