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Telephone: (801) 281-1221  
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IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
SALT LAKE COUNTY, STATE OF UTAH

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THE STATE OF UTAH, : Bail \$ 100,000<sup>00</sup>  
 :  
Plaintiff, :  
 : **WARRANT OF ARREST**  
vs. :  
 :

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**STEVEN W. HARKER**, : Case No 121902274  
DOB: June 20, 1956 :  
 :  
Defendant. : Judge \_\_\_\_\_

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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 Jeffery Nielsen, 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, a second degree felony, 5 counts; Securities Fraud, a third degree felony, 2 counts; Theft, a second degree felony, 5 counts; Theft, a third degree felony, 2 counts; and, Pattern of Unlawful Activity,**



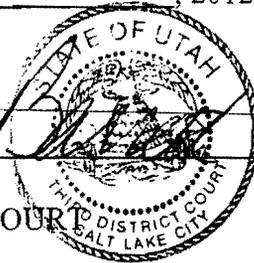
a **second degree felony, 1 count**, has been committed, and that the defendant, STEVEN W. HARKER, has committed these offenses,

**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 \$ 100,000<sup>00</sup>

DATED this 7 day of March, 2012.

William W. Burt  
HONORABLE,  
JUDGE, THIRD DISTRICT COURT



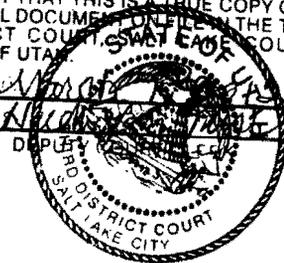
Defendant's Last Known Address:

12 West 1780 North  
Orem, Utah

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT FILED IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH.

DATE: March 7, 2012

Allyson S. [Signature]  
DEPUTY CLERK  
THIRD DISTRICT COURT  
SALT LAKE CITY



FILED IN THE THIRD JUDICIAL DISTRICT COURT  
SALT LAKE COUNTY, UTAH

MAR 27 2012

*YN*

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

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THE STATE OF UTAH, : Bail \_\_\_\_\_  
Plaintiff, :  
: **CRIMINAL INFORMATION**

vs. :

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STEVEN W. HARKER, : Case No: 121902274  
DOB: June 20, 1956 :  
Defendant. : Judge \_\_\_\_\_

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The undersigned, JEFFERY NIELSEN, upon oath, states on information and belief that  
the defendant has committed the following crimes:

**SECURITIES FRAUD**  
a second degree felony, 5 counts

**SECURITIES FRAUD**  
a third degree felony, 2 counts

**THEFT**  
a second degree felony, 2 counts

**PATTERN OF UNLAWFUL ACTIVITY**  
**a second degree felony, 1 count**

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

Commencing on or about August 2009 in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **Tim Gardner and Melanie Bennett**, 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.

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

From on or about October 2009, the defendant obtained or exercised unauthorized control over the property of another (**Tim Gardner and Melanie Bennett**) with a purpose to deprive them 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 second degree felony**

Commencing on or about January 2010, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **Tim Gardner and Melanie Bennett**,

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 4**  
**THEFT**  
**a second degree felony**

From on or about January 2010, the defendant obtained or exercised unauthorized control over the property of another (**Tim Gardner and Melanie Bennett**) with a purpose to deprive them 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.

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**COUNT 5**  
**SECURITIES FRAUD**  
**a third degree felony**

Commencing on or about December 2009, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **Mike and Susan Swallow**, 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 third degree felony**

From on or about December 2009, the defendant obtained or exercised unauthorized control over the property of another (**Mike and Susan Swallow**) with a purpose to deprive them thereof. The value of the property exceeds \$1,500.00 but is less than \$5,000.00. This is a violation of Utah Code Ann. § 76-6-404, a third degree felony.

**COUNT 7**  
**SECURITIES FRAUD**  
**a third degree felony**

Commencing on or about December 2009, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **Leland Jensen**, 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 8**  
**THEFT**  
**a third degree felony**

From on or about December 2009, the defendant obtained or exercised unauthorized control over the property of another (**Leland Jensen**) with a purpose to deprive him thereof. The

value of the property exceeds \$1,500.00 but is less than \$5,000.00. This is a violation of Utah Code Ann. § 76-6-404, a third degree felony.

**COUNT 9**  
**SECURITIES FRAUD**  
**a second degree felony**

Commencing on or about January 2010, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **Leland Jensen**, 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.

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**COUNT 10**  
**THEFT**  
**a second degree felony**

From on or about January 2010, the defendant obtained or exercised unauthorized control over the property of another (**Leland Jensen**) 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**

Commencing on or about March 2010, in the State of Utah, the defendant, in connection

with the offer or sale of a security, directly or indirectly, to **Gary Mitchell**, 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**

From on or about March 2010, the defendant obtained or exercised unauthorized control over the property of another (**Gary Mitchell**) 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 13**  
**SECURITIES FRAUD**  
**a second degree felony**

Commencing on or about September 2010, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **Gary Mitchell**, 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 14**  
**THEFT**  
**a second degree felony**

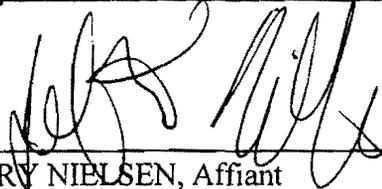
From on or about September 2010, the defendant obtained or exercised unauthorized control over the property of another (**Gary Mitchell**) with a purpose to deprive him thereof. The value of the property exceeds \$5,000.00. This is a violation of Utah Code Ann. § 76-6-404, a second degree felony.

**COUNT 15**  
**PATTERN OF UNLAWFUL ACTIVITY**  
**a second degree felony**

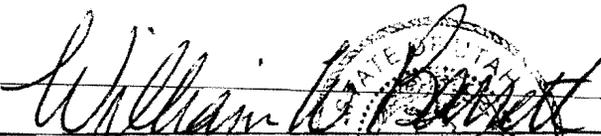
Commencing on or about August 2009, the defendant has engaged in conduct which constituted the commission of ~~at least three episodes of unlawful activity as defined in Utah~~ Code Ann. § 76-10-1601. The defendant, through a pattern of unlawful activity: (1) received proceeds derived, directly or indirectly, from a pattern of unlawful activity, including but not limited to the acts as described above, in which he participated as a principal, or he 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) was 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 7 day of March, 2012.

  
\_\_\_\_\_  
JEFFERY NIELSEN, Affiant

SUBSCRIBED AND SWORN to before me on this  
7 day of March, 2012.

  
\_\_\_\_\_  
JUDGE, Third District Court



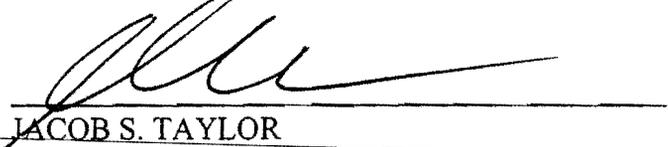
This CRIMINAL INFORMATION is based upon evidence from the following witnesses:

1. Tim Gardner
2. Melanie Bennett
3. Mike Swallow
4. Susan Swallow
5. Leland Jensen
6. Gary Mitchell
7. Steven Harker
8. An Others.

AUTHORIZED for presentment and filing this 5<sup>th</sup> day of March,  
2012.

MARK L. SHURTLEFF  
Utah Attorney General

By:

  
\_\_\_\_\_  
JACOB S. TAYLOR  
Assistant Attorney General

FILED  
2007 JUN 23 12  
BY \_\_\_\_\_

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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. :

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**STEVEN W. HARKER,** : Case No: 121902274  
DOB: June 20, 1956 :  
Defendant. : Judge \_\_\_\_\_

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STATE OF UTAH )  
 :ss  
COUNTY OF SALT LAKE )

I, JEFFERY NIELSEN, being first duly sworn upon oath, depose and state as follows:

1. I am currently employed as a full time investigator with the Utah Division of Securities following my completion of an internship with the Division during the Spring/Summer of 2006, and a contract position with the Division from May 2006 through July 2007. I graduated from the University of Utah with a degree in Sociology and a minor in Middle

Eastern studies in Spring 2008. I am currently investigating possible violations of securities fraud statutes and related criminal code violations by STEVEN W. HARKER.

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 Tim Gardner, Melanie Bennett, Mike Swallow, Susan Swallow, Leland Jensen, Gary Mitchell, STEVEN W. HARKER, and others.

#### **PARTIES**

3. STEVEN W. HARKER, at all pertinent times, resided in Utah. HARKER's last known address is 12 West 1780 North, Orem, Utah. HARKER has never held a securities license.

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4. ~~H&H Services, Inc. registered with the Idaho Secretary of State on April 8, 1986.~~  
HARKER is listed as the Director. H&H Services' status is in good standing as of December 20, 2011. H&H Services has not held any securities licenses, nor has H&H Services made any filings with the Utah Division of Securities. H&H Services is not filed with the Utah Division of Corporations.

#### **BACKGROUND**

5. HARKER offered investors the opportunity to place funds with HARKER for foreign exchange currency (forex) trading in return for profits. HARKER did not usually offer a specific rate of return. HARKER generally told the investors he had a track record of earning or could earn anywhere from 35% per year to doubling the investor funds within

about a year. HARKER generally offered to split the profits earned from trading with the investors, and generally offered to pool investor funds with his own funds or other investor funds. The offering of profit in return for the use of another person's funds could be an investment contract. HARKER also issued one investor documents entitled *Promissory Note*. Investment contracts and promissory notes are securities as defined by Utah Code Annotated §61-1-13.

6. Prior to any investments, HARKER did not provide investors with the information ordinarily provided in disclosure documents, including but not limited to: financial statements, descriptions of the backgrounds of the company officers and directors, a list of the risk factors relating to the investment, and a discussion of the company's business operations.

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7. HARKER did not disclose other material facts to investors, including but not limited to: HARKER's forex trading history; whether HARKER was licensed to sell securities or trade forex; how long HARKER had been trading forex; HARKER's training and experience in forex trading; if HARKER would be compensated for trading investor funds; HARKER's role with the trading firm; who HARKER's associates were along with a description of their backgrounds; the forex brokerage firm where investor funds would be placed; a minimum investment amount needed in order to participate; if any collateral would secure investor funds; trading records on the investment; whether HARKER invested his own money; how much money HARKER would pool in accounts

with investor funds; the number of total investors with HARKER; how much money HARKER had raised from investors; HARKER's track record to other investors, specifically whether any had lost money or been unable to liquidate their investment; HARKER's prior use of investment funds for personal expenses; and, HARKER not placing prior investor funds into forex trading.

8. HARKER filed a chapter 13 bankruptcy in 1997, a chapter 7 bankruptcy in 1998, and a chapter 13 bankruptcy in 2000. HARKER failed to disclose this information to investors.
9. Between about August 2009 and September 2010, HARKER collected about \$95,000 from at least four investors. HARKER has only repaid \$10,000 to one investor to date.

**COUNT 1**  
**SECURITIES FRAUD, a second degree felony**  
**(Tim Gardner and Melanie Bennett)**

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10. Tim Gardner said he first learned about an investment opportunity with HARKER while at a funeral for Tim's father in Idaho Falls, Idaho, on or about August 1, 2009. While at the funeral, HARKER told Tim he had asked Tim's father to invest in a forex deal with HARKER, which Tim's father had been considering. HARKER said he could make Tim a large profit in a short period of time. Tim said he thought HARKER mentioned earning about 35% per year profit. HARKER also mentioned how his mom or an aunt was not getting a very good return on her investments, but there were better ways to invest money. Tim told his sister, Melanie Bennett, about HARKER's offer and HARKER having mentioned their father's concerns about the rate of return on funds he had in the

bank.<sup>1</sup>

11. Tim said he and HARKER further discussed the investment during three or four telephone calls between about August and October 2009. Tim said he was in either Idaho Falls, Idaho, or Pocatello, Idaho, during the calls, and HARKER said he was in Utah. Tim said a couple of the calls involved only Tim and HARKER, but there was at least one telephone call involving HARKER, Tim, Ebony Gardner (Tim's wife), Melanie<sup>2</sup>, and Shane Bennett (Melanie's husband)<sup>3</sup>.
12. During the telephone calls, Tim and HARKER discussed some funds Tim's father had set aside to maintain a family cabin, but Tim and Melanie were going to have a hard time maintaining the cabin. HARKER said Tim could invest the funds with HARKER for forex trading through H&H Services, which was HARKER's consulting and trading company. HARKER said he worked as a consultant and trader for a forex company called Trading International. HARKER said forex trading involved buying and selling currencies, and HARKER said he used a computer program to do the trading. HARKER said he had his son invest about \$10,000,<sup>4</sup> and within a year, the investment was at about

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<sup>1</sup>Tim and Melanie said they knew HARKER because their families were neighbors when Tim and Melanie were younger. Tim said he thought HARKER had been a financial consultant, but Tim and Melanie did not know a lot about HARKER's past.

<sup>2</sup>Melanie said her only direct contact with HARKER was the one telephone call with which she was involved.

<sup>3</sup>HARKER's cell phone records show numerous calls made between HARKER's cell and Tim's cell between July 29, 2009, and January 27, 2010, but the cell phone carrier did not maintain cell tower information for this time period.

<sup>4</sup>HARKER said he only traded about \$200 for his son.

\$15,000.<sup>5</sup> HARKER said money had to stay in the account for one year, and HARKER said he would provide monthly statements on Tim's investment.

13. HARKER said Tim could invest the funds with HARKER for the one year while Tim used the time as a trial period to learn to trade forex. HARKER said after the year, HARKER could put the funds into an account for Tim to trade his own funds. Tim said he opened a demo account through Trading International, but found trading to be too complex.
14. Tim said he had noticed the forex website had disclaimers about high risk. Tim said he asked HARKER about the risk, and told HARKER he was not willing to place the funds at high risk because he could not afford to lose the money. HARKER said Tim would not lose the money. HARKER said he guaranteed, if nothing else, Tim would get the principal returned. HARKER said forex investing was safer than what people made it out to be.<sup>6</sup>
15. HARKER said Tim's funds would be pooled with HARKER's funds. HARKER said Tim's funds were covered by HARKER, so Tim did not need to worry about the investment. HARKER said Tim would be happy with the returns.
16. Based on HARKER's statements, Tim and Melanie invested by Tim depositing a \$20,000 check into H&H Services' Zions Bank account at a branch located in Idaho

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<sup>5</sup> Melanie thought HARKER said he had invested the \$10,000 and had doubled the funds in about a couple months.

<sup>6</sup> Melanie said HARKER made a statement about the transaction having little to no risk.

Falls, Idaho, on or about October 9, 2009. On or about October 10, 2009, Tim received an email from HARKER with an unsigned document entitled *Promissory Note* attached after Tim had called HARKER to get a document memorializing the investment.

17. Prior to the investment, HARKER failed to provide Tim and Melanie with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs 6, 7, and 8 of this affidavit.

**COUNT 2**  
**THEFT, a second degree felony**  
**(Tim Gardner and Melanie Bennett)**

18. HARKER represented to Tim and Melanie that he would use Tim and Melanie's funds for forex trading. According to bank records, Tim and Melanie's funds were deposited into H&H Services' account on or about October 9, 2009, bringing the account balance to \$24,186.40. A first in first out analysis of the records shows Tim and Melanie's funds were used in the following manner: \$891.52 paid to an individual named Jon Allred, \$3,000 paid to an individual named Ronald HARKER, \$57 in bank fees, \$5,002.37 in transfers to HARKER's personal bank account,<sup>7</sup> \$7,383 paid to Security National and Security National Mortgage, \$716 paid to Discover, \$75 paid to Guardian Post, \$820 paid to an individual named Ray Goodman, \$500 unknown payment, \$800 paid to an individual named Jason HARKER, \$590.11 paid to Barclays Bank, and \$165 paid to an individual named Shawn Branson.

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<sup>7</sup> According to bank records, it appears most of the funds transferred to the personal account were used for personal expenses, including payments to T-Mobile, which was HARKER's cell phone carrier at the time of the investments.

19. Tim said HARKER was only authorized to use the funds for forex trading and not for any other purpose.
20. HARKER obtained money from Tim and Melanie and exercised unauthorized control of the money with the purpose to deprive them thereof.

**COUNT 3**  
**SECURITIES FRAUD, a second degree felony**  
**(Tim Gardner and Melanie Bennett)**

21. Tim said he had a couple of telephone conversations with HARKER after making the investment. During the calls, HARKER said the investment was going well. HARKER said the funds were invested and earning interest. HARKER said he was getting another pool of money together to invest, and HARKER asked if Tim wanted to invest additional funds. HARKER said the more Tim invested, the more Time would earn. Tim said he spoke with Melanie, and they decided to invest additional funds.
22. Based on HARKER's statements, and Tim's continued concerns about paying the cabin expenses, Tim and Melanie invested by having Ebony deposit a \$20,000 check into H&H Services' Zions Bank account at a branch in Idaho Falls, Idaho, on or about January 29, 2010. On or about March 6, 2010, Tim received an email from HARKER with another unsigned document entitled *Promissory Note* attached after having called HARKER on several occasions to get a document memorializing the second investment.
23. Prior to the investment, HARKER failed to provide Tim and Melanie with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs

6, 7, and 8 of this affidavit.

24. Tim said he tried to contact HARKER on several occasions after making the second investment, but was unsuccessful for about six months. Tim said HARKER had also failed to provide any monthly statements on the investments. In or about October 2010, Tim and Ebony drove to HARKER's home in Alpine, Utah. While at HARKER's home, HARKER said Tim's investment was doing great. Tim said HARKER had excuses for not contacting Tim, including HARKER's phone not working. Tim said he requested his funds to be returned. HARKER said he would have to close the trading accounts, which would take about a month. HARKER said he would call Tim when the funds were available. Tim and Ebony said HARKER appeared to be nervous during the meeting.

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25. In or about November and December 2010, Tim called HARKER on a couple of occasions about his funds. HARKER again provided excuses for not returning the investment funds, including trying to close the account and an excuse about how the Obama administration had made changes making it difficult to get money from off-shore accounts.
26. Tim and Ebony later learned from Facebook that HARKER was living with his daughter, Amy Allred. Tim and Ebony said they drove to Allred's home in Orem, Utah, in or about March 2011. Tim and Ebony said HARKER was standing next to a BMW talking on a cell phone when they arrived. Tim recorded the conversation with HARKER.
27. During the conversation, HARKER said he could not repay the investment funds because

there were some trading positions which needed to be closed first. HARKER also provided some information about the forex trades. HARKER said some of the forex trades involved trades linking different currencies. HARKER said the trades had to be closed at the same time in order to hit a certain bench mark, making the trades profitable. HARKER said “all the trades are covered so that they can’t lose money as long as you...trade out of the trades simultaneously.”

28. HARKER said he was also having some problems related to accounts held in the “UK.” HARKER said there were also problems with getting the funds back to the US, partly due to new regulations instituted by the Obama administration. When Tim made a statement about Melanie wondering if funds had been lost, HARKER said “you haven’t lost it.”

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29. Tim and Melanie have not received any money back to date.

**COUNT 4**  
**THEFT, a second degree felony**  
**(Tim Gardner and Melanie Bennett)**

30. HARKER represented to Tim and Melanie that he would use Tim and Melanie's funds for forex trading. According to bank records, Tim and Melanie’s funds were deposited into H&H Services’ account on or about January 29, 2010, bringing the account balance to \$32,517.95. A first in first out analysis of the records shows Tim and Melanie’s funds were used in the following manner: \$2,479.05 as part of a \$3,000 payment to Jon Allred, \$5,030 transferred to HARKER’s personal account,<sup>8</sup> \$3,000 in transfers to other

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<sup>8</sup> According to records, it appears most of the funds moved to the personal account were used for personal expenses.

accounts, \$350 paid to Morty's Landscaping, \$186.46 paid to Walmart, \$64.75 paid to Costco, \$41.83 paid to Olive Garden, \$18.04 paid to Ridley's, \$450 paid to T-Mobile, \$509 paid to Discover, \$225.55 paid to Mas Computers, \$193.57 paid to Kohler's, \$42.01 paid to 7-Eleven, \$77 paid to Guardian Post, \$2,500 paid to Security National, \$1,440 paid to Ray Goodman, \$38.63 paid to Café Rio, \$252 paid to Cuc/Int Med, \$33.17 paid to Sizzler, \$110.14 paid to Walgreens, \$30.73 paid to Red Lobster, \$1,500 paid to Jason HARKER, \$90.25 paid to Smith's, \$481.08 paid to Barclays Bank, \$414.95 paid to Citicards, \$69.82 paid to Macey's, \$7.41 paid to Wendy's, \$27.65 paid to Los Hermanos, \$7.31 paid to KFC, \$5.20 paid to Roberts, \$19.50 in bank fees, a \$303 ATM withdrawal, and \$1.90 as part of a \$1,000 payment to Kayla Clark.

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31. Tim said HARKER was only authorized to use the funds for forex trading and not for any other purpose.
  32. HARKER obtained money from Tim and Melanie and exercised unauthorized control of the money with the purpose to deprive them thereof.

**COUNT 5**  
**SECURITIES FRAUD, a third degree felony**  
**(Mike and Susan Swallow)**

33. Mike Swallow knew HARKER through HARKER's marriage to Mike's cousin, Jewel. Mike first heard about an investment opportunity with HARKER from Kent Warren, who is Jewel's brother. Warren said HARKER had developed a method to trade and monitor currency which enabled HARKER to virtually guarantee a return. Warren said HARKER

claimed a company had been offered millions of dollars to purchase HARKER's method.

34. In early December 2009, Mike called HARKER to set up a meeting. On or about December 15, 2009, HARKER met with Mike and Mike's wife, Susan, at Mike and Susan's home, located in Taylorsville, Utah. During the meeting, HARKER showed Mike and Susan a computer program which purportedly tracked and displayed real-time changes in forex prices. HARKER said the display on the computer is what banks saw when they traded forex. HARKER said banks traded forex all the time.
35. HARKER said the spread between currency values were called PIPs, and HARKER could make the PIP spread multiplied by \$50 on any given transaction. HARKER said while some of the spreads on currency values looked attractive, HARKER thought they were too risky. HARKER said he preferred a conservative approach, focusing on smaller spreads, and HARKER only put 1% of the money at risk in any particular transaction. HARKER said the investment was guaranteed to not lose money.
36. HARKER said the minimum investment amount was \$5,000, and HARKER said he and Mike would split all profits 50/50. HARKER said Mike had to invest for a minimum of six months, but after six months, Mike could liquidate his investment at any time.
37. HARKER said he had some other investors, including a couple of nephews, but did not disclose the number of total investors he had. HARKER discussed using either his own funds or his father's funds to trade, and had made a substantial return on the money. Susan recalled HARKER mentioning he worked with other individuals who traded forex.

Susan also recalled HARKER stating she and Mike could make more money by investing with HARKER than by leaving the money in a bank, and HARKER was confident trading forex was a good way to earn money.

38. On or about December 17, 2009, Mike invested \$5,000 with HARKER through an intrabank transfer at Zion's Bank, which Mike thought was for H&H Services.
39. Prior to the investment, HARKER failed to provide Mike and Susan with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs 6, 7, and 8 of this affidavit.
40. Mike said he asked HARKER for a regular reporting on the investment performance. HARKER agreed to provide quarterly updates, but did not actually provide any updates.
41. During the summer of 2010, Mike requested payment of all accrued interest on the investment. HARKER agreed to provide payment, but never did. HARKER said the investment house in New York made withdrawals more complicated than HARKER had anticipated.
42. During October or November 2010, Mike spoke with HARKER via telephone and learned his account had increased by \$3,000. At about this time, Mike requested repayment of all principal and interest. Mike has not received any payment from HARKER to date.

**COUNT 6**  
**THEFT, a third degree felony**  
**(Mike and Susan Swallow)**

43. HARKER represented to Mike and Susan that he would use their funds for forex trading. According to bank records, Mike and Susan's funds were deposited into H&H Services' account on or about December 17, 2009, bringing the account balance to \$6,352.37. A first in first out analysis of the records shows Mike and Susan's funds were used in the following manner: \$2,297.63 in transfers to HARKER's personal account,<sup>9</sup> a \$2,000 checking account withdrawal, \$700 paid to Security National, and \$2.37 as part of a \$500 payment to Citicards.

44. Mike said HARKER was only authorized to use the funds for forex trading and not for any other purpose.

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45. HARKER obtained money from Mike and Susan and exercised unauthorized control of the money with the purpose to deprive them thereof.

**COUNT 7**  
**SECURITIES FRAUD, a third degree felony**  
**(Leland Jensen)**

46. Leland Jensen said he first learned about an investment opportunity with HARKER during an impromptu meeting at his office, located in Idaho Falls, Idaho, in or about December 2009. Jensen said he, HARKER, Shawn Branson, and Wayne Campbell were present for the meeting. Jensen said he knew Branson and Campbell from work, but had

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<sup>9</sup> According to records, it appears most of the funds moved to the personal account were used for personal expenses.

never met HARKER prior to the meeting. Jensen said the purpose of the meeting was about an opportunity to invest with HARKER.

47. During the meeting, HARKER used a laptop computer to show the group a program which HARKER used to trade currencies. HARKER said the program traded forex automatically. Jensen asked HARKER how the program worked. HARKER said banks and investors bought blocks of currencies, and sold off some of the excesses. HARKER said the program was used to buy those excesses. HARKER said the value of currencies changed throughout the day, so the computer program made profits by trading the currencies on the price differences. Jensen said HARKER presented the program as if it was brand new and had not launched, but needed some backing or a track record prior to launching the program.

48. HARKER said he was looking to raise \$500,000 in order to purchase larger blocks of currency. HARKER said he had the potential to double investment funds in about one year. HARKER said he would accept a lesser amount, but it would be less efficient. HARKER said he wanted to get enough money to make the profits work. HARKER said he would keep 50% of the profits made.

49. Jensen asked HARKER how legit the investment was. HARKER said it was legit, because the funds would be used to buy currency from banks, but HARKER said not to discuss the investment with other people.

50. HARKER said funds could be withdrawn at any time, but HARKER said he would like

the funds to remain invested for at least six months, at which time profits could be withdrawn. HARKER said it would take about one to two weeks to sell positions in order to withdraw funds.

51. HARKER said he worked for an investment company, but HARKER did not mention the name. Jensen asked if HARKER had any partners. HARKER said he did, but said the partners would not be investing. Jensen said based on the conversation, it appeared as if HARKER was not investing any of his own money. Jensen asked HARKER why HARKER was not investing, to which HARKER said he did not have the money to invest.

52. Jensen said he was not sure he wanted to invest, so he told HARKER he wanted to see HARKER's place of business before deciding. After the meeting ended, Branson and Campbell stayed and spoke with Jensen. Jensen said they discussed not being able to invest the full \$500,000, but agreed to provide \$50,000 to HARKER. Jensen said Campbell had mentioned being "leery" of the investment, but Campbell never said why. Jensen said Branson "pushed" for the investment to happen. Jensen said he was unsure if Branson was to receive some additional benefit for getting the group to invest.

53. On or about December 26, 2009, Jensen met with HARKER at a building in Salt Lake County, Utah. Jensen thought he was meeting with HARKER at the investment company's office, but the office turned out to be a building which housed some computer mainframes. Jensen said he and HARKER had to pass through a secured area to get into

the building, and the guard appeared to know HARKER. While at the building, HARKER showed Jensen the computer mainframes, and did some work on the computer system. Jensen said he and HARKER did not talk about the investment, but discussed the computer system.

54. Based on HARKER's statements about the investment and showing Jensen the computer systems, Jensen invested by providing HARKER with a \$5,000 check while at the building on or about December 26, 2009. Jensen said HARKER requested the check be payable to H&H Services, but HARKER did not provide any information about H&H Services. Jensen said HARKER failed to provide any documents memorializing Jensen's investment.

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55. Prior to the investment, HARKER failed to provide Jensen with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs 6, 7 and 8 of this affidavit.

**COUNT 8**  
**THEFT, a third degree felony**  
**(Leland Jensen)**

56. HARKER represented to Jensen that he would use Jensen's funds for currency trading. According to bank records, Jensen's funds were deposited into H&H Services' account on or about December 28, 2009, bringing the account balance to \$7,502.37. A first in first out analysis of the records shows Jensen's funds were used in the following manner: \$497.63 as part of a \$500 payment to Citicards, \$480 paid to Discover, \$7 paid for a bank

fee, \$1,140 paid to Jason HARKER, \$820 paid to Ray Goodman, \$310 paid to Barclay Bank, and \$1,745.37 transferred to HARKER's personal account.<sup>10</sup>

57. Jensen said HARKER was only authorized to use the funds for currency trading, and not for any other purpose.
58. HARKER obtained money from Jensen and exercised unauthorized control of the money with the purpose to deprive him thereof.

**COUNT 9**  
**SECURITIES FRAUD, a second degree felony**  
**(Leland Jensen)**

59. After making the investment, Jensen spoke with Campbell and Branson. Jensen said the discussion focused on how nothing would really happen with the investment unless additional funds were invested.<sup>11</sup> Jensen said Branson was pushing Jensen to invest more money. Jensen said he decided to invest another \$25,000 in order to "get the ball rolling."
60. Jensen said he called HARKER to notify HARKER of the additional \$25,000 to be invested, and to verify an address to where Jensen could send the check. Jensen asked HARKER if \$25,000 would get the trading moving, to which HARKER said it would. On or about January 14, 2010, Jensen mailed a \$25,000 check to HARKER.<sup>12</sup>

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<sup>10</sup> According to records, it appears most of the funds moved to the personal account were used for personal expenses.

<sup>11</sup> Jensen said he, Branson, and Campbell had only invested \$5,000 each at about this time.

<sup>12</sup> Jensen said he is unsure exactly which address he confirmed and to which address he sent the check. Jensen, based on a note has, thinks he may have sent it to the address of 228 S. President Dr. (city and zip not available).

61. Prior to the investment, HARKER failed to provide Jensen with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs 6, 7, and 8 of this affidavit.
62. In or about April 2010, Jensen received two emails from HARKER stating profits were being made by trading the pooled funds. Jensen said he was concerned because he had not received a statement detailing how much Jensen was earning on the investments, and Jensen thought anyone could create the information HARKER had provided. Jensen said he did not have much contact with HARKER after the two emails. Jensen said most of the information regarding HARKER was through Branson, even though Jensen had invested most of the funds. Jensen said he was concerned with the lack of contact with HARKER.
63. In or about October or November 2010, Jensen started to push Branson to get the group's funds returned. In or about December 2010, Jensen received an email from HARKER with a word document attached showing how much Jensen's funds had earned. After receiving the December email, Jensen tried unsuccessfully to contact HARKER. Jensen learned both Branson and Campbell were unable to reach HARKER as well. Jensen said he has not had contact with HARKER since receiving the December email, and Jensen said he has not received any funds from HARKER to date.

**COUNT 10**  
**THEFT, a second degree felony**  
**(Leland Jensen)**

64. HARKER represented to Jensen that he would use Jensen's funds for currency trading. According to bank records, Jensen's \$25,000 was deposited, along with \$5,000 from Campbell, into H&H Services' account on or about January 19, 2010, bringing the account balance to \$31,225.37. A first in first out analysis of the records shows the \$30,000 of deposited funds was used in the following manner: \$8,954.63 in transfers to HARKER's personal account,<sup>13</sup> \$2,640 paid to Jason HARKER, \$200 paid to T-Mobile, \$1,300 paid to Kayla Clark, \$2,820 paid to Ray Goodman, \$5,000 paid to Security National, \$600 paid to an individual named Phil Ahlstrom, \$3,000 paid to Amy Allred, \$357.42 paid to Kapp's European, \$7 for a bank fee, \$3,000 transferred to Ronald HARKER, \$500 paid to Citicards, \$500 paid for tithing, \$600 paid to Barclays Bank, and \$520.95 as part of a \$3,000 payment to Jon Allred.
65. Jensen said HARKER was only authorized to use the funds for currency trading, and not for any other purpose.
66. HARKER obtained money from Jensen and exercised unauthorized control of the money with the purpose to deprive him thereof.

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<sup>13</sup> According to records, it appears most of the funds moved to the personal account were used for personal expenses.

**COUNT 11**  
**SECURITIES FRAUD, a second degree felony**  
**(Gary Mitchell)**

67. Gary Mitchell said he first learned about an investment opportunity with HARKER from a mutual friend, Ron Parr, during or about March 2010. Mitchell said he spoke with Parr about HARKER about two or three times while in Spanish Fork, Utah. During the conversations, Parr told Mitchell he had done some mortgage work with HARKER in the past. Parr said HARKER and some associates had a computer program which traded forex. Parr said the deal was “foolproof,” and he would invest if he had funds available.<sup>14</sup>
68. In or about April 2010, Mitchell met with HARKER about two or three times within about a week. Mitchell said the conversations occurred in Spanish Fork, Utah. During the conversations, HARKER discussed an opportunity to invest in forex through H&H Services. HARKER told Mitchell he had previously serviced computers for a forex company. HARKER said he and a few associates broke away from the company, and began to develop their own forex program, which HARKER said took a couple of years to make “foolproof.”
69. HARKER said any funds Mitchell invested would be pooled with other investor funds in a forex trading account. HARKER did not say how many people had already invested, but HARKER said there was a “substantial amount of money involved.” HARKER said

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<sup>14</sup> Parr said he did not, nor would he have, used the term “foolproof” when speaking with Mitchell.

he had been investing successfully for just over six months at the time, and HARKER said none of the investor funds had been lost. HARKER said the investment was “100% safe” and “foolproof.” HARKER said Mitchell’s investment funds would increase at a rate of 2.8% to 10% per month, and the profits would be compounded. Mitchell said HARKER did not discuss the possibility of the investment not producing a profit. HARKER said he would take a percentage of the profits made, but Mitchell could not recall what percentage HARKER was to receive. HARKER said Mitchell would be able to get his funds back within 30 days of a request. HARKER asked Mitchell how aggressive Mitchell was with the investment. Mitchell told HARKER to trade as aggressively as possible without putting the funds at risk.

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70. Mitchell asked HARKER about contacting previous investors for a reference. HARKER said he did not want to provide the information, because he wanted to keep investor information confidential. Mitchell said he had invested funds with forex traders in the past, and the previous traders allowed Mitchell access to the trading accounts in order to monitor his funds. Mitchell asked about doing the same with HARKER. HARKER said he was unsure if he would be able to allow Mitchell to access the account, but offered to provide Mitchell with an account statement on his funds each month.
71. Based on HARKER’s statements and Parr’s recommendation of HARKER, Mitchell invested by providing HARKER with 13 one troy ounce gold coins while at Mitchell’s office, located in Spanish Fork, Utah, on or about April 28, 2010. Mitchell said he and

HARKER agreed the coins were worth \$15,392.50 based on the spot trading for gold at the time, and HARKER signed a receipt in Mitchell's presence agreeing to the gold value.

72. Prior to the investment, HARKER failed to provide Mitchell with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs 6, 7, and 8 of this affidavit.

**COUNT 12**  
**THEFT, a second degree felony**  
**(Gary Mitchell)**

73. HARKER represented to Mitchell that he would use Mitchell's funds for forex trading. According to bank records, a \$10,000 check from Monarch Coin Corporation was deposited into H&H Services' Zions Bank account on or about April 30, 2010, bringing the account balance to \$13,414.89.<sup>15</sup> A first in first out analysis of the records shows Mitchell's \$10,000 was used in the following manner: \$1,798.33 as part of a \$5,000 transfer to various accounts,<sup>16</sup> \$200 paid to T-Mobile, \$12.39 paid to Panda Express, \$6.07 paid to Costco, \$5,000 paid to Security National, \$1,020 paid to Ray Goodman, \$50.04 paid to Texaco, another \$1,000 transferred to HARKER's personal account,<sup>17</sup> \$300 paid to SCR, \$481.22 paid to Smiths, \$58.38 paid to Walmart, \$6.53 paid to

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<sup>15</sup> Records show HARKER sold 13 ounces of gold to Monarch in return for the check and \$4,907.80 in cash.

<sup>16</sup>\$1,000 of the \$5,000 was transferred to HARKER's personal account.

<sup>17</sup>According to records, it appears most of the funds moved to the personal account were used for personal expenses.

Macey's, \$18.63 paid to Sizzler, \$42.70 paid to China Isle II, and \$5.71 as part of a \$7 bank fee payment.

74. Mitchell said HARKER was only authorized to use the investment for forex trading and not for any other purpose.
75. HARKER obtained money from Mitchell and exercised unauthorized control of the money with the purpose to deprive him thereof.

**COUNT 13**  
**SECURITIES FRAUD, a second degree felony**  
**(Gary Mitchell)**

76. After making the investment, Mitchell began to receive a basic accounting of his funds each month from HARKER via email. Mitchell said he and HARKER spoke almost weekly, and HARKER told Mitchell the investment was going well. HARKER also said Mitchell's investment was doing better than the other investor funds, due to the aggressiveness in trading with Mitchell's funds compared with the other investor funds.
77. On or about September 6, 2010, HARKER met with Mitchell at Mitchell's office in Spanish Fork, Utah. HARKER said he was putting together a new group of investors, and HARKER was going to be trading the funds aggressively, as HARKER had been doing with Mitchell's previous funds. HARKER said Mitchell could invest an additional \$10,000, which would help HARKER increase the profit he could earn each month through trading.
78. Based on HARKER's statements, Mitchell invested an additional \$10,000 by giving

HARKER a personal check made payable to H&H Services while at Mitchell's office on or about September 8, 2010.

79. Prior to the investment, HARKER failed to provide Mitchell with any disclosure documents. HARKER also failed to provide some of the information found in paragraphs 6, 7, and 8 of this affidavit.
80. Mitchell said soon after making the second investment, HARKER only sporadically provided statements on Mitchell's funds even though Mitchell continually requested the statements from HARKER. Mitchell said he became concerned about his funds due to the lack of regular monthly statements, and on or about December 15, 2010, Mitchell requested HARKER return Mitchell's funds. Mitchell said he made the request via email and telephone. Mitchell also requested an accounting of the funds. HARKER told Mitchell his account was worth \$34,700, but HARKER did not provide anything in writing.
81. During or about the end of January 2011, HARKER told Mitchell he had closed Mitchell's account, but was having problems getting the funds from a brokerage in Europe. HARKER said he was going to repay Mitchell by getting funds from a friend, which confused Mitchell. HARKER never discussed why funds would be from HARKER's friend.
82. In or about February or March 2011, Mitchell spoke with Parr about HARKER. Mitchell said he told Parr about concerns of HARKER not repaying the funds. At about this time,

Parr told Mitchell about a previous problem in which HARKER had committed to provide some funding for Parr to set up the minting facility where Parr worked, but HARKER failed to fund as offered. Parr said this occurred before Mitchell had invested with HARKER.<sup>18</sup>

83. Mitchell said he started to pressure HARKER to repay the funds in March 2011. On or about March 29, 2011, HARKER met with Mitchell at Mitchell's office, where HARKER provided Mitchell with a \$10,000 check. HARKER said the funds were not from Mitchell's account, but were from HARKER's personal funds. While at the office, Mitchell wanted HARKER to commit to repaying the rest of Mitchell's funds, so Mitchell drafted a document entitled *Note* which HARKER signed at the meeting. The *Note* states HARKER had until October 2011 to repay the remaining funds, otherwise Mitchell would file a complaint with the Attorney General's office. Mitchell said HARKER "begged" Mitchell not to file a complaint with the AG's office.
84. Mitchell said HARKER met with him about a couple of months prior to filing a complaint with the Division in order to discuss if Mitchell had filed a complaint, which Mitchell denied. HARKER told Mitchell not to file a complaint, and HARKER would return Mitchell's funds. Mitchell said he last had contact with HARKER about one month prior to filing a complaint. Mitchell has not received any additional funds back

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<sup>18</sup> Parr said he told Mitchell about HARKER not being able to fund the project as provided prior to Mitchell's investment. Parr said he did not view HARKER's inability to get the funds (\$500,000) needed as a failure, since it was a lot of money, and HARKER was to get another individual to invest the funds.

from HARKER to date.

**COUNT 14**  
**THEFT, a second degree felony**  
**(Gary Mitchell)**

85. HARKER represented to Mitchell that he would use Mitchell's funds for forex trading. According to bank records, Mitchell's funds were deposited into H&H Services' account on or about September 8, 2010, bringing the account balance to \$10,149.29. A first in first out analysis of the records shows Mitchell's funds were used in the following manner: \$6,350.71 in checking withdrawals, \$19.78 paid to Smith's, \$261.63 paid to Comcast, \$2,500 paid to Security National, \$34.43 paid to Kohler's, \$40.79 paid to Amazon, \$45.54 paid to Costco, \$30.06 paid to FJ AFS, \$28 paid to Applebee's, \$55.73 paid to Walmart, \$12.04 paid to Kneaders Bakery, \$7.52 paid to Wendy's, \$173.86 paid to Freelif International, \$120 paid to Scott Trade, \$50 in bank fees, \$41.03 paid to Harts, \$13.12 paid to JCWS Restaurant, \$12.17 paid to Godaddy.com, and \$203.59 as part of a \$505 payment to Barclays Bank.
86. Mitchell said HARKER was only authorized to use the investment for forex trading and not for any other purpose.
87. HARKER obtained money from Mitchell and exercised unauthorized control of the money with the purpose to deprive him thereof.

**COUNT 15**  
**PATTERN OF UNLAWFUL ACTIVITY**  
**a second degree felony**

88. Commencing in or about August 2009, HARKER engaged in conduct which constituted the commission of at least three episodes of unlawful activity as defined in Utah Code Ann. §76-10-1603. HARKER: (1) received proceeds derived, directly or indirectly, from a pattern of unlawful activity as more fully defined in Counts 1 through 16 above, in which HARKER participated as principal, or used or invested, directly or indirectly, any part of that 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 acquired or maintained, directly or indirectly, any interest in or control of any enterprise; or (3) was 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 included three or more violations of securities fraud. This is a violation of Utah Code Ann. §76-10-1603, a second degree felony.

**SUMMARY**

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

**SECURITIES FRAUD**  
**a second degree felony, 5 counts**

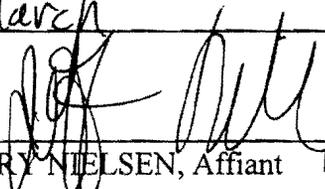
**SECURITIES FRAUD**  
a third degree felony, 2 counts

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

**THEFT**  
a third degree felony, 2 counts

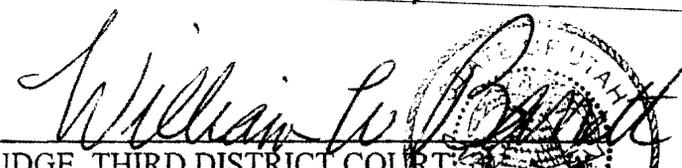
**PATTERN OF UNLAWFUL ACTIVITY**  
a second degree felony, 1 count

DATED this 7 day of March, 2012.

  
\_\_\_\_\_  
JEFFERY NIELSEN, Affiant

2012.

SUBSCRIBED AND SWORN before me this 7 day of March,

  
\_\_\_\_\_  
JUDGE, THIRD DISTRICT COURT

