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

THE STATE OF UTAH
Plaintiff,

vs.

DAVID A. HARRELSON
DOB: 04/22/1965,
1036 West Halcyon Drive
Murray, UT 84107
OTN
SO# **0137802**
Defendant.

Screened by: STEVEN GIBBON
Assigned to: STEVEN GIBBON (Tuesday)
DAO# 09005142

Bail: \$10,000
Warrant/Release: Non-Jail

INFORMATION

Case No.

The undersigned Jeff Nielsen – Utah Division of Securities, Agency Case No. 080079, upon a written affidavit states on information and belief that the defendant, DAVID A. HARRELSON, committed the crime of:

COUNT 1

SECURITIES FRAUD, (941) 61-1-1 UCA, second degree felony, as follows: That on or about March 01, 2007 at Salt Lake County, in Salt Lake County, State of Utah the defendant , in connection with the offer, sale, or purchase of a security, directly or indirectly, did:

- (1) employ a device, scheme, or artifice to defraud;
 - (2) make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
 - (3) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and
 - (i) at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth \$10,000 or more; or
 - (ii) (A) at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth less than \$10,000; and
- (B) in connection with that violation, the violator knowingly accepted any money representing:
- (I) equity in a person's home;
 - (II) a withdrawal from any individual retirement account; or
 - (III) a withdrawal from any qualified retirement plan as defined in the Internal Revenue Code.

COUNT 2

THEFT, (320) 76-6-404 UCA, second degree felony, as follows: That on or about August 15, 2007 at Salt Lake County, in Salt Lake County, State of Utah the defendant obtained or exercised unauthorized control over the property of another with a purpose to deprive him thereof, and the

- (i) value of the property or services was or exceeded \$5,000;
- (ii) property stolen is a firearm or an operable motor vehicle;
- (iii) actor was armed with a dangerous weapon, as defined in Section 76-1-601, at the time of the theft; or
- (iv) property was stolen from the person of another.

COUNT 3

SECURITIES FRAUD, (940) 61-1-1 UCA, third degree felony, as follows: That on or about August 01, 2008 at , in Salt Lake County, State of Utah the defendant , in connection with the offer, sale, or purchase of a security, directly or indirectly, did:

- (1) employ a device, scheme, or artifice to defraud;
- (2) make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
- (3) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and, at the time the crime was committed, the property, money, or thing unlawfully obtained or sought to be obtained was worth less than \$10,000.

COUNT 4

THEFT, (324) 76-6-404 UCA, third degree felony, as follows: That on or about August 01, 2008 at Salt Lake County, in Salt Lake County, State of Utah the defendant obtained or exercised unauthorized control over the property of another with the purpose to deprive the owner thereof, and

- (i) the value of the property or services was or exceeded \$1,000 but was less than \$5,000;
- (ii) the actor has been twice before convicted of theft, any robbery, or any burglary with intent to commit theft; or
- (iii) in a case not amounting to a second-degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes.

COUNT 5

ISSUING A BAD CHECK OR DRAFT, (377) 76-6-505(1) UCA, third degree felony, as follows: That on or about September 04, 2008 at , in Salt Lake County, State of Utah the defendant issued or passed a check or draft for the payment of money, for the purpose of obtaining from [enter institution], any money, property, or other thing of value, or for the purpose of paying for any services, wages, salary, labor, or rent, knowing it would not be paid by the drawee and payment was refused by the drawee, and the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that was or exceeded \$1,000 but was less than \$5,000.

THIS INFORMATION IS BASED ON EVIDENCE OBTAINED FROM THE FOLLOWING WITNESSES:

Jeff Nielsen, Richard Grant, Michael Hines, Jennifer Korb, Benjamin Scarborough, Greg Spring

AFFIDAVIT OF PROBABLE CAUSE:

Benjamin Scarborough stated that in June, 2007, he discussed an investment contract with the Defendant, DAVID A. HARRELSON, through Mountain Financial Services, Inc. (MFS). MFS is a company the defendant set up through his wife in August, 2007 with the defendant's wife, Jan Harrelson as the sole officer. MFS was not registered with the Utah Division of Securities. The defendant told Mr. Scarborough that MFS managed Hedge Funds. Based upon the defendant's representations, on August 1, 2007, Mr. Scarborough filled out 2 documents: an Account Application and an Investment Advisory Agreement. The Account Application indicated that Mr. Scarborough would invest \$10,000.00 in MFS' Global Markets Fund and \$15,000.00 in MFS' Aggressive Growth Fund. On August 15, 2007, Mr. Scarborough wired \$27,000.00 to MFS' Jordan Credit Union account.

The defendant made material representations to Mr. Scarborough regarding the investment contract, including, but not limited to the following:

1. A prospectus was provided to Mr. Scarborough claiming that MFS was established in 1946, that it was one of America's first Funds and that it was America's largest Mutual Fund Company.
2. That MFS' Funds each contained about \$250 million.
3. That MFS' Global Market Fund and Aggressive Growth Fund were returning 40% per year on investments.
4. That MFS had not had a "down" quarter in the previous 7 years.

The defendant made material omissions to Mr. Scarborough regarding the investment contract, including, but not limited to the following:

1. The defendant failed to provide MFS financial statements.
2. The defendant failed to disclose any legal proceedings he was or had been involved in, including numerous civil suits with Judgments amounting to \$59,300.00 (\$53,000.00 of which is from a criminal non-support charge), the defendant's 1985 Felony conviction for Theft, the defendant's Chapter 7 Bankruptcy discharge in 1992 and the defendant's Chapter 7 and Chapter 13 Bankruptcy filing in 2006.

During a telephone interview on December 8, 2008 and an in-person interview on December 17, 2008, the defendant admitted to Commerce Department Investigator Jeff Nielson that he made the above described misrepresentations and omissions either verbally to Mr. Scarborough or in the prospectus that he created and provided to Mr. Scarborough prior to Mr. Scarborough investing in MFS. The defendant admitted that while his wife was listed as the

only member of MFS and was the signatory on MFS' account, that the defendant actually ran the business and that his wife only made the deposits he told her to. The defendant said that he did things this way because of his prior bankruptcies. The defendant admitted that he lost most of the \$10,000.00 investment through trading and that he used the remaining \$17,000.00 for personal expenses, planning on paying it back later.

To date, Mr. Scarborough has only received \$454.00 from the defendant.

Richard Grant stated that in September, 2008, he discussed with the defendant investing in MFS. Mr. Grant wired \$5,000.00 from his account in Davis County to MFS' account in Salt Lake County. The defendant made the same material omissions to Mr. Grant that are listed above. When Mr. Grant became dissatisfied with the results of his investment, he asked the defendant for his money back. The defendant's wife wrote Mr. Grant a check for \$3,500.00. The check was returned for insufficient funds. The defendant later admitted to Mr. Grant that his wife had spent the money and that the defendant knew when he had his wife write the check that there were insufficient funds to cover the check.

During the above described interviews, the defendant admitted that in August, 2008, he received \$5,000.00 from Mr. Grant through MFS to invest in stocks. The investment lost money and the defendant admitted that he spent the remaining \$3,505.00 on personal expenses.

To date, Mr. Grant has received nothing from the defendant.

Pursuant to Utah Code Annotated § 46-5-101 (2007) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: _____

JEFF NIELSEN
Affiant

Authorized for presentment and filing

LOHRA L. MILLER, District Attorney



Deputy District Attorney
18th day of May, 2009
SCG / GAM / DAO # 09005142

C.O. D&E

ng

SALT LAKE COUNTY DISTRICT ATTORNEY FACT SHEET - Form ONE

Police Agents fill in the shaded areas ONLY!

or USE AIMS

TO PRINT AIMS FACT (JM AT02, GC AT92, JV AT82 or JS AT79)

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ATTORNEY CASE INFORMATION

DAO Case No 9005142 Screening Attorney Steve Gibbon
 Date Screened _____ Assigned Attorney/Team _____

SCREENING CASE DISPOSITION

Filed Court _____ Declined Reason _____

AGENCY INFORMATION

Agency Utah Division of Securities Case No(s) 08-0079
 or Citation No. _____
 Screening Officer Jeff Nielsen Officer ID No. _____
 Arresting Officer _____ Officer ID No. _____

DEFENDANT NO. INFORMATION
 (if arrested - match def number to AIMS)

Name David A. Harrelson DOB 04/22/65 Race C Sex M SSNo. 257-96-4421
 OTN _____ SO No: 0137802 Book No. _____ Date Booked _____
 Alias _____ Language _____
 Address 1036 W Holcyon Dr City Murray State UT
 Driver Lic 145377930 Veh Lic (St/No) _____ Model _____ Yr _____
 Employment _____ Phone H) 801-792-3726W

Def Status NON-JAIL Jail CDR PT Bond Company _____ Other

Rap Sheet Attached Active Court Cases NO active
 Prior Cases Yes No
 Electronic Filing Warrant Destination Jail Agency St NCIC Court (PT, Bond)
 Suggested Bail Amount \$10,000 Reason FZ
 OR PTS
 PTS
 No Bail

CHARGES

Count _____ Domestic Attempt Conspiracy Solicitation
 Statute 61-1-1 Securities Fraud Description Misrepresented & omitted material facts Offense Level 2°
 Date of Incident Spring 2007 thru 08/15/2007 Address _____
 City Salt Lake County (various locations) State UT Victim(s) Benjamin J. Scarborough
 Filed Declined Reason _____
 Statute _____ Description _____ Offense Level _____
 WP Code _____

Count _____ Domestic Attempt Conspiracy Solicitation
 Statute 76-6-401 Theft Description misrepresentation and unauthorized control of investment funds Offense Level 2°
 Date of Incident 08/15/07 thru 10/15/07 Address _____
 City Salt Lake County State UT Victim(s) Benjamin J. Scarborough
 Filed Declined Reason _____
 Statute _____ Description _____ Offense Level _____
 WP Code _____

SALT LAKE COUNTY DISTRICT ATTORNEY FACT SHEET - Form TWO

Police Agents fill in the shaded areas ONLY!

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DO NOT USE AS Form ONE

additional charges defendant(s) or Co-defendant and Charges

AGENCY INFORMATION			
Agency	<u>Utah Division of Securities</u>	Case No(s)	<u>08-0079</u>
Screening Officer	<u>Det. Grey Spring</u>	Officer ID No.	
Arresting Officer	<u>Det. Grey Spring</u>	Officer ID No.	

DEFENDANT NO. INFORMATION			
(if arrested - match def number to AIMS)			
Name	<u>David A. Harrelson</u>	DOB	<u>04/27/65</u>
OTN		Book No.	
Alias		Language	
Address	<u>1030 W. Halcyon Dr.</u>	City	<u>Murray</u>
Driver Lic	<u>145377930</u>	Veh Lic (St/No)	
Employment		Phone H)	<u>801-792-3726W</u>
Def Status	NON-JAIL <input type="checkbox"/>	Jail <input type="checkbox"/>	CDR <input type="checkbox"/>
	PT <input type="checkbox"/>	Bond Company	
		Other <input type="checkbox"/>	

Rap Sheet Attached Active Court Cases

Prior Cases Yes No 01-1102

Electronic Filing Warrant Destination Jail Agency St NCIC Court (PT, Bond)

Suggested Bail Amount _____ Reason _____
 OR PTS
 PTS
 No Bail

CHARGES

Count _____ Domestic Attempt Conspiracy Solicitation
 Statute 76-6-401 Theft Description Harrelson exercised unauthorized control of murtree funds Offense Level 30
 Date of Incident 09/23/08 thru 09/26/08 Address _____
 City Salt Lake County State UT Victim(s) Richard Grant
 Filed Declined Reason _____
 Statute _____ Description _____ Offense Level _____
 WP Code _____

Count _____ Domestic Attempt Conspiracy Solicitation
 Statute 76-10-1801 Description Communications Fraud Offense Level 30
 Date of Incident Sep 1 2008 thru Nov 31 2008 Address _____
 City Sandy State UT Victim(s) Richard Grant
 Filed Declined Reason _____
 Statute _____ Description _____ Offense Level _____
 WP Code _____

Count _____ Domestic Attempt Conspiracy Solicitation
 Statute _____ Description _____ Offense Level _____
 Date of Incident _____ thru _____ Address _____
 City _____ State _____ Victim(s) _____
 Filed Declined Reason _____
 Statute _____ Description _____ Offense Level _____
 WP Code _____