



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

Jeff Nielsen, Michael Hines, Alexis Iversen, and Amberlyn Lamoureux.

DECLARATION OF PROBABLE CAUSE:

Amberlyn Lamoureux (Lamoureux ) stated that she met the defendant, DAVID G. FRANK (FRANK) in the spring/summer of 2008. Starting in or about November or December 2008, FRANK told Lamoureux about an investment opportunity with Centuries Financial Group (CFG) and a separate investment opportunity with a company called TNT Systems, LLC. Lamoureux said conversations about all of the investment opportunities occurred in various locations in Salt Lake County, Utah. During FRANK and Lamoureux's discussions about the investments, FRANK told Lamoureux that both investment opportunities required a \$25,000 minimum investment and were no risk. Lamoureux said she told FRANK she could not afford to invest \$25,000. When discussing the TNT investment, FRANK offered to pool her money with his money to make the investment. Lamoureux said FRANK put more emphasis on Lamoureux raising money for herself, in order to earn more interest per month than if she were to pool her funds with Frank's investment. FRANK told Lamoureux she could recruit other people to invest, and then pool her money with the others in order to make an investment. FRANK told Lamoureux she could offer the other investors less than 5% per month on their investments, leaving Lamoureux with the remaining percentage. Lamoureux said she did not want to raise money from others. FRANK also told Lamoureux if she had good credit, she could go to multiple banks in a short amount of time and get as many signature loans as she could, then use the money to invest. Lamoureux said she started contacting banks to see how much money she could qualify to receive through signature loans in about early to mid January 2009, but soon thereafter decided she did not want to get the loans from the banks.

When offering the CFG investment, FRANK provided Lamoureux with some disclosure documents. The disclosure documents state the CFG offering was for accredited investors only, and the documents disclose a high degree of risk involved with the investment. Lamoureux said she reviewed the disclosure documents and asked FRANK about the risk disclosures. FRANK said he was required to put the language into the documents, but FRANK said the investment was no risk. Lamoureux also told FRANK she was not an accredited investor, but rather than discuss this issue, FRANK just told her that she would need to pick a category before investing. Lamoureux never signed any of the disclosure documents FRANK provided, because Lamoureux did not invest in the particular offering. Lamoureux said she later offered \$5,000 to FRANK instead, and Frank discussed using the funds as a no risk loan with CFG. FRANK said the loan to CFG would be for a term of one year, and FRANK offered Lamoureux a 5% per month return on principal. FRANK said Lamoureux could get her funds back sooner, but Lamoureux would be charged a 30% fee to do so. FRANK also told Lamoureux he did not want

to pay Lamoureux' interest payments directly or provide her with a 1099 form, so FRANK had Lamoureux set up Smoothies For Life on or about January 20, 2009.

### **Securities Fraud, §61-1-1**

On or about January 21, 2009, Lamoureux met FRANK at an America First Credit Union in Draper, Utah, where Lamoureux gave FRANK a \$5,000 personal check made payable to CFG. In return for the investment, FRANK provided Lamoureux with a three page document entitled *Form of Promissory Note* and a five page document entitled *Confidentiality, Non-Compete and Non-Circumvent Agreement*. Lamoureux said she and FRANK both signed the documents at the credit union in the presence of a notary. FRANK signed the documents as a Managing Member of CFG. The *Form of Promissory Note*, dated January 21, 2009, states CFG would pay 5% per month on a \$5,000 investment for a term of 12 months. Lamoureux said she considered the investment as a loan to the company, so FRANK was not restricted in how to use the funds. Lamoureux was not going to have any managerial decisions regarding the investment.

Prior to the investment, FRANK failed to disclose his 2004 chapter 7 bankruptcy filing, a 2<sup>nd</sup> degree felony charge of Communications Fraud filed against FRANK in 2004 which resulted in a 402 amended Class B Misdemeanor in 2008, a child support lien filed against FRANK in 2007, a 2008 civil suit filed against FRANK resulting in a \$2,469.18 judgment, and a federal indictment charging FRANK with three counts of Bank Fraud filed on or about December 11, 2008.

Lamoureux said sometime after she and FRANK signed the *Form of Promissory Note* and *Confidentiality* documents, FRANK asked Lamoureux for the original documents. Lamoureux said she made a copy of the documents prior to providing FRANK with the originals. Lamoureux said FRANK tore up the originals and said the documents did not matter anymore. Lamoureux said she received interest payments between about March and June 2009. Lamoureux said many of the payments were late, and were received only after Lamoureux asked FRANK about the payments.

Sometime after the investment, FRANK told Lamoureux he was converting CFG into a capital raising company. FRANK said CFG was involved in different investment projects, and CFG needed investor funds for the projects. FRANK said he had to use the words "limited partners" instead of "investors." FRANK also discussed hiring Lamoureux to find investors for CFG, and FRANK had Lamoureux edit some documents for CFG. In or about June 2009, FRANK said Lamoureux would not receive any other payments unless Lamoureux signed paperwork to convert to a limited partner with CFG. Lamoureux said she did not want to convert, because she felt the documents she and FRANK signed for her \$5,000 offered her more protection than if she were to become a limited partner.

Lamoureux said she asked FRANK to honor the terms of their agreement. FRANK said he would give back Lamoureux's money, but FRANK would charge a 30% penalty as stated in their agreement, even though FRANK was choosing to pay back Lamoureux. Lamoureux said FRANK finally agreed to return Lamoureux's funds without the penalty on or about June 17, 2009. In an email dated June 18, 2009, FRANK wrote Lamoureux needed to choose whether to reinvest her principal into the new business venture, or receive her principal back in installments agreed upon at a later date. FRANK wrote if Lamoureux did not respond within seven days, CFG would have discretion to choose the direction of the funds. Lamoureux said this was the last contact she had with FRANK, until an email update on CFG was sent by FRANK on or about August 8, 2010. To date, Lamoureux has not received her principal back, but has received about \$1,000 in interest payments from FRANK.

### **Misrepresentation**

1. FRANK said the loan with CFG would be a no risk loan, when in fact, FRANK had no reasonable basis on which to make this statement.

### **Omissions**

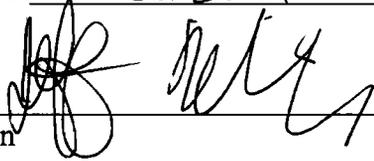
FRANK talked with Lamoureux about placing funds with CFG as a no risk loan. FRANK told Lamoureux the loan to CFG would be for a term of one year, and FRANK offered Lamoureux a 5% per month return on principal. FRANK said Lamoureux could get her funds back sooner, but Lamoureux would be charged a 30% fee to do so. FRANK failed to disclose the following based on these statements:

1. FRANK did not discuss his business experience or CFG's operating history;
2. FRANK did not provide any financial statements on CFG;
3. FRANK did not discuss the nature of competition for the investment;
4. FRANK did not discuss if there was any collateral for the investment;
5. FRANK did not discuss his involvement in any legal proceedings, including a chapter 7 bankruptcy FRANK filed in 2004, a 2<sup>nd</sup> degree felony charge of Communications Fraud filed against FRANK in 2004 which resulted in a 402 amended Class B Misdemeanor in 2008, a child support lien filed against FRANK in 2007, a civil suit filed against FRANK resulting in a \$2,469.18 judgment against FRANK, and a federal indictment charging FRANK with three counts of Bank Fraud filed on or about December 11, 2008;

6. FRANK did not discuss any conflicts of interest involved with the investment;
7. FRANK did not disclose if he was licensed to sell the investment opportunity.

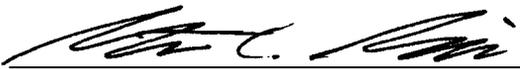
Pursuant to Utah Code Annotated §78B-5-705 (2008) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: 05/26/11

  
\_\_\_\_\_  
Jeff Nielsen  
Declarant

Authorized for presentment and filing:

SIM GILL, District Attorney

  
\_\_\_\_\_  
Deputy District Attorney  
19th day of May, 2011  
JC / DAO # 11010468



RETURN ON SUMMONS

Personal

STATE OF UTAH )  
 :ss  
COUNTY OF SALT LAKE )

I hereby certify and return that I received the within and hereto annexed Summons on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, and served the same upon DAVID GODWIN FRANK , the within named Defendant, personally, by delivering to and leaving with said Defendant, in Salt Lake County, State of Utah, a true copy of said Summons on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

I further certify that, at the time of such service, on the copy of the Summons so served, I endorsed the date and place of service and added my name and official title thereto.

Dated at Salt Lake County, Utah, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By

\_\_\_\_\_

STATE vs DAVID GODWIN FRANK

DAO # 11010468

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**OTHER PENDING CASES FOR DEFENDANT**

<u>Court</u>	<u>Court Case #</u>	<u>Trial Judge</u>	<u>DAO #</u>	<u>Charge</u>
		NONE		

**Metro Jail  
Book and Release Instructions**

You have been instructed to report to the Metro Jail to complete the *Book and Release* process. You are being provided the following instructions in order to facilitate this process as quickly as possible.

**LOCATION:**

The Metro Jail is located at 3415 South 900 West. Parking is available in the visitor's parking lot which is located south of the building. You will need to report to the Security Officer located at the top of the ramp in the visiting area.

**TIMES:**

4:00 AM to 8:00 AM  
10:30 AM to 12:00 PM  
3:30 PM to 5:00 PM  
8:30 PM to 11:00 PM

If you cannot come during these hours, you will not be turned away; however, Jail staff may be able to process you quicker during these hours. Due to unforeseen operational problems or circumstances beyond our control it may occasionally take several hours to complete the *Book and Release* process. We will make every effort to process you as quickly as possible.

**WHAT TO BRING:**

Court documents – Summons, Warrants, and/or Pretrial Services documents.  
Government issued photo identification such as Driver's License, State ID, Passport or Military ID.

**WHAT NOT TO BRING:**

Family or friends as seating is very limited.  
Children as they cannot be left unattended while you are being processed. Personal items not necessary for the process as it may slow down the process.

Following these guidelines will facilitate this process being completed as quickly as possible. If you have any questions call the Metro Jail at (801) 743-5000 or Pretrial Services at (801) 743-5025. Thank you