

SIM GILL, Bar No. 6389  
District Attorney for Salt Lake County  
TODD OLSEN, Bar No. 11366  
Deputy District Attorney  
111 East Broadway Suite 400  
SLC,, UT 84111  
Telephone: (801)363-7900

**FILED DISTRICT COURT**  
Third Judicial District

FEB 08 2013

SALT LAKE COUNTY

By LS Deputy Clerk

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.

**NATHAN S. TOOLE**  
**DOB: 10/29/1977,**  
**3606 Granite Park Cove**  
**Salt Lake City, UT 84106**  
**D.L.#**  
**OTN**  
**SO#**  
Defendant.

Screened by: TODD OLSEN  
Assigned to: TODD OLSEN  
Thursday PH

**INFORMATION**

DAO # 12019950

ECR Status: **NON-ECR**  
Initial Appearance:

Bail: \$50,000  
Warrant/Release: Non-Jail

Case No. 131901324

The undersigned Kristilyn Wilkinson - Utah Division Of Securities, Agency Case No. 12-0024, upon a written declaration states on information and belief that the defendant, NATHAN S. TOOLE, committed the crime(s) of:

**COUNT 1**

**SECURITIES FRAUD, 61-1-1 UCA, Second Degree Felony, as follows: That on or about May 01, 2011, in Salt Lake County, State of Utah, the defendant did , in connection with the offer, sale, or purchase of a security, directly or indirectly,**

**(1)(a) employ a device, scheme, or artifice to defraud;**

**(b) 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 were made, not misleading; or**

- (c) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person; and
- (2)(a) 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
- (b)(i) 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
- (ii) in connection with that violation, the violator knowingly accepted any money representing:
  - (A) equity in a person's primary residence;
  - (B) a withdrawal from any individual retirement account; or
  - (C) a withdrawal from any qualified retirement plan as defined in the Internal Revenue Code.

**COUNT 2**

**SECURITIES FRAUD, 61-1-1 UCA, Third Degree Felony, as follows:** That on or about February 01, 2010, in Salt Lake County, State of Utah, the defendant did , in connection with the offer, sale, or purchase of a security, directly or indirectly,

- (1)(a) employ a device, scheme, or artifice to defraud;
- (b) 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 were made, not misleading; or
- (c) engage in an act, practice, or course of business which operated or would operate as a fraud or deceit upon any person; and
- (2) 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.

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

Kristilyn Wilkinson, Tom Brady, Adrian Engler

**DECLARATION OF PROBABLE CAUSE:**

Your declarant bases this information upon the following:

The statement of Adrian Engler that he was introduced to defendant NATHAN TOOLE at a party in Salt Lake County in November, 2009. Engler learned that TOOLE was involved in trading, and over the next few months, the two remained in contact. Engler states he decided to invest with TOOLE in February of 2010. TOOLE showed Engler a copy of a life insurance policy he was to receive as collateral.

On February 16, 2010 Engler invested \$9,975 with TOOLE. The funds were intended to be used for speculative investment, subjecting them to risk, Engler expected a return of 4% and Engler had no actual or practical control over how the money was managed.

TOOLE represented that:

1. Engler was guaranteed to earn a 4% interest rate of return for 6 months,
2. That the money in the futures trading account was secure and guaranteed safe;
3. That the investment was safe because TOOLE would never let his trading account drop below the amount Engler had invested; and
4. That TOOLE already had money in the trading account to secure the investment.

TOOLE failed to provide Engler any information regarding:

1. Financial statements;
2. Risk factors for investors;
3. That there was not currently any money in TOOLE's trading account;
4. Suitability factors for the investment;
5. Whether the investment was a registered security or exempt from registration;
6. Whether TOOLE was licensed to sell securities;
7. How TOOLE would earn a 4% guaranteed return on the money; and
8. That Engler's funds would be used for TOOLE's wife's business and paying other individuals.

The statement of KristiLyn Wilkinson that she used a source and use analysis to determine that between February 16, 2010 and March 4, 2010, TOOLE used the \$9,975 from Engler to make payments to his wife's business, make payments to other individuals, and the remainder on personal or living expenses for himself.

Wilkinson further states that on May 16, 2011 Engler invested an additional \$73,775 with TOOLE and a new investment contract was signed which contained the following statements:

1. That the money in the futures account was secure and guaranteed safe;
2. That the investor would earn an interest rate of 5% for 6 months
3. That the investment was secured by an amount in TOOLE's futures trading account;
4. That TOOLE would not allow the amount in his trading account to fall below which was owed to Engler.

TOOLE failed to provide Engler any information regarding:

1. Financial statements;
2. Risk factors for investors;
3. Whether the investment is a registered security or exempt from registration;
4. Whether the person was licensed to sell securities;

5. That TOOLE had been sending fabricated statements before Engler made his second investment;
6. That TOOLE used the \$9,975 from Engler's first investment towards paying other individuals
7. That TOOLE had a judgment against him from Midland Funding
8. That TOOLE had a judgment against him from Discover Bank.

Wilkinson states she used a source and use analysis and determined that from May 16, 2011 to June 7, 2011, Engler's funds were used to pay personal expenses, make payments to other investors, and transferred to another account.

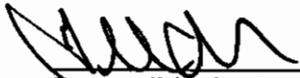
Pursuant to Utah Code Annotated § 78B-5-705 (2008) I declare under criminal penalty of the State of Utah that the foregoing is true and correct to the best of my belief and knowledge.

Executed on: 2/7/13

  
\_\_\_\_\_  
KRISTILYN WILKINSON  
Declarant

Authorized for presentment and filing

SIM GILL, District Attorney

  
\_\_\_\_\_  
Deputy District Attorney  
15th day of January, 2013  
TMO / AS / DAO # 12019950

