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FILED DISTRICT COURT
Third Judicial District

JUL 15 2014

SALT LAKE COUNTY

by

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.

MARK LEONARD SHURTLEFF

DOB: 08/09/1957,

2020 East Candle Spruce Cove

Sandy, Utah 84092

OTN

SO#

Defendant.

JOHN EDWARD SWALLOW

Co-Defendant

Screened by: SIM GILL
TROY RAWLINGS

Assigned to: CHOU CHOU COLLINS
B. FRED BURMESTER

INFORMATION

DAO # 14012686

ECR Status: **Non-ECR**

Initial Appearance:

Bail: \$250,000

Warrant/Release: Non-Jail

DAO # 14012685

Case No.

141907720

The undersigned - Agent S. Nesbitt, Utah Department of Public Safety, Agency Case No. 12DPS0570 and Special Agent J. Isakson, Federal Bureau of Investigation, F.B.I. Case No. 194A-SU-68452, upon a written declaration states on information and belief that the defendant, MARK LEONARD SHURTLEFF, committed the crime(s) of:

COUNT 1

PATTERN OF UNLAWFUL ACTIVITY, 76-10-1603 UCA, a Second Degree Felony, as follows: That on or about January 08, 2009 through May 6, 2013, in Salt Lake County, State of Utah, the defendant, as a party to the offense, (a) having received any proceeds derived, whether

directly or indirectly, from a pattern of unlawful activity in which the defendant had participated as a principal, did use or invest, 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 the establishment or operation of, any enterprise;

(b) through a pattern of unlawful activity, acquire or maintain, directly or indirectly, any interest in or control of any enterprise;

(c) having been employed by or associated with any enterprise, conduct or participate, whether directly or indirectly, in the conduct of that enterprise's affairs through a pattern of unlawful activity; or

(d) conspire to violate any of the above provisions.

COUNT 2

RECEIVING OR SOLICITING A BRIBE, 76-8-105 UCA, a Second Degree Felony, as follows: That on or about May 04, 2009 through May 5, 2009, in Salt Lake County, State of Utah, the defendant, as a party to the offense, did ask for, solicit, accept, or receive, directly or indirectly, a benefit with the understanding or agreement that the purpose or intent was to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter and the value of the benefit asked for, solicited, accepted, or conferred exceeded \$1,000.

COUNT 3

RECEIVING OR SOLICITING A BRIBE, 76-8-105 UCA, a Second Degree Felony, as follows: That on or about June 05, 2009 through June 7, 2009, in Salt Lake County, State of Utah, the defendant, as a party to the offense, did ask for, solicit, accept, or receive, directly or indirectly, a benefit with the understanding or agreement that the purpose or intent was to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter and the value of the benefit asked for, solicited, accepted, or conferred exceeded \$1,000.

COUNT 4

RECEIVING OR SOLICITING A BRIBE, 76-8-105 UCA, Second Degree Felony, as follows: That on or about October 31, 2008 through January 08, 2009, in Salt Lake County, State of Utah, the defendant, as a party to the offense, did ask for, solicit, accept, or receive, directly or indirectly, a benefit with the understanding or agreement that the purpose or intent was to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter and the value of the benefit asked for, solicited, accepted, or conferred exceeded \$1,000.

COUNT 5

ACCEPTING A GIFT, 67-16-5 UCA, a Second Degree Felony, as follows: That in or about February, 2011, in Salt Lake County, State of Utah, the defendant, as a party to the offense, and as a public officer or public employee, under circumstances not amounting to a violation of Utah Code §§ 63G-6-1001 or 76-8-105, did knowingly and intentionally receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

- (1)(a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;
 - (b) that the person knew or that a reasonable person in that position should know under the circumstances was primarily for the purpose of rewarding the person for official action taken; or
 - (c) if he recently had been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender; and
- (2) the total value of the compensation, conflict of interest, or assistance exceeded \$1,000.

COUNT 6

ACCEPTING A GIFT, 67-16-5 UCA, a Second Degree Felony, as follows: That on or about January 01, 2009 through May 1, 2010, in Salt Lake County, State of Utah, the defendant, as a party to the offense, and as a public officer or public employee, under circumstances not amounting to a violation of Utah Code §§ 63G-6-1001 or 76-8-105, did knowingly and intentionally receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:

- (1)(a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;
 - (b) that the person knew or that a reasonable person in that position should know under the circumstances was primarily for the purpose of rewarding the person for official action taken; or
 - (c) if he recently had been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender; and
- (2) the total value of the compensation, conflict of interest, or assistance exceeded \$1,000.

COUNT 7

ACCEPTING EMPLOYMENT THAT WOULD IMPAIR JUDGEMENT, 67-16-4 UCA, a Second Degree Felony, as follows: That in or about September 2012 through May 2013, in Salt Lake County, State of Utah, the defendant as a party to the offense, and as a public officer, public employee, or legislator, under circumstances not amounting to a violation of Utah Code Ann. §§ 63G-6-1001 or 76-8-105, did

- (1)(a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he had gained by reason of his official position;
- (b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's

or employee's personal economic interest or to secure special privileges or exemptions for himself or others;

(c) use or attempt to use his official position to:

(i) further substantially the officer's or employee's personal economic interest; or

(ii) secure special privileges or exemptions for himself or others;

(d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or

(e) accept other employment that he might expect would interfere with the ethical performance of his public duties; and

(2) the total value of the compensation, conflict of interest or assistance exceeded \$1,000.

COUNT 8

TAMPERING WITH A WITNESS, 76-8-508(1) UCA, Third Degree Felony, as follows: That on or about May 08, 2009 at 10470 South State Street, in Salt Lake County, State of Utah, the defendant as a party to the offense, believing that an official proceeding or investigation was pending or about to be instituted, or with the intent to prevent an official proceeding or investigation, did attempt to induce or otherwise cause another person to:

(a) testify or inform falsely;

(b) withhold any testimony, information, document, or item;

(c) elude legal process summoning him to provide evidence; or

(d) absent himself from any proceeding or investigation to which he has been summoned.

COUNT 9

TAMPERING WITH EVIDENCE, 76-8-510.5 UCA, a Third Degree Felony, as follows: That in or about February 2012 at 2020 East Candle Spruce Cove, in Salt Lake County, State of Utah, the defendant, as a party to the offense, did knowingly or intentionally, in conjunction with an official proceeding, believing that an official proceeding or investigation was pending or was about to be instituted, or with the intent to prevent an official proceeding or investigation, or to prevent the production of any thing or item which reasonably would be anticipated to be evidence in the official proceeding or investigation,

(a) alter, destroy, conceal, or remove any thing or item with the purpose of impairing the veracity or availability of the thing or item in the proceeding or investigation; or

(b) make, present, or use any thing or item which he knew to be false with the purpose of deceiving a public servant or any other party who was or may have been engaged in the proceeding or investigation.

COUNT 10

OBSTRUCTING JUSTICE, 76-8-306(1) UCA, Third Degree Felony, as follows: That on or about May 06, 2013 at 5425 West Amelia Earhart Drive, in Salt Lake County, State of Utah, the defendant as a party to the offense, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constituted a criminal offense, did

(1)(a) provide any person with a weapon;

(b) prevent by force, intimidation, or deception, any person from performing any act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;

(c) alter, destroy, conceal, or remove any item or other thing;

(d) make, present, or use any item or thing known by the actor to be false;

(e) harbor or conceal a person;

(f) provide a person with transportation, disguise, or other means of avoiding discovery or apprehension;

(g) warn any person of impending discovery or apprehension;

(h) warn any person of an order authorizing the interception of wire communications or of a pending application for an order authorizing the interception of wire communications;

(i) conceal information that was not privileged and that concerned the offense, after a judge or magistrate had ordered the actor to provide the information; or

(j) provide false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation; and

(2)(a) the conduct that constituted a criminal offense would be a second or third degree felony and the defendant violated Subsection (1)(b), (c), (d), (e), or (f);

(b) the conduct that constitutes a criminal offense would be any offense other than a capital or first degree felony and the actor violated Subsection (1)(a);

(c) the obstruction of justice was presented or committed before a court of law; or

(d) it was a violation of Subsection (1)(h);

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

Agent S. Nesbitt, and Agent J. Isakson,

DECLARATION OF PROBABLE CAUSE:

Your declarants base probable cause upon the following:

1. Defendant MARK LEONARD SHURTLEFF was elected Utah Attorney General and held that position continuously from January 2001 through January 6, 2013. While he was the Utah Attorney General, Defendant SHURTLEFF's principal office was located in Salt Lake County, State of Utah.

2. From at least 2008 through 2013, Defendant SHURTLEFF was associated with a group of individuals to conduct or participate in, directly or indirectly, a pattern of unlawful activity. The individuals, entities, acts, underlying cases, or proceeds have jurisdictional ties to Salt Lake County, Utah. The activities include multiple instances of witness tampering, obstructing justice, soliciting bribes, money laundering and accepting gifts by a public officer or public employee.

MARC JENSON AND THE PELICAN HILL RESORT

3. On August 10, 2005, the Utah Attorney General's Office in Salt Lake County filed an Information against Marc Sessions Jenson (Jenson), charging him with, among other things, Securities Fraud and Pattern of Unlawful Activity (Third District Court Case Number 051905391).

4. Defendant SHURTLEFF met Timothy Lawson while SHURTLEFF was running for Utah Attorney General in 2000. At some time after Jenson was charged, Lawson represented himself to Jenson as a close friend of the then Utah Attorney General, Defendant SHURTLEFF.

5. In February 2008, without the assigned prosecutor's knowledge, Lawson sent an email to the Utah Attorney General, Defendant SHURTLEFF, outlining the terms of a proposed plea agreement in the Jenson case.

6. In 2008, following the Lawson e-mail, the then Utah Attorney General, Defendant SHURTLEFF, personally arranged a plea-in-abeyance agreement in the Jenson case. The terms of the SHURTLEFF-arranged plea agreement were so lenient that the assigned prosecutor, Charlene Barlow (now Third District Judge Barlow), communicated her concerns to her immediate superiors. She was taken off the case. The plea offer was presented to the Court by another prosecutor, Scott Reed. Third District Court Judge Robin Reese rejected the no contest plea-in-abeyance because included no provisions for restitution.

7. Jenson's plea-in-abeyance agreement in Third District Court Case Number 051905391 was subsequently amended to include restitution to victims.

8. On May 29, 2008, Jenson entered, in that case, no contest, plea-in-abeyance pleas to 3 counts of Sale of Unregistered Security, Third Degree Felonies. As one condition of the plea-in-abeyance agreement, Jenson was to pay restitution in the total amount of \$4.1 million. The probation period was for 3 years.

9. From January 30, 2009, to November 20, 2009, while under probation in the above-mentioned criminal case with the Utah Attorney General's Office, Jenson paid Lawson approximately \$120,000.00 for the purpose of gaining access to the then Utah Attorney General, Defendant SHURTLEFF, and for the purpose of influencing, on Jenson's behalf, potential witnesses and/or victims in connection with Jenson's criminal and civil legal issues.

10. Jenson paid Lawson the approximately \$120,000.00 by at least 18 separate payments, which were deposited into the bank accounts of Apple Dumpling Gang, LLC, and Slipstream, LLC, companies owned by Lawson.

11. Jenson did not pay any of the restitution required by his plea-in-abeyance agreement in Third District Court Case Number 051905391. As a result, on November 3, 2011, Third District Court Judge Reese entered Jenson's convictions, revoked his probation, and sent him to the Utah State Prison.

12. In or about October 2007, Dr. Edward Jeffrey Donner of Fort Collins, Colorado, learned – through a business acquaintance, Timothy Bell – that Jenson and his brother, Stephen Jenson, were developing a private ski and golf resort, known as the Mount Holly project, in Beaver County, Utah, and were looking for interested investors. In response to an invitation from the Jenson brothers, Edward and his wife, Judee Donner, flew to Las Vegas to meet with the Jenson brothers regarding the potential Mount Holly investment.

13. On December 21, 2007, the Donners, having decided to purchase a Mount Holly membership, wired \$400,000.00 to the Mount Holly MMA account number 70650749 at American National Bank, in Colorado Springs, Colorado. On December 28, 2007, the Donners wired an additional \$1,100,000.00 to the same account at American National Bank and then, on December 31, 2007, they signed the Mount Holly Club membership agreement.

14. In or about June 2008, Edward Donner did some checking on Jenson and became suspicious about the \$1.5 million investment he and his wife had made. Edward Donner informed the Jenson brothers that he wanted out of the Mount Holly project and demanded that his money be returned.

15. In or about January 2009, the Donners retained the law firm Holland & Hart, LLP, in an attempt to recoup from Marc and Stephen Jenson, through civil action, their \$1.5 million investment in the Mount Holly project. Shortly thereafter, in or about February or March 2009, Lawson began contacting Edward Donner via emails, text messages, and phone calls.

16. In May 2009, the Mount Holly property was foreclosed on and sold at auction, leaving the Donners without any of the \$1.5 million they had invested in the Mount Holly project.

17. Lawson sent several aggressive text messages and emails to Edward Donner, trying to deter him from pursuing the recovery of his investment. On or about December 16, 2009, Lawson left Edward Donner a voice message, accusing Donner of causing problems and threatening Donner with revealing supposedly illegal activities in Donner's medical practice in Colorado.

18. On or about April 30, 2009, Marc Jenson paid Lawson one of the 18 payments. This one was in the amount of approximately \$6,190.00 and was for Lawson to arrange and pay for trips for at least Defendant SHURTLEFF and John Swallow to the Pelican Hill Resort, a high-end resort in California, where Jenson was staying at the time. Based on receipts and witness statements, Jenson paid for lodging and expenses including massages, golf, food, and clothing items at the Pelican Hill Resort for at least Defendant SHURTLEFF and Swallow while Jenson was on probation for his criminal case (Third District Court Case Number 051905391) with the Utah Attorney General's Office. This trip took place on May 4 & 5, 2009. The value of the benefit Defendant SHURTLEFF received, in connection with this trip, exceeded \$1,000.

19. On or about June 5 through June 7, 2009, Defendant SHURTLEFF and Swallow traveled to the Pelican Hill Resort. Jenson again paid for lodging and expenses for Defendant SHURTLEFF and/or Swallow including, but not limited to, massages, golf, food, and men's apparel while Jenson was on probation for his criminal case with the Utah Attorney General's Office. The value of the benefit Defendant SHURTLEFF received, in connection with this trip, exceeded \$1,000.

20. Sometime before February 2012, Defendant SHURTLEFF received a letter from Jenson while Jenson was in Prison. The letter was sent to Defendant SHURTLEFF's home address in Salt Lake County. According to what Defendant SHURTLEFF said to Kirk Torgensen, the then Chief Criminal Deputy of the Utah Attorney General's Office, Jenson's letter stated, among other things, that "I did you a favor when you needed help and I'm asking for one in return, please come visit me." On February 2, 2012, a prosecutor at the Utah Attorney General's Office asked for the letter. Defendant SHURTLEFF stated that he had discarded the letter.

21. Mark Robbins, an individual who was trying to put together "deals," including a multi-million dollar development known as Whitewater VII (a development including UTA and

FrontRunner Stations in Draper), was also present during at least one of the trips to Pelican Hill Resort and had meetings with Defendant SHURTLEFF, Swallow, and Jenson at the Pelican Hill Resort.

22. In 2009, Defendant SHURTLEFF was running for the U.S. Senate. Swallow joined Defendant SHURTLEFF's campaign as chief fundraiser in or about 2008 or early 2009. Defendant SHURTLEFF later withdrew from the U.S. Senate race. In December 2009 he hired Swallow as the Chief Civil Deputy in the Utah Attorney General's Office. Swallow held that position until he was elected as the Utah Attorney General in the fall of 2012.

MCBRIDE AND \$2 MILLION

23. Darl McBride made two loans of \$100,000.00 each to Mark Robbins, who promised to repay them. Alison Robbins, Mark Robbins' wife, issued a check in the amount of \$105,000.00 to McBride for supposed payment of one of those loans. The check was returned for insufficient funds. In March 2009, McBride filed a civil lawsuit against Alison Robbins regarding the \$105,000.00 bad check. Mark and Alison Robbins had left the State of Utah and their exact location was at that time unknown to McBride.

24. Feeling defrauded by the Robbinses, McBride created a website at the domain name skylinecowboy.com, for the purpose of offering a reward for information about the Robbinses' whereabouts so he could have his Complaint served. McBride then provided information to KSL News regarding Mark Robbins's involvement in the Whitewater VII development related to UTA. As a result of the information provided by McBride, KSL did a story regarding McBride's story.

25. Before skylinecowboy.com was published and soon after the KSL News story broke, Lawson called McBride. Lawson stated he was speaking on behalf of the then Attorney General, Defendant SHURTLEFF, and that SHURTLEFF wanted McBride to back off of Robbins. McBride told Lawson that he was not going to back off, and McBride published skylinecowboy.com with a link to the KSL News story in connection with Whitewater VII.

26. Lawson then again called McBride and told him to take skylinecowboy.com down. Lawson stated that, if McBride would not back off Robbins and take the website down, McBride would be sitting in jail for a long time because Defendant SHURTLEFF had "things" on McBride. Lawson further told McBride that he, Lawson was like "Porter Rockwell" and that he took care of things for the then Attorney General, Defendant SHURTLEFF. Lawson also stated

that he had guns and “Polynesian friends” who liked to “bust people up.” McBride received those telephone calls from Lawson in 2009, in Salt Lake County.

27. In 2009, after hearing those things from Lawson, McBride contacted the Utah Attorney General’s Office and complained that he had received threats from Lawson, and that Lawson had been so using the name of the then Attorney General, Defendant SHURTLEFF.

28. Shortly thereafter, McBride received a call from the then Attorney General, Defendant SHURTLEFF, requesting a meeting with McBride. They met at Mimi’s Café, in Salt Lake County, on May 8, 2009, within days of Defendant SHURTLEFF’s return from the Pelican Hill Resort. SHURTLEFF acknowledged that he knew that Lawson used his name and told people that he represented SHURTLEFF. Defendant SHURTLEFF explained to McBride that Lawson had introduced him to people who became contributors to his campaign and told McBride that skylinecowboy.com was “pretty harsh”. During their conversation, Defendant SHURTLEFF acknowledged that what Robbins was doing was a “Ponzi” scheme, but that he wanted McBride to back off anyway.

29. During the May 8, 2009, meeting at Mimi’s Café, in Salt Lake County, Defendant SHURTLEFF asked McBride “What can I do?” McBride responded that he needed \$2 million to back off. Defendant SHURTLEFF replied that he was going to meet with Marc Jenson and that he, SHURTLEFF, would ask Jenson to pay \$2 million on behalf of Robbins.

30. Approximately a month after the Mimi’s Café meeting, Defendant SHURTLEFF and Swallow met with Jenson at the Pelican Hill Resort. According to Jenson, Defendant SHURTLEFF told Jenson to pay \$2 million to Lawson so Lawson could pay McBride to back off of Robbins. At the time Defendant SHURTLEFF asked Jenson to pay the \$2 million through Lawson to McBride, Jenson still owed over \$4 million in restitution to victims as part of the SHURTLEFF-brokered plea-in-abeyance. Jenson eventually went to Prison for not paying his restitution in that case.

31. Contrary to the request or instruction of Defendant SHURTLEFF, Jenson did not pay the \$2 million, or any part of it, to McBride (through Lawson or otherwise). On August 23, 2011, the Utah Attorney General’s Office filed an Information, charging Marc Jenson with eight counts of Second Degree Felonies, including Communications Fraud, Money Laundering, and Pattern of Unlawful Activity (Third District Court Case No. 111906135), having to do with the Mount Holly project.

32. Starting in 2011, the Utah Attorney General's Office was also investigating Lawson in connection with Lawson's dealings with Edward Donner. Lawson initially declined the request for an interview with attorneys from the Attorney General's Office. In May 2012, the Attorney General's Office "conflicted out" only the Lawson investigation to the Utah Department of Public Safety. It did not initiate the procedure to "conflict out" the Jenson's 2011 case until it filed State's Notice of Voluntary Recusal and Motion to Withdraw on July 17, 2013.

JEREMY JOHNSON, ONLINE POKER, AND THE PRIVATE JET

33. During Defendant SHURTLEFF's 2008 Attorney General re-election campaign, Jeremy Johnson, a St. George, Utah businessman, contributed approximately \$50,000.00 to Defendant SHURTLEFF's campaign. Johnson owned and operated, among other entities, I Works, Inc. and Elite Debit, Inc. I Works, Inc. provided services or sold products through negative option continuity programs, while Elite Debit, Inc. engaged in the business of processing payments online. A negative option continuity program is one in which a consumer purchases a product and is automatically enrolled in a membership program that results in recurring charges to the consumer's credit card that continue until the consumer cancels the membership. Prior to Johnson's making that contribution, the Utah Consumer Protection Bureau had cited I Works, Inc. for numerous counts of consumer protection violations.

34. In or about September 2009, Johnson invested millions of dollars into the troubled SunFirst Bank, an FDIC-insured financial institution in St. George, Utah. Starting in December 2009, Johnson utilized SunFirst Bank to process Elite Debit's online poker transactions in violation of federal and Utah state law.

35. On February 13, 2010, Swallow, while the Chief Civil Deputy in the Utah Attorney General's Office, emailed Johnson for the purpose of joining services provided by Richard Rawle's Check City payday loan processing with Johnson's I Works' online marketing capabilities. Swallow had been legal counsel for Rawle's Check City before joining the Utah Attorney General's Office. Swallow remained financially and professionally connected to and a close personal friend of Rawle after Swallow joined the Utah Attorney General's Office. Swallow explained, in his e-mail exchange with Jeremy Johnson that I Works, Inc. was getting a "discount" with the online money processing because of Swallow's relationship with Rawle.

36. On March 4, 2010, an attorney representing the online poker industry sent Johnson and his business partner, Chad Elie, an e-mail with a draft opinion regarding the issue of whether Texas Hold'Em was a game of chance or a game of skill. The attorney asked Johnson and Chad

Elie to “deliver this to the Utah AG and request he meet next week...with me and the Executive Director of the Poker Players Alliance who he already knows...” Johnson forwarded the e-mail to Swallow’s personal e-mail account, john.swallow1@me.com, and asked whether “we” could do this. Swallow responded, “I don’t know yet. I’m abt half way through the doc. Mark get’s (sic) back tomorrow from DC and well (sic) discuss. I’m still new enough that I’ve got to see what we can and can’t do. I like the analysis so far.”

37. On March 8, 2010, Swallow e-mailed Johnson from his personal e-mail, informing Johnson that he and Defendant SHURTLEFF had discussed the draft opinion. Swallow opined that Utah law was more restrictive than federal law on that issue, but that he had some ideas that should help.

38. On March 11, 2010, a representative of the online poker industry e-mailed Defendant SHURTLEFF’s assistant and Defendant SHURTLEFF, requesting a meeting about, among other things, “the laws in Utah and how they govern poker.”

39. On April 1, 2010, Defendant SHURTLEFF and Swallow met with online poker industry representatives. According to the subsequent e-mail exchange, Defendant SHURTLEFF and Swallow were not in a position to deem online poker gaming legal in Utah, but that they were willing to submit a supporting *amicus* brief if the industry were to engage in legal proceedings seeking a determination that online poker was legal in Utah.

40. On July 2, 2010, an online poker industry attorney e-mailed Johnson, informing him that the industry intended to file suit in Utah to obtain a favorable ruling for the online poker industry. The attorney asked Johnson to obtain the Utah Attorney General’s “view” of the industry prior to the filing of the legal proceedings. The attorney also wanted the Utah Attorney General’s Office to “weigh in with an Amicus brief” in support of the industry’s legal proceeding.

41. On July 4, 2010, Johnson forwarded the e-mail from the online poker industry’s attorney to Swallow’s personal email account, john.swallow1@me.com. Johnson stated, in the e-mail, that the industry’s position was that while Utah law was unclear regarding the legality of playing online poker, the processing of online poker payments was legal. On July 5, 2010, Swallow responded to Johnson’s e-mail, stating “Jeremy, I am not aware of any such law in Utah to prohibit what you are doing.” Swallow then wrote that he would have an attorney in the office review the issue.

42. In 2010, Johnson was under investigation by the Federal Trade Commission (FTC) in connection with the operation of I Works, Inc. In or about August 2010, Johnson contacted Swallow, then Chief Civil Deputy in the Utah Attorney General's Office, asking for assistance regarding the FTC investigation. On August 25, Swallow sent Defendant SHURTLEFF an e-mail from his personal e-mail account (johnswallow@gmail.com) relaying Johnson's request to meet with United States Senator Orrin Hatch about the investigation.

43. On September 29, 2010, Swallow sent an e-mail to Johnson, informing him that he had spoken with Richard Rawle, who had a connection, through a contact person, with United States Senator Harry Reid. Swallow stated that the price to obtain access to Rawle's contact person likely "won't be cheap."

44. On October 7, 2010, Johnson sent Rawle an e-mail with the subject line "Senator Reid." Johnson began the e-mail with "I talked to John Swallow and he said you might have some connections to Reid that would be helpful to us." Johnson's e-mail also described the FTC's pursuit of shutting down companies that use negative options, as I Works, Inc. did.

45. On December 21, 2010, the Federal Trade Commission filed its civil Complaint against Johnson in U.S. District Court for the District of Nevada (2:10-cv-02203-MMD-GWF), in connection with Johnson's business practices at I Works, Inc. and Elite Debit. On June 15, 2011, Johnson was indicted for Mail Fraud in the U.S. District Court for the District of Utah. The Indictment alleged that I Works, Inc. marketed many products using negative option continuity programs and "forced up-sells" techniques while utilizing the U.S. Mail for, among other things, the shipment of various products to consumers (2:11-cr-00501-DN-PMW).

46. During the same period of time, in or about February 2011, Defendant SHURTLEFF stayed, without paying, at one of the homes owned by Johnson, the "Green House" in St. George, Utah, for several days. The value of the benefit received by Defendant SHURTLEFF, in connection with that trip, exceeded \$1,000.

47. Defendant SHURTLEFF also utilized Johnson's personal aircraft for travel to and from Salt Lake City and St. George, Utah, as well as to travel to and from California. On at least one such trip, a companion traveled with Defendant SHURTLEFF. The value of the benefit Defendant SHURTLEFF received, in connection with the use of that aircraft, exceeded \$1,000.

48. Johnson wired \$50,000 (on November 2, 2010) and \$200,000 (on December 2, 2010), to RMR Consulting, LLC, a company which was owned and operated by Rawle.

49. Swallow, while Chief Civil Deputy in Utah Attorney General's Office, owned and operated P Solutions, LLC, a Utah business entity with a registered address in Sandy, Utah. In or around November 2010, Rawle paid Swallow \$8,500.00 from the funds wired by Johnson into the RMR Consulting bank account. The deposit of the \$8,500 occurred in Sandy, Utah. Swallow received an additional \$15,000, via check paid to P Solutions LLC, in April 2011, also from the Rawle's RMR Consulting bank account.

JONATHAN EBORN AND PAY-TO-PLAY

50. Jonathan Eborn, a business associate of Johnson, was the owner and operator of Infusion Media, an internet marketing company that utilized negative option continuity credit card billing. In 2008, Infusion Media was under the scrutiny of the Utah Consumer Protection Bureau for fraudulent credit card charges. According to Eborn, Defendant SHURTLEFF stated that Johnson was a legitimate businessman when he, Defendant SHURTLEFF, knew that Johnson's I Works, Inc. was targeted by the Utah Consumer Protection Bureau.

51. On or about October 31, 2008, Eborn attended a fundraiser for Defendant SHURTLEFF's re-election to the office of Utah Attorney General (\$5,000 per person to attend). In attendance were other media marketing and telemarketing industry professionals. According to Eborn, Defendant SHURTLEFF stated, at the fundraiser, that he was not running a pay-to-play operation, but that, if an attendee should contact him regarding issues with the Utah Consumer Protection Bureau, he would defend the individual to the director of the agency.

52. Approximately two weeks after the fundraiser, in early 2009, Swallow, then Defendant SHURTLEFF's campaign fundraiser, contacted Jonathan Eborn to schedule a meeting with Defendant SHURTLEFF. SHURTLEFF and Swallow visited Eborn's business and discussed Defendant SHURTLEFF's campaign. According to Eborn, Defendant SHURTLEFF informed Eborn that, if he received a complaint about Eborn from the Utah Consumer Protection Bureau, he would, as a courtesy, notify Eborn so Eborn could handle the matter before it escalated. Shortly thereafter, Swallow contacted Eborn and asked him to donate an additional \$25,000 to Defendant SHURTLEFF's campaign. Relying on Defendant SHURTLEFF's assurances, Eborn gave \$25,000 to SHURTLEFF's PAC 4 Utah's Future on or about January 8, 2009. For Defendant SHURTLEFF's 2008 campaign cycle, Eborn donated a total \$30,000.

53. In May, 2009, the Federal Trade Commission filed a Complaint against Infusion Media, Eborn's company (2:09-cv-01112-RCJ-LRL). Defendant SHURTLEFF eventually refunded \$18,000 of Eborn's donation to the FTC receiver.

THE BELLS AND THE MORTGAGE REDUCTION

54. On March 16, 2011, Timothy and Jennifer Bell filed suit against Bank of America and Recon Trust, a subsidiary of Bank of America and a successor trustee of the Bell mortgage, in Utah Federal District Court, challenging the foreclosure practices of Recon Trust in the foreclosure of the Bells' residence (5346 South Cottonwood Lane) in Salt Lake County. The defendants' Motion to Dismiss was denied on March 15, 2012.

55. In March 2012, Jerry Jensen, an Assistant Attorney General in the Utah Attorney General's Office, notified Swallow, then Chief Civil Deputy, of the State's intent to intervene in the Bells' case. On April 12, 2012, the State filed its Motion to Intervene, seeking to prohibit Recon Trust, a Texas corporation without a place of business in the State, from conducting non-judicial foreclosures in Utah. The State's Motion to Intervene was granted on July 26, 2012.

56. On June 8, 2012, while the State's Motion to Intervene was pending before U.S. District Court Judge Bruce Jenkins, Timothy Bell sought out Jessica Fawson, a campaign staffer for Swallow's 2012 Utah Attorney General campaign offering help with that campaign.

57. On August 7, 2012, Swallow and Defendant SHURTLEFF met with Bank of America attorneys and lobbyists to discuss the Bells' litigation.

58. On August 17, 2012, the Bells hosted a fundraiser for Swallow. The fundraiser was held at the Bells' residence in Salt Lake County, the same residence that was the subject of the foreclosure litigation. The actual cost of the Bells' fundraiser was \$28,024.46, but BellMed, the Bells' company, and the Swallow campaign reported an in-kind donation as \$15,000.

59. On August 22, 2012, Timothy Bell contacted Seth Crossley (another Swallow campaign staffer) and inquired about the best time to discuss his Bank of America lawsuit with Swallow. On August 27, 2012, Swallow had a telephone conference with Bank of America lobbyists.

60. On September 27, 2012, Judge Jenkins ordered disclosure of negotiations. The court record reflected that Swallow personally participated in discussions with the defense.

61. According to Defendant SHURTLEFF's calendar, on October 30 and 31, 2012, Defendant SHURTLEFF interviewed for a position with the law firm Troutman Sanders LLP. According to the firm's website, Bank of America is a major client of the firm.

62. On October 30, 2012, the Bells were accepted into a loan modification program with Bank of America that they had sought for several months to be accepted into. The Bells received significant reductions in the loan principal and in the interest rate. The modification the Bells received entailed a \$1.13 million reduction in their loan balance, and reduction of their loan interest rate from 7.5% to 2.65%. The modification did not affect the pending litigation on behalf of thousands of Utahans whose interests in foreclosure were being represented by the Utah Attorney General's Office.

63. According to Brian Farr, a Division Chief in the Utah Attorney General's Office, Swallow told him, on November 15, 2012, that Swallow may have given Bank of America the impression that, if the Bells' case settled, the State's intervention in the litigation would cease.

64. On December 1, 2012, Swallow informed the assigned attorney, Jerry Jensen, that he, Jerry Jensen, would no longer be handling the case. In December 2012, Jerry Jensen advised Defendant SHURTLEFF that he believed the State's case was strong and that the State would prevail on a Motion for Summary Judgment.

65. On December 19, 2012, Defendant SHURTLEFF personally contacted the Bank of America lobbyist and told him that the State would dismiss its case. On December 27, 2012, Defendant SHURTLEFF signed the State's Motion to Dismiss.

66. Defendant SHURTLEFF joined the law firm of Troutman Sanders in January 2013. The total value of the compensation exceeded \$1,000.

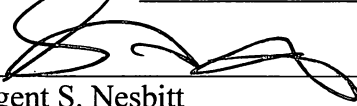
67. On January 7, 2013, Swallow became the new Utah Attorney General. On January 15, 2013, Federal District Judge Jenkins demanded to know the reason why the Attorney General's Office dismissed claim in intervention and ordered the State to reconsider its position. The Attorney General's Office informed Judge Jenkins that it would not reverse a prior Attorney General's decision.

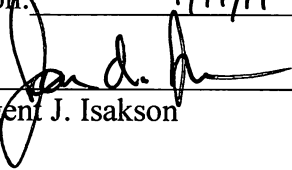
68. On May 6, 2013, F.B.I. agents interviewed Defendant SHURTLEFF in the Salt Lake County F.B.I. office. During the interview, Defendant SHURTLEFF provided numerous pieces of false information, including, but not limited to, false information regarding the Utah Attorney

General's Office plea agreement negotiation practices, campaign donations, and gifts or bribes received by him, Defendant SHURTLEFF.

69. On June 1, 2013, the Salt Lake Tribune published an article stating that Defendant SHURTLEFF had resigned from the law firm of Troutman Sanders LLP.

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: 07-14-14

Agent S. Nesbitt
Declarant

Executed on: 07/14/14

Special Agent J. Isakson
Declarant

Authorized for presentment and filing



SIM GILL, District Attorney for Salt Lake County
10th day of July, 2014
DAO #14012686


TROY RAWLINGS, District Attorney for Davis County
9th day of July, 2014
DAO #14012686

SO # OTN
DAO # 14012686

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

FILED DISTRICT COURT
Third Judicial District

JUL 15 2014

THE STATE OF UTAH,

Plaintiff,

vs.

MARK LEONARD SHURTLEFF
DOB: 08/09/1957,
2020 East Candle Spruce Cove
Sandy, Utah 84092

Defendant.

Before: Vernice Trease

Magistrate

WARRANT OF ARREST

Case No.

141907720

by _____
Deputy Clerk

THE STATE OF UTAH;

To any Peace Officer in the State of Utah, Greetings:

An Information, based upon a written declaration having been declared by Agent S. Nesbitt, Agency Case No. 12DPS0570, and Special Agent J. Isakson, Federal Bureau of Investigation, F.B.I. Case No. 194A-SU-68452, and it appears from the Information or Declaration filed with the Information, that there is probable cause to believe that the public offense(s) of;

PATTERN OF UNLAWFUL ACTIVITY, RECEIVING OR SOLICITING A BRIBE (3 Counts), ACCEPTING A GIFT (2 Counts), and ACCEPTING EMPLOYMENT THAT WOULD IMPAIR JUDGEMENT, Second Degree Felonies, and TAMPERING WITH A WITNESS, TAMPERING WITH EVIDENCE, OBSTRUCTING JUSTICE, Third Degree Felonies, have been committed, and that MARK LEONARD SHURTLEFF has committed them.


SO # OTN
DAO # 14012686

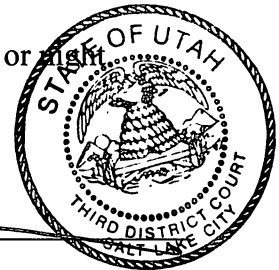
YOU ARE THEREFORE COMMANDED to arrest the above-named defendant forthwith and bring the defendant before this Court, or before the nearest or most accessible magistrate for setting bail. If the defendant has fled justice, you shall pursue the defendant into any other county of this state and there arrest the defendant. The Court finds reasonable grounds to believe defendant will not appear upon a summons.

Bail is set in the amount of \$250,000.

Dated this 14th day of July, 2014.

This Warrant may be served day or night


MAGISTRATE



SERVED DATE: 07-15-14 BY Matt Larsen
Jeff Plank