

**HARD COPY**

**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**

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**ADMINISTRATIVE PROCEEDING  
File No. 3-16134**

**In the Matter of**

**JOHN ALLAN RUSSELL**

**Respondent.**

**DIVISION'S REQUEST FOR OFFICIAL NOTICE IN SUPPORT OF MOTION FOR  
SUMMARY DISPOSITION AGAINST JOHN ALLAN RUSSELL**

Pursuant to Commission's Rules of Practice 323, the Division requests that the Court take official notice of the following exhibits:

Exhibit 1. Investment Adviser Representative Public Disclosure Report of John Allan Russell.

Exhibit 2. Plea Agreement entered July 5, 2013 in the matter of *Colorado v. John Allan Russell*, Case No. 09CR6137, District Court, City and County of Denver, State of Colorado.

Exhibit 3. The Defendant's Request to Plead Guilty in the matter of *Colorado v. John Allan Russell*, Case No. 09CR6137, District Court, City and County of Denver, State of Colorado.

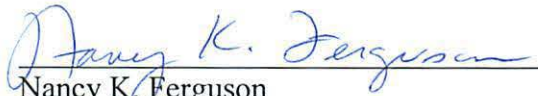
Exhibit 4. Advisement of Elements of Crime in the matter of *Colorado v. John Allan Russell*, Case No. 09CR6137, District Court, City and County of Denver, State of Colorado.

Exhibit 5. Statement Regarding Factual Basis for Plea in the matter of *Colorado v. John Allan Russell*, Case No. 09CR6137, District Court, City and County of Denver, State of Colorado.

Exhibit 6. Supporting Affidavit for Arrest Warrant in the matter of *Colorado v. John Allan Russell*, Case No. 09CR6137, District Court, City and County of Denver, State of Colorado.

Exhibit 7. Sentence Order entered August 19, 2013 in the matter of *Colorado v. John Allan Russell*, Case No. 09CR6137, District Court, City and County of Denver, State of Colorado.

Dated this 5th day of December, 2014.

Handwritten signature of Nancy K. Ferguson in blue ink, written over a horizontal line.

Nancy K. Ferguson  
Securities and Exchange Commission  
Byron G. Rogers Federal Building  
1961 Stout Street, Suite 1700  
Denver, CO 80294-1961  
Email: [fergusonn@sec.gov](mailto:fergusonn@sec.gov)  
Phone: 303.844.1050

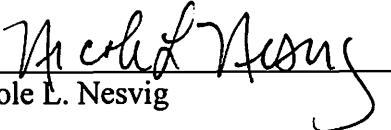
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Division of Enforcement's Request for Official Notice in Support of Motion for Summary Disposition Against John Allan Russell was served on the following on this 5th day of December, 2014, in the manner indicated below:

Securities and Exchange Commission  
Brent Fields, Secretary  
100 F Street, N.E.  
Mail Stop 1090  
Washington, D.C. 20549  
(By Facsimile and original and three copies by UPS)

Honorable Cameron Elliot  
100 F Street, N.E.  
Mail Stop 2582  
Washington, D.C. 20549  
(Courtesy copy by Email and UPS)

John Allan Russell  


  
\_\_\_\_\_  
Nicole L. Nesvig

# Exhibit 1



## Investment Adviser Representative Public Disclosure Report

### JOHN ALLAN RUSSELL

CRD# 5079626

Report #55698-29623, data current as of Thursday, October 16, 2014.

<u>Section Title</u>	<u>Page(s)</u>
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## IAPD Information about Investment Adviser Representatives

IAPD offers information on all current-and many former-Investment Adviser Representatives. Investors are strongly encouraged to use IAPD to check the background of Investment Adviser Representatives before deciding to conduct, or continue to conduct, business with them.

- **What is included in a IAPD report?**

IAPD reports for individual Investment Adviser Representatives include information such as employment history, professional qualifications, disciplinary actions, criminal convictions, civil judgments and arbitration awards.

It is important to note that the information contained in an IAPD report may include pending actions or allegations that may be contested, unresolved or unproven. In the end, these actions or allegations may be resolved in favor of the Investment Adviser Representative, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

- **Where did this information come from?**

The information contained in IAPD comes from the Investment Adviser Registration Depository (IARD) and FINRA's Central Registration Depository, or CRD®, (see more on CRD below) and is a combination of:

- information the states require Investment Adviser Representatives and firms to submit as part of the registration and licensing process, and
- information that state regulators report regarding disciplinary actions or allegations against Investment Adviser Representatives.

- **How current is this information?**

Generally, Investment Adviser Representatives are required to update their professional and disciplinary information in IARD within 30 days.

- **Need help interpreting this report?**

For help understanding how to read this report, please consult NASAA's IAPD Tips page <http://www.nasaa.org/IAPD/IARReports.cfm>.

- **What if I want to check the background of an Individual Broker or Brokerage firm?**

To check the background of an Individual Broker or Brokerage firm, you can search for the firm or individual in IAPD. If your search is successful, click on the link provided to view the available licensing and registration information in FINRA's BrokerCheck website.

- **Are there other resources I can use to check the background of investment professionals?**

It is recommended that you learn as much as possible about an individual Investment Adviser Representative or Investment Adviser firm before deciding to work with them. Your state securities regulator can help you research individuals and certain firms doing business in your state. The contact information for state securities regulators can be found on the website of the North American Securities Administrators Association <http://www.nasaa.org>.



## Investment Adviser Representative Report Summary

### JOHN ALLAN RUSSELL (CRD# 5079626)

The report summary provides an overview of the Investment Adviser Representative's professional background and conduct. The information contained in this report has been provided by the Investment Adviser Representative, investment adviser and/or securities firms, and/or securities regulators as part of the states' investment adviser registration and licensing process. The information contained in this report was last updated by the Investment Adviser Representative, a previous employing firm, or a securities regulator on 09/18/2014.

### CURRENT EMPLOYERS

This individual is not currently registered as an Investment Adviser Representative.

### QUALIFICATIONS

This individual is not currently registered as an Investment Adviser Representative.

Note: Not all jurisdictions require IAR registration or may have an exemption from registration. Additional information including this individual's qualification examinations and professional designations is available in the Detailed Report.

### REGISTRATION HISTORY

This Investment Adviser Representative was previously registered with the following Investment Adviser firms:

FIRM (IARD#) - LOCATION	REGISTRATION DATES
BROOKSTONE CAPITAL MANAGEMENT LLC (IARD# 141413) - LITTLETON, CO	09/06/2007 - 01/06/2010

For additional registration and employment history details as reported by the individual, refer to the Registration and Employment History section of the Detailed Report.

### DISCLOSURE INFORMATION

Disclosure events include certain criminal charges and convictions, formal investigations and disciplinary actions initiated by regulators, customer disputes and arbitrations, and financial disclosures such as bankruptcies and unpaid judgments or liens.

Are there events disclosed about this Investment Adviser Representative? **Yes**

The following types of events are disclosed about this Investment Adviser Representative:

Type	Count
Regulatory Event	1
Criminal	1
Investigation	1





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## Investment Adviser Representative Qualifications

### REGISTRATIONS

This section provides the states and U.S. territories in which the Investment Adviser Representative is currently registered and licensed, the category of each registration, and the date on which the registration became effective. This section also provides, for each firm with which the Investment Adviser Representative is currently employed, the address of each location where the Investment Adviser Representative works.

This individual is not currently registered as an Investment Adviser Representative.



## Investment Adviser Representative Qualifications

### PASSED INDUSTRY EXAMS

This section includes all required state securities exams that the Investment Adviser Representative has passed. Under limited circumstances, an Investment Adviser Representative may attain registration after receiving an exam waiver based on a combination of exams the Investment Adviser Representative has passed and qualifying work experience. Likewise, a new exam requirement may be grandfathered based on an Investment Adviser Representative's specific qualifying work experience. Exam waivers and grandfathering are not included below.

This individual has passed the following exams:

Exam	Category	Date
Uniform Investment Adviser Law Examination (S65)	Series 65	09/01/2007

### PROFESSIONAL DESIGNATIONS

This section details that the Investment Adviser Representative has reported **0** professional designation(s).

No information reported.



## Investment Adviser Representative Registration and Employment History

### PREVIOUSLY REGISTERED WITH THE FOLLOWING INVESTMENT ADVISER FIRMS

This section indicates that state registration records show this Investment Adviser Representative previously held registrations with the following firms:

Registration Dates	Firm Name	IARD#	Branch Location
09/06/2007 - 01/06/2010	BROOKSTONE CAPITAL MANAGEMENT LLC	141413	LITTLETON, CO

### EMPLOYMENT HISTORY

Below is the Investment Adviser Representative's employment history for up to the last 10 years.

Please note that the Investment Adviser Representative is required to provide this information only while registered and the information is not updated after the Investment Adviser Representative ceases to be registered, with a state regulator. Therefore, an employment end date of "Present" may not reflect the Investment Adviser Representative's current employment status.

Employment Dates	Employer Name	Employer Location
09/2007 - Present	BROOKSTONE CAPITAL MANAGEMENT LLC	WHEATON, IL
01/2003 - Present	WEALTH PRESERVATION STRATEGIES	LITTLETON, CO

### OTHER BUSINESS ACTIVITIES

This section includes information, if any, as provided by the Investment Adviser Representative regarding other business activities the Investment Adviser Representative is currently engaged in either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise. This section does not include non-investment related activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.

I OWN WEALTH PRESERVATION STRATEGIES INC. (FORMERLY VERACITY SENIOR SERVICES) ESTABLISHED IN 2002, PRIMARY FOCUS IS LIFE INSURANCE, LTC, LIFE AND ANNUITY SOLUTIONS. I AM OWNER, PRESIDENT AND AGENT REPRESENTING OVER 30 CARRIERS.



## Investment Adviser Representative Disclosure Summary

### Disclosure Information

What you should know about reported disclosure events:

(1) Certain thresholds must be met before an event is reported to IARD, for example:

- A law enforcement agency must file formal charges before an Investment Adviser Representative is required to report a particular criminal event.;
- A customer dispute must involve allegations that an Investment Adviser Representative engaged in activity that violates certain rules or conduct governing the industry and that the activity resulted in damages of at least \$5,000.

(2) Disclosure events in IAPD reports come from different sources:

As mentioned in the "About IAPD" section on page 1 of this report, information contained in IAPD comes from Investment Adviser Representatives, firms and regulators. When more than one of these sources reports information for the same disclosure event, all versions of the event will appear in the IAPD report. The different versions will be separated by a solid line with the reporting source labeled.

(3) There are different statuses and dispositions for disclosure events:

- A disclosure event may have a status of *pending*, *on appeal*, or *final*.
  - A "pending" disclosure event involves allegations that have not been proven or formally adjudicated.
  - A disclosure event that is "on appeal" involves allegations that have been adjudicated but are currently being appealed.
  - A "final" disclosure event has been concluded and its resolution is not subject to change.
- A final disclosure event generally has a disposition of *adjudicated*, *settled* or *otherwise resolved*.
  - An "adjudicated" matter includes a disposition by (1) a court of law in a criminal or civil matter, or (2) an administrative panel in an action brought by a regulator that is contested by the party charged with some alleged wrongdoing.
  - A "settled" matter generally represents a disposition wherein the parties involved in a dispute reach an agreement to resolve the matter. Please note that Investment Adviser Representatives and firms may choose to settle customer disputes or regulatory matters for business or other reasons.
  - A "resolved" matter usually includes a disposition wherein no payment is made to the customer or there is no finding of wrongdoing on the part of the Investment Adviser Representative. Such matters generally involve customer disputes.

(4) You may wish to contact the Investment Adviser Representatives to obtain further information regarding any of the disclosure events contained in this IAPD report.



### DISCLOSURE EVENT DETAILS

When evaluating this information, please keep in mind that some items may involve pending actions or allegations that may be contested and have not been resolved or proven. The event may, in the end, be withdrawn, dismissed, resolved in favor of the Investment Adviser Representative, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to the Investment Adviser Registration Depository. Some of the specific data fields contained in the report may be blank if the information was not provided.

The following types of events are disclosed about this Investment Adviser Representative:

Type	Count
Regulatory Event	1
Criminal	1
Investigation	1

#### Regulatory Event

This disclosure event may include a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, a federal regulator such as the Securities and Exchange Commission or the Commodities Futures Trading Commission, or a foreign financial regulatory body) for a violation of investment-related rules or regulations. This disclosure event may also include a revocation or suspension of an Investment Adviser Representative's authority to act as an attorney, accountant or federal contractor.

#### Disclosure 1 of 1

<b>Reporting Source:</b>	Regulator
<b>Regulatory Action Initiated By:</b>	UNITED STATES SECURITIES AND EXCHANGE COMMISSION
<b>Sanction(s) Sought:</b>	Other: N/A
<b>Date Initiated:</b>	09/17/2014
<b>Docket/Case Number:</b>	3-16134
<b>Employing firm when activity occurred which led to the regulatory action:</b>	N/A
<b>Product Type:</b>	No Product
<b>Allegations:</b>	IA RELEASE 40-3923 / SEPTEMBER 17, 2014: THE SECURITIES AND EXCHANGE COMMISSION ("COMMISSION") DEEMS IT APPROPRIATE AND IN THE PUBLIC INTEREST THAT PUBLIC ADMINISTRATIVE PROCEEDINGS BE, AND HEREBY ARE, INSTITUTED PURSUANT TO SECTION 203(F) OF THE INVESTMENT ADVISERS ACT OF 1940 ("ADVISERS ACT") AGAINST JOHN ALLAN RUSSELL ("RUSSELL" OR "RESPONDENT"). AFTER AN INVESTIGATION, THE DIVISION OF ENFORCEMENT ALLEGES THAT: ON JULY 5, 2013, RUSSELL PLED GUILTY TO ONE COUNT OF SECURITIES FRAUD IN VIOLATION OF COLO. REV. STAT. § 11-51-501(1)(B), A CLASS THREE FELONY, BEFORE THE DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO, IN CASE NO. 2009CR06137. ON AUGUST 19, 2013, A JUDGMENT IN THE CRIMINAL CASE WAS ENTERED AGAINST RUSSELL. RUSSELL WAS SENTENCED TO FIVE YEARS OF PROBATION AND ORDERED TO PAY RESTITUTION IN THE AMOUNT OF \$441,501.53.
<b>Current Status:</b>	Pending
<b>Regulator Statement</b>	IN VIEW OF THE ALLEGATIONS MADE BY THE DIVISION OF ENFORCEMENT,



THE COMMISSION DEEMS IT NECESSARY AND APPROPRIATE IN THE PUBLIC INTEREST THAT PUBLIC ADMINISTRATIVE PROCEEDINGS BE INSTITUTE. IT IS FURTHER ORDERED THAT THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE AN INITIAL DECISION NO LATER THAN 210 DAYS FROM THE DATE OF SERVICE OF THIS ORDER, PURSUANT TO RULE 360(A)(2) OF THE COMMISSION'S RULES OF PRACTICE.



**Criminal**

This disclosure event involves a criminal charge against the Investment Adviser Representative that has resulted in a dismissal, plea, acquittal or conviction. The criminal matter may relate to any felony or certain misdemeanor offenses (e.g., bribery, perjury, forgery, counterfeiting, extortion, fraud, wrongful taking of property).

**Disclosure 1 of 1**

Reporting Source:	Regulator
Formal Charges were brought in:	State Court
Name of Court:	DENVER DISTRICT COURT
Location of Court:	DENVER, CO USA
Docket/Case #:	UNKNOWN
Charge Date:	12/23/2009
Charge(s) 1 of 4	
Formal Charge(s)/Description:	COUNT ONE: SECURITIES FRAUD
No of Counts:	1
Felony or Misdemeanor:	Felony
Plea for each charge:	PENDING
Disposition of charge:	
Charge(s) 2 of 4	
Formal Charge(s)/Description:	COUNT FOUR: THEFT
No of Counts:	1
Felony or Misdemeanor:	Felony
Plea for each charge:	PENDING
Disposition of charge:	
Charge(s) 3 of 4	
Formal Charge(s)/Description:	COUNT THREE: THEFT
No of Counts:	1
Felony or Misdemeanor:	Felony
Plea for each charge:	PENDING
Disposition of charge:	
Charge(s) 4 of 4	
Formal Charge(s)/Description:	COUNT TWO: THEFT
No of Counts:	1
Felony or Misdemeanor:	Felony
Plea for each charge:	PENDING
Disposition of charge:	



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**Current Status:** Pending

**Status Date:**

.....

**Reporting Source:** Firm

**Formal Charges were brought in:** COLORADO DIVISION OF SECURITIES

**Name of Court:** COUNTY COURT, CITY AND COUNTY OF DENVER, COLORADO

**Location of Court:** CITY AND COUNTY BLDNG, RM 111, 1437 BANNOCK STREET DENVER CO 80202

**Docket/Case #:** 09CR06137

**Charge Date:** 12/23/2009

**Charge(s) 1 of 1**

**Formal Charge(s)/Description:** SECURITIES FRAUD

**No of Counts:** 1

**Felony or Misdemeanor:** Felony

**Plea for each charge:** NO PLEA TO DATE

**Disposition of charge:**

**Current Status:** Pending

**Status Date:**





## Investigation

This disclosure event involves any ongoing formal investigation such as a grand jury investigation, a Securities and Exchange Commission investigation, a formal investigation by a self-regulatory organization (e.g., FINRA), or an action or procedure designated as an investigation by a state or other regulator. Subpoenas, preliminary or routine regulatory inquiries, and general requests by these regulatory bodies for information are not considered investigations and therefore are not required to be reported.

### Disclosure 1 of 1

Reporting Source:	Firm
Initiated By:	COLORADO DIVISION OF SECURITIES
Notice Date:	01/04/2010
Details:	JOHN HAS BEEN CHARGED WITH SECURITIES FRAUD AND THEFT.
Is Investigation pending?	Yes



## End of Report

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# Exhibit 2

District Court, City and County of Denver, Colorado The Lindsey-Flanigan Courthouse, 1 <sup>st</sup> Floor, Room 135 520 W. Colfax Avenue Denver, CO. 80204	Rec'd in Courtroom 4G  JUL 05 2013  σ COURT USE ONLY σ
<b>Plaintiff:</b> THE PEOPLE OF THE STATE OF COLORADO  <b>Defendant:</b> JOHN ALLAN RUSSELL	
Case Number: 09CR6137  Div.: Criminal      Ctrm: 4G	
<b>PLEA AGREEMENT</b>	

MITCHELL R. MORRISSEY, Denver District Attorney, by and through his Deputy District Attorney Kandace Gerdes, and the Defendant, by his attorney, pursuant to Colo. Rule Crim. Pro. 11(f)(2)(iii), propose the following Plea Agreement to the Court:

1. Defendant has been charged in this action with the following:

Count	Charge	Class
1	SECURITIES FRAUD - UNTRUE STATEMENT OR OMISSION, 11-51-501(1)(b) C.R.S	F3
2	THEFT, 18-4-401(1),(4) C.R.S.	F3
3	THEFT, 18-4-401(1),(4) C.R.S.	F3
4	THEFT, 18-4-401(1),(4) C.R.S.	F3

2. Defendant agrees to plead guilty to:

Count	Charge	Class
1	SECURITIES FRAUD - UNTRUE STATEMENT OR OMISSION, 11-51-501(1)(b) C.R.S.	F3

In addition, Defendant agrees to the following, all of which shall be additional conditions of incarceration, imprisonment, parole, community corrections or probation. Defendant shall:

- a. cooperate fully and truthfully with Denver District Attorney and any other law enforcement authority concerning

- b. testify truthfully in any proceeding concerning the matters set forth in paragraph 2(a) of this agreement; and
- c. pay restitution (including pre-judgment and post-judgment interest and any out of pocket expenses) properly due to DEXTER CRAIG and THE MARY CRAIG FAMILY TRUST, plus costs of prosecution,
- d. comply with all other conditions deemed appropriate by the probation or parole departments, including special terms and conditions for economic crime unit offenders; and

3. In exchange for this Defendant's plea to the charge and other agreements as set forth in Paragraph 2, the People agree as follows: **pleads to count 1, People will dismiss counts 2-4, no additional jail after sentencing, stipulation to 5 years ECU probation, stipulation to restitution.**

4. The total restitution is stipulated **\$308,500.00** plus pre judgment interest at the rate of 8% per annum plus post judgment interest at the rate of 12% per annum, out of pocket expenses incurred by the Victims and costs of prosecution. The total restitution shall be determined before sentencing. Defendant agrees that he/she is able to pay the restitution. The Defendant waives any argument restitution is not due as to Victims not listed in the Complaint/Information or this Plea Agreement.

5. Defendant further agrees that in the event, for any reason, Defendant's plea is withdrawn, this agreement shall be null and void. The People will be free to proceed to trial on the charges, amend this action to bring all charges the People deem justified or to dismiss this action and proceed by the filing of a new Complaint and Information or by indictment. In addition, any violation of this plea agreement by Defendant shall be grounds for revoking Defendant's probation, if Defendant receives probation.

5. This Plea Agreement contains all agreements and understandings of the parties. Defendant expressly states and agrees that he/she has received no promises, concessions, or commitments, express or implied, oral or written, in exchange for his/her guilty plea and other agreements other than as set forth in this Plea Agreement.

7. This Plea Agreement is based upon Defendant's representation that his/her criminal record is as follows: **No Prior Felony Convictions**. In the event this proves untrue, the District Attorney shall have the sole, exclusive and unrestricted right to cancel this Plea Agreement and revoke any offer made in connection with this Plea Agreement. Moreover, sentence concessions are dependent upon Defendant adhering strictly to the terms of his or her bond. If Defendant fails to appear on any bond return date, or otherwise violates any bail bond condition, the People shall have the option of continuing this Plea Agreement without any sentence concessions set forth herein (e.g., a sentence cap or stipulation to probation) or canceling this Plea Agreement and revoking any offer made in connection with this Plea Agreement.

8. This Plea Agreement may be executed in counterparts, each of which shall be an original, and all of which, taken together, shall constitute the agreement.

Respectfully submitted this 5<sup>th</sup> day of July, 2013.

MITCHELL R. MORRISSEY  
Denver District Attorney

  
\_\_\_\_\_  
Kandace C. Gerdes Reg. No. 21350

 35764  
\_\_\_\_\_  
(Counsel for Defendant), Reg. No.

  
\_\_\_\_\_  
Defendant

# Exhibit 3

District Court, City and County of Denver, Colorado The Lindsey-Flanigan Courthouse, 1 <sup>st</sup> Floor, Room 135 520 W. Colfax Avenue Denver, CO. 80204	Revised: 08-01-06
<b>Plaintiff: THE PEOPLE OF THE STATE OF COLORADO</b>	Rec'd in Courtroom 4G  JUL 05 2013
<b>Defendant: JOHN ALLAN RUSSELL</b>	σ COURT USE ONLY σ  Case Number: 09CR6137  Div.: Criminal Ctrm: 4G
<p align="center"><b>THE DEFENDANT'S REQUEST to PLEAD GUILTY (Crim. P. Rule 11 Guilty Plea Advisement)</b></p>	

This document represents my desire to plead guilty. I know that I have the right to remain silent, that I do not have to make this request, and anything I write or say may be used against me. Knowing that, I swear or affirm that I have read and understand everything in this and all of the documents I have submitted in this case. I understand all of the rights that I am giving up by pleading guilty.

Defendant's Initials:

JA 1. I am 49 years old. I have completed 20 years of school. At this time my mental and physical health is satisfactory. I am thinking clearly. My decision to plead guilty is not being affected in any way by alcohol, drugs, or medication.

JA 2. I understand what is happening in this Courtroom today. I read, speak, and understand the English language, or all of the documents and proceedings in this matter have been fully explained to me in a language that I understand.

JA 3. I understand that if I am not a citizen of the United States, this guilty plea can cause deportation, exclusion from admission to the United States, or denial of naturalization, or other immigration consequences.

JA 4. I understand the nature of the charge(s) against me and the elements of the charge(s), which the prosecution would have to prove beyond a reasonable doubt to a unanimous jury before I could be found guilty at trial. The essential elements of the crime to which I am pleading guilty are attached to this document. With my lawyer, I have reviewed the attached document(s) explaining the elements of the charge I am pleading guilty to. I have signed the attached document(s) because I thoroughly understand them.



*JK* 5. I understand that I have each of the following rights:  
(a) I know that I have the right to plead "not guilty" to all charges against me and to have a speedy and public trial to a jury of 12 persons or to a judge on all charges against me.

*JK* (b) I know that I have the right to be represented by a lawyer at all stages of these proceedings, and if I cannot afford a lawyer, the Court will appoint a lawyer for me, free of charge.

*JK* (c) I know that I have the right to be presumed innocent at trial and to require the prosecution to prove at trial each element of each charge beyond a reasonable doubt before I could be found guilty.

*JK* (d) I know that at that trial I have the right to see and cross-examine all witnesses who might testify against me.

*JK* (e) I know that I have the right to present any defense I might have, and to call any witnesses in my own defense. If those witnesses were unwilling to appear, I understand that the Court would issue subpoenas at my request and would order those witnesses to appear and testify. I understand that I would have no burden to present any evidence or witnesses at trial. I would not have to prove myself not guilty. I would be presumed innocent at trial and the burden to prove my guilt would rest solely with the prosecution.

*JK* (f) I know that I have the right to remain silent, and not say anything or make any statement whatsoever about this case. I know that if I do choose to make any statement, that statement could be used against me in Court.

*JK* (g) I also know that I have the right to either testify at trial or to remain silent, and that if I chose not to testify, I could have the Judge instruct the jury that they could not consider my decision to not testify for any purpose. I understand that whether I testified or not at trial would be purely my decision.

*JK* (h) I know that if I were convicted of any charge at trial I would have the right to appeal that conviction to a higher Court.

*JK* (i) I know that I may have a right to a Preliminary Hearing, and I understand that right.

*JK* (j) I am aware that I may have the right to bail, and I am aware of the amount of that bail.

*JK* (k) I know that when I plead guilty, except for the right to counsel, I give up all of these rights and all possible defense(s) to the charge(s).

*JK* 6. The decision to plead guilty is my decision and it has been made freely and voluntarily. There has been no threat, coercion, undue influence, or force used to make me plead guilty. I know that I do not have to follow my lawyer's advice and that I do not have to plead guilty. This is my decision to plead guilty.

*JK* 7. I know that a plea of guilty admits the charge, and a plea of not guilty denies the charge. I admit the charge(s) to which I am pleading guilty and each of the elements, which are attached to this

document. I also admit that there are sufficient facts in this case which could be presented at trial by the prosecution, which would result in a strong likelihood of my conviction.

JK 8. To the charge(s) of Securities Fraud, a class three felony, I plead **GUILTY**.

JK 9. The elements of the charge(s) to which I am pleading guilty, which are attached to this document, have been explained to me. I understand fully everything the prosecutor would have had to prove beyond a reasonable doubt to each and every member of a 12-person jury before I could have been convicted.

JK 10. I understand that one of the elements, which the prosecutor would have had to prove, is my mental state at the time of commission of the crime. In addition to understanding the elements, I understand the applicable definition(s) below, and I understand what the prosecutor would have had to prove in that regard:

JK INTENTIONALLY: A person acts "intentionally" or "with intent" when his/her conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.

JK KNOWINGLY: A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by a statute defining an offense when he/she is aware that his/her conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully" with respect to a result of his/her conduct when he/she is aware that his/her conduct is practically certain to cause the result.

N/A RECKLESSLY: A person acts "recklessly" when he/she consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

N/A NEGLIGENTLY: A person acts with "criminal negligence" when, through a gross deviation from the standard of care that a reasonable person would exercise, he/she fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

JK 11. I understand that the Court is not bound by and does not have to follow anyone's recommendations concerning the entry of a guilty plea, the penalty to be imposed, and the granting or denial of probation. Any proposed plea agreement and any concession(s) are fully and accurately set forth in this written document.

JK 12. I have had a full opportunity to discuss with my lawyer everything I know about this case and all defenses that may be available to me. My lawyer has also discussed the elements of the charges, which the prosecutor would have to prove, all lesser included charges, and all possible defenses. I understand my lawyer, and I am satisfied with the advice and representation I have received from my lawyer.

JK 13. I understand that if the Court accepts my guilty plea to a felony I will stand convicted of a felony. I understand that this felony conviction may be used against me in any future proceeding under the habitual criminal laws. I also understand that my felony conviction may be used against me in any future proceeding concerning my credibility. If I have entered into a Stipulation of a Deferred Judgment and Sentence, and I have not yet completed the terms of that agreement, my guilty plea may be used against me

in any future proceeding. I understand if I have entered into a Stipulation of a Deferred Judgment and Sentence and I violate the terms of that agreement, I may stand convicted of a felony and then I will be re-sentenced by the Court.

JA 14. I understand the full range of potential penalties for my offense(s) as set forth below and in the chart of applicable sentencing ranges on page 5.

JA (a) I know that if I plead guilty to a felony, I may be sentenced to the custody of the Department of Corrections (prison), as shown in the below chart on page 5 for my applicable sentencing range. I understand that the Department of Corrections will determine my place of incarceration.

JA (b) If applicable, I understand and agree that there exist facts or circumstances surrounding the offense(s) I committed which are extraordinarily aggravating and will call for the Judge to impose a sentence above the maximum in the presumptive range, and as high as the maximum shown in the "extraordinary circumstances" portion of the box marked in the chart below. I agree to such a sentence. I understand that I have the right to require the prosecution to prove to a unanimous jury beyond a reasonable doubt any facts that bear upon whether extraordinary aggravating circumstances are present and upon whether any sentence will be above the top of the presumptive range. I understand and agree that by pleading guilty, I give up that right, including the right to have those facts proved beyond a reasonable doubt and the right to have them determined by a jury. I understand that my guilty plea is a waiver of my right to a jury trial on all issues including the determination of the penalty to be imposed and of all facts relating to, or supporting, a sentence above the top of the presumptive range.

JA (c) If applicable, I know that if the Judge were to conclude that extraordinary mitigating or aggravating circumstances are present in my case, I could be sentenced to any term of imprisonment from the minimum to the maximum sentence allowed by law as set out in the "extraordinary circumstances" portion of the box marked in the chart below on page 5. I understand that I have the right to require the prosecution to prove to a unanimous jury beyond a reasonable doubt any facts that bear upon whether extraordinary aggravating circumstances are present and upon whether any sentence will be above the top of the presumptive range. I understand and agree that by pleading guilty, I give up that right, including the right to have those facts proved beyond a reasonable doubt and the right to have them determined by a jury. I agree to let the Judge, in the Judge's discretion, decide all such facts and decide whether or not extraordinary aggravating circumstances are present in my case and whether or not to impose a sentence above the top of the presumptive range. I understand that my guilty plea is a waiver of my right to a jury trial on all issues including the determination of the penalty to be imposed and of all facts relating to, or supporting, a sentence above the top of the presumptive range.

JA (d) If applicable, I understand and agree that my criminal record will allow the Judge to impose a sentence above the maximum in the presumptive range, and as high as the maximum shown in the "extraordinary circumstances" portion of the box marked in the chart below on page 5. I understand that I have the right to require the prosecution to prove to a unanimous jury beyond a reasonable doubt facts about my criminal record that bear upon whether extraordinary aggravating circumstances are present and upon whether any sentence will be above the top of the presumptive range. I understand and agree that by pleading guilty, I give up that right, including the right to have any such facts proved beyond a reasonable doubt and the right to have them determined by a jury. I understand that my guilty plea is a waiver of my

right to a jury trial on all issues including the determination of the penalty to be imposed and of all facts about my criminal record relating to, or supporting, a sentence above the top of the presumptive range.

N/A (e) If applicable, I understand and agree that I am pleading guilty to a "crime of violence." A "crime of violence" sentencing requires the Court to sentence me to prison for at least the midpoint in the presumptive range and no more than twice the maximum of the presumptive range, as shown on the chart below on page 5. I understand and agree that the minimum mandatory sentence shall be \_\_\_\_\_ years in prison with a maximum potential sentence of \_\_\_\_\_ years in prison.

N/A (f) If applicable, I know that if the Court sentences me to incarceration for a felony, that sentence must be to at least the midpoint, but not more than twice the maximum in the presumptive range, if, at the time of committing the crime(s) in this case, I was:

- On probation or parole for another felony, or
- Confined or had escaped while completing a felony sentence, or
- On bond after revocation of probation for another felony or for an act that would have been a felony if committed by an adult, or
- On a felony appeal bond.

I understand and agree that by pleading guilty, I give up any right I might have to have a jury determine whether any of these circumstances are present in my case, and I agree to allow the Judge to make that determination and decide whether my sentence will be above the top of the presumptive range. Further, I admit that circumstances that I have initialed above are present in my case.

N/A (g) If applicable, I know that if the Court sentences me to incarceration for a felony, the Court must sentence me to at least the minimum, but not more than twice the maximum in the presumptive range, if, at the time of committing the crime(s) in this case, I was:

- Charged with or on bond for another felony in another case for which I have now been convicted, or
- Charged with or on bond for an act that would be a felony if committed by an adult, or
- Under a Deferred Judgment and Sentence for a felony or for an act that would be a felony if committed by an adult, or
- On a juvenile parole for an offense that would be considered a felony if committed by an adult, or
- On bond after pleading guilty to a lesser offense when the original offense charged was a felony or would be a felony if committed by an adult.

I understand and agree that by pleading guilty, I give up any right I might have to have a jury determine whether any of these circumstances are present in my case, and I agree to allow the Judge to make that determination and decide whether my sentence will be above the top of the presumptive range. Further, I admit that circumstances that I have initialed above are present in my case.

JK (h) I know that if I receive a sentence to the Department of Corrections, I must serve a mandatory period of parole as indicted below. Parole is after, in addition to and distinct from any other sentence imposed. Additionally, if my parole is revoked I may be required to serve the time remaining on parole in the Department of Corrections. The period of parole I must serve is as indicated in the box marked in the following sentencing range chart:

MARKED BOX BELOW INDICATES APPLICABLE SENTENCING RANGE	FELONIES COMMITTED ON OR AFTER JULY 1, 1993					
	CLASS	PRESUMPTIVE RANGE		EXTRAORDINARY CIRCUMSTANCES		MANDATORY PERIOD of PAROLE
		MINIMUM	MAXIMUM	MINIMUM	MAXIMUM	MANDATORY PAROLE
	<b>1</b>	Life Imprisonment	Death	Life Imprisonment	Death	
	<b>2</b>	8 years \$5,000 fine	24 years \$1,000,000 fine	4 years	48 years	5 years
X	<b>3</b>	4 years \$3000 fine	12 years \$750,000 Fine	2 years	24 years	5 years
	Extra-ordinary Risk Crime	4 years \$3000 fine	16 years \$750,000 Fine	2 years	32 years	5 years
	<b>4</b>	2 years \$2000 fine	6 years \$500,000 Fine	1 year	12 years	3 years
	Extra-ordinary Risk Crime	2 years \$2000 fine	8 years \$500,000 Fine	1 year	16 years	3 years
	<b>5</b>	1 year \$1000 fine	3 years \$100,000 Fine	6 months	6 years	2 years
	Extra-ordinary Risk Crime	1 year \$1000 fine	4 years \$100,000 Fine	6 months	8 years	2 years
	<b>6</b>	1 year \$1000 fine	18 months \$100,000 Fine	6 months	3 years	1 year
	Extra-ordinary Risk Crime	1 year \$1000 fine	2 years \$100,000 Fine	6 months	4 years	1 year

JK Based on the above, I understand the sentencing range applicable for my crime.

JK (i) I know that the sentence is imposed by the Court. The Court is not bound by any promises made by anyone concerning sentencing. Any promises or agreements made to me with respect to the sentence that are not set forth in this document, are invalid.

JK (j) I know that by pleading guilty to a felony offense, from this point forward I may not and it will be illegal for me to own, possess, or use any firearms.

N/A (k) I understand and agree that by pleading guilty to any criminal offense in this case, if I have a history of any sex offenses or if I have been previously convicted on or after January 1, 1994, of any type of sex-related criminal offense, including attempt, solicitation, and conspiracy to commit a sex-related criminal offense, or if I have been previously convicted on or after July 1, 2000, of any criminal offense, the underlying factual basis of which involved a sex-related criminal offense, I will be required, as part of the pre-sentence investigation by the Probation Department, to submit to a mental health sex-offense specific evaluation, and that I may be required to undergo sex offender treatment to the extent appropriate. I further understand that such sex offender treatment may include therapy, monitoring, and supervision.

N/A (l) If applicable, I am aware that I am pleading guilty to a **SEXUAL OFFENSE**. With my lawyer, I have reviewed the attached documents explaining the elements of the charge I am pleading guilty to and the potential penalties for that sex offense. I have initialed and signed the attached documents because I thoroughly understand them.

N/A (m) I know that if I am pleading guilty to a misdemeanor offense, I may be sentenced to the Denver County Jail for as little as the minimum lawful term or as much as the maximum lawful term. I know the applicable sentencing range for my misdemeanor offense as indicated in the box below is:

MARKED BOX INDICATES APPLICABLE SENTENCING RANGE	MISDEMEANORS COMMITTED ON OR AFTER JULY 1, 1993		
	CLASS	MISDEMEANORS	
		MINIMUM	MAXIMUM
	1  EXTRAORDINARY RISK CRIME	6 MONTHS \$500 fine	18 MONTHS \$5,000 fine
		6 MONTHS \$500 fine	24 MONTHS \$5,000 fine
	2	3 MONTHS \$250 fine	12 MONTHS \$1,000 fine
	3	\$50 FINE	6 MONTHS \$750 fine

JL (n) I know that I could be fined for my crime(s) in any amount from the minimum to the maximum. I also know that I will be charged with additional costs and fees. I know that the Court may impose both a sentence and a fine.

N/A (o) I know that if I am pleading guilty to more than one crime, the Court will impose sentences and/or fines for each crime. I also know that the Court may require my sentences to be served consecutively, one after the other, or concurrently, with the sentences served at the same time.

JL (p) I know that if I am granted the privilege of probation, I could be required to serve up to 90 days in the Denver County Jail for each felony (60 days for each misdemeanor) as a condition of probation. I also understand that as a condition of my probation I could be required to serve up to two years in the Denver County Jail on work or education release. I know that as a condition of my probation, I must pay restitution, and all fines, fees, and costs.

JL (q) I know that I must pay restitution.

**I swear or affirm that I have read and understand this entire document, and every representation I have made is true.**

Defendant: Jan L Russell Date: 7/5/2013

**As defense counsel, I affirm that the above-named defendant has executed the foregoing "The Defendant's Request to Plead Guilty (Crim. P. Rule 11 Guilty Plea Advisement)." As defense counsel I have thoroughly reviewed this document with the defendant in regard to the entry of this guilty plea.**

Defense Counsel: Jan W  
Reg. No.: 35764  
Date: 7/5/13

# Exhibit 4



District Court, City and County of Denver, Colorado The Lindsey-Flanigan Courthouse, 1 <sup>st</sup> Floor, Room 135 520 W. Colfax Avenue Denver, CO. 80204	
<b>Plaintiff:</b> THE PEOPLE OF THE STATE OF COLORADO  <b>Defendant:</b> JOHN ALLAN RUSSELL	
	σ COURT USE ONLY σ  <b>Case Number: 09CR6137</b>  Div.: Criminal      Ctrm: 4G
<b>ADVISEMENT OF ELEMENTS OF CRIME</b>	

I understand that at a trial, the prosecutor would have to prove each and every element of the offense to which I am pleading beyond a reasonable doubt, the highest burden of proof under the law.

A. I understand the elements of the offense of Securities Fraud, a class three felony to be:

1. The defendant, JOHN ALLAN RUSSELL
2. in the City and County of Denver, State of Colorado, between and including the dates charged,
3. in connection with the offer or sale of any security,
4. directly or indirectly,
5. willfully made any untrue statement of a material fact or omitted 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..

B. DEFINITIONS: I understand the certain terms used in the elements of the offense are defined as follows:

A person acts "intentionally" or "with intent" when his conscious objective is to cause

the specific result proscribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.

A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance when he is aware that his conduct is of such a nature or that such circumstance exists.

A person acts "knowingly" or "willfully" with respect to the result of his conduct, when he is aware that his conduct is practically certain to cause the result.

**Additional Definitions:**

"Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; pre-organization certificate of subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a sum of money either in a lump sum or periodically for life or some other specified period. For purposes of this article, an "investment contract" need not involve more than one investor nor be limited to those circumstances wherein there are multiple investors who are joint participants in the same enterprise.

"Investment Contract" means (1) an investment of money, (2) in a common enterprise, and (3) with the expectation of profit from the efforts of others. The third-party efforts must be significant, that is, essential managerial efforts that affect the success or failure of the enterprise.

"Issuer" means any person who issues or proposes to issue any security.

"Broker-dealer" means a person engaged in the business of effecting purchases or sales of securities for the accounts of others or in the business of purchasing and selling securities for the person's own account. The term does not include a sales representative or an issuer with respect to purchasing and selling the issuer's own securities.

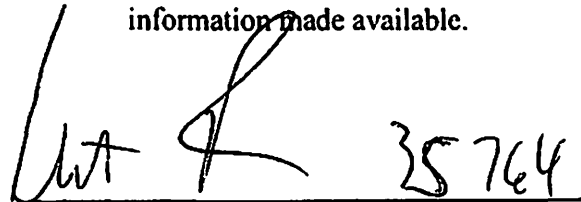
"Sales representative" means an individual, other than a broker-dealer, either authorized to act and acting for a broker dealer in effecting or attempting to effect purchases or sales of securities or authorized to act and acting for an issuer in effecting or attempting to effect purchases or sales of the issuer's own securities.

"Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of a security or interest in a security for value.

"Offer to sell" includes every attempt or offer to dispose of or solicitation of an offer to buy a security or interest in a security for value.

"Offer" means an offer to sell.

"Material" means that a misrepresented or omitted fact is "material" if there is a substantial likelihood that a reasonable investor would consider the matter important in making an investment decision. Whether or not the misrepresented or omitted fact is important turns on whether a reasonable investor would regard it as significantly altering the "total mix" of information made available.

  
\_\_\_\_\_  
(Counsel for Defendant), Reg. No.


  
\_\_\_\_\_  
Defendant

# Exhibit 5

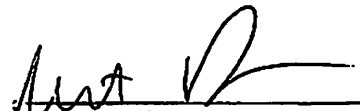
District Court, City and County of Denver, Colorado The Lindsey-Flanigan Courthouse, 1 <sup>st</sup> Floor, Room 135 520 W. Colfax Avenue Denver, CO. 80204	Rec'd in Courtroom 4G  JUL 05 2013  σ COURT USE ONLY σ
<b>Plaintiff:</b> THE PEOPLE OF THE STATE OF COLORADO  <b>Defendant:</b> JOHN ALLAN RUSSELL	
	Case Number: 09CR6137  Div.: Criminal Ctrm: 4G
<b>STATEMENT REGARDING FACTUAL BASIS FOR PLEA</b>	

Defendant, by his attorney, agrees that the facts set forth in the affidavit in support of the arrest warrant, the probable cause statement and/or in other information reviewed in discovery, serve as an adequate factual basis for his guilty plea and waives any further factual basis.

Respectfully submitted this 5<sup>th</sup> day of July, 2013.

  
 Defendant

Date 7/5/13

  
 Attorney for the Defendant, Reg. No. 35764

# Exhibit 6

County Court, City and County of Denver, Colorado  
City and County Building, Room 111  
1437 Bannock Street  
Denver, CO 80202

**Plaintiff:** THE PEOPLE OF THE STATE OF  
COLORADO

**Defendant:** JOHN ALLAN RUSSELL

**DOB:** 01/19/1964

σ COURT USE ONLY σ

Case Number: \_\_\_\_\_

Div.: Criminal Ctrm: \_\_\_\_\_

**SUPPORTING AFFIDAVIT FOR ARREST WARRANT**

I, Daniel Chun, of lawful age do swear upon my oath to the facts set forth below and on two continuation pages:

Your affiant, Daniel Chun, is employed as a Criminal Investigator for the Denver District Attorney's Office.

Your affiant was assigned to investigate allegations of Fraud and Deceit in the Sale of Securities and Theft from an At-Risk Victim. On August 4, 2009, your affiant received a report and supporting documents of an investigation conducted by Investigator Rhea Babcock of the Colorado Division of Securities.

On June 5, 2009, Babcock had interviewed Dexter Craig, who told her that from August 6, 2006 to March 31, 2008 he had loaned a total of \$297,500 to John Allen Russell, based on Russell's representations that the money was needed for Russell's business, Wealth Preservation Strategies, LLC (WPS). Russell secured the loans with eight separate promissory notes that were not secured. Russell has not repaid any of the loans.

Babcock examined the records of Craig's personal account held at Wells Fargo Bank. A review of those records shows that between August 27, 2006 and March 31, 2008, Craig wrote thirty eight (38) personal checks totaling \$297,500, to Russell.

All checks were endorsed in Russell's name and appear have been presented to Wells Fargo Bank for cash, with the exception of one check which was deposited into Russell's WPS account # [REDACTED] at Public Service Credit Union.

On June 25, 2009, pursuant to a Subpoenas Duces Tecum, Babcock obtained and examined records of two accounts Russell has at Public Service Credit Union. The first is a personal account, # [REDACTED], held jointly with his wife, Yelena Russell. The second account, # [REDACTED], is a

business account in the name of WPS on which Russell is the only signor. Both were opened in June 2006. The records of the both accounts indicate numerous cash deposits, numerous overdrafts and that both were being used primarily for personal expenses.

During the course of her investigation, Babcock determined that, in addition to using the loans from Craig for personal expenses, Russell had, in March of 2003, filed Chapter 7 bankruptcy and has outstanding civil judgments against him.

On November 2, 2009, your affiant interviewed Dexter Craig. He identified a photograph of Russell as the person referenced in this affidavit and told your affiant the following:

Craig (2-12-24) met Russell in about 2006 after Russell began attending Craig's church. Craig knew that Russell was in business for himself but he knew next to nothing about the business itself.

Craig's first wife, Mary Craig died in 1997. Prior to her death she had set up a trust in her will, naming Craig as sole trustee.

In about August 2006 Russell told Craig that his company Wealth Preservation Strategies, LLC (WPS) was in need of capital. He asked Craig for a loan of \$7,000. Russell "pestered" Craig for over a month until Craig "reluctantly" agreed to make the loan.

Craig issued a check on the account of the Mary Craig Trust to Russell on August 27, 2006. Craig "wrote checks just about every time" Russell asked, believing that Russell needed it for his business. Your affiant examined copies of checks that Craig issued to Russell, as indicated below:

Start Date	End Date	No. of Checks	Sub-Total
8-27-06	2-12-07	4	\$ 38,000
4-23-07	10-22-07	21	\$171,500
12-13-07	3-31-08	13	\$ 88,000
<b>Total</b>			<b>\$297,500</b>

All of the checks were issued to Russell, not WPS, on account # [REDACTED] of the Mary Craig Trust at Wells Fargo Bank. Russell secured the loans with promissory notes, which called for repayment with interest. The checks were redeemed for cash at Wells Fargo Bank, the Colorado corporate office of which is located at 1700 Lincoln St., 9th Floor, Denver, CO 80203.

Russell did not spell out that the money would be used exclusively for his business. Craig deduced that would be the case from the way Russell made each of his requests for money. Craig did not suspect that Russell would use the loans for personal use, travel, etc.

Had Craig known that the money was for personal use he would have stopped giving Russell money. Craig's feeling was that, given the nature of their relationship, the money was being



applied to Russell's business, not to Russell's standard of living.

After March 31, 2008 Craig told Russell that there would be no more money, "This is the last of it." Craig insisted that he wanted to see some repayment because Russell has not repaid any of the loans.

Had Craig known about Russell's bankruptcy and civil judgments he would probably still made a loan to Russell but in a "small, finite amount." Craig believes that he was deceived by Russell into loaning him money, though he did not think so at the time. Craig trusted Russell that he would keep his word and use the money for business, not for personal use.

On November 4, 2009 your affiant interviewed Gerald Rome, Deputy Securities Commissioner for the Colorado Department of Regulatory Agencies, Division of Securities. Rome had previously reviewed the facts of this case. Rome told your affiant that the test of whether a transaction meets the definition of an "investment contract," and thus a security is regulated by Colorado securities law. If a transaction is a security, the standard is that of a "reasonable investor."

Rome opined that under the facts of this case, the loans, secured by promissory notes, clearly meet the definition of an investment contract and thus a security. As such, Russell was required to make disclosures to Craig that a reasonable investor would want to know prior to lending/investing. Rome believes that the bankruptcy, civil judgments and use of the loan money for personal expenditures are material facts that would affect the decision of a reasonable investor and should have been made known to Craig at the outset of their business relationship. Rome said that such failure is a violation of CRS 11-51-501 (1) (b).

Based on the foregoing, your affiant respectfully requests that an At Large Warrant be issued for the arrest of JOHN ALLAN RUSSELL, DOB: 1/19/1964, for SECURITIES FRAUD - UNTRUE STATEMENT OR OMISSION, 11-51-501(1)(b) C.R.S. (F3) 1 COUNT; THEFT, 18-4-401(1),(4) C.R.S. (F3) 1 COUNT; and THEFT, 18-4-401(1),(4) C.R.S. (F3) 2 COUNTS.

\_\_\_\_\_  
AFFIANT

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, at the City and County of Denver, State of Colorado.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
201 W. Colfax Ave., Dept. 801  
Denver, CO 80202

# Exhibit 7

**DENVER CRIMINAL COURT, COLORADO**

**Court Address:** Lindsey-Flanigan Courthouse  
 520 W. Colfax Ave. - 135  
 Denver, CO 80204  
**Phone Number:** 720-865-8301

**COURT USE ONLY**

**Case Number:** 2009CRO06137

**The People of Colorado**  
**vs**  
**RUSSELL, JOHN ALLAN**

**Division:** 4G

**SENTENCE ORDER**

Defendant:	RUSSELL, JOHN ALLAN	Date of Birth:	01/19/1964		
Count		Class	Plea		Finding
1	11-51-501(1)(b) - SECURITIES-MAKE UNTRUE STATEMEN	F3	Plea of Guilty		Guilty
2	18-4-401(1),(4) - THEFT/SERIES-OVER \$15,000	F3	Plea Not Guilty		Dism by DA
3	18-4-401(1),(4) - THEFT/SERIES-\$20,000 OR MORE	F3	Plea Not Guilty		Dism by DA
4	18-4-401(1),(4) - THEFT/SERIES-\$20,000 OR MORE	F3	Plea Not Guilty		Dism by DA

**ASSESSED FINES & COSTS**

Count #	Amount
1	
Victims Assistance Fund	\$162.50
Victim Compensation Fund	\$125.00
Court Costs	\$35.00
Court Security Cash Fund	\$5.00
Genetic Testing Surcharge	\$2.50
Public Defender Accts Rcvable	\$25.00
Request for Time to Pay	\$25.00
Offender Identification Fund	\$128.00
Restorative Justice Surcharge	\$10.00
Drug Standardized Assessment	\$45.00
Probation: 5 Years	
Restitution	\$441,501.53
Probation Supervision Fee	\$3,000.00
<b>TOTAL</b>	<b>\$445,064.53</b>

**Other Conditions of Sentence:**

DEF TO BE SUPERVISED BY THE ECU UNIT, TERMS & CONDITIONS IMPOSED BY  
 PROBATION,DEF TO PAY RESTITUTION /JAG

**LEMON, CATHERINE A** 08/19/2013  
 Judge/Magistrate Date

**RUSSELL, JOHN ALLAN** 08/19/2013  
 Defendant Date

\*\*\*\*\*NOTICE\*\*\*\*\*  
 Following this hearing you are to present this form to the Clerk's Office for payment. Payment is due by the end of business on your Court Date. Pursuant to §16-11-101.6, C.R.S., if the Defendant does not pay all amounts assessed at the time of order, the Defendant shall pay an additional time payment fee. In addition, the Defendant may be assessed a late penalty fee each time payment is not received on or before the due date.

Print Minute Orders 8/19/13 3:01 PM  
 Status: CLSD District Court, Denver County  
 Case #: 2009 CR 006137 Div/Room: 4G Type: Theft  
 The People of Colorado vs RUSSELL, JOHN ALLAN

FILE DATE	EVENT/FILING/PROCEEDING
8/19/2013	Minute Order (print)
JUDGE: CAL	CLERK: REPORTER:
JUDGE CATHERINE LEMON	FTR IN CTRM 4G 9:37 SENT
APPEARS: DEF IN CUSTODY WITH PD ROBERT HALPERN, DDA KANDACE GERDES	
MOTION TO WITHDRAW PLEA IS DENIED	
DEF SENTENCED ON COUNT 1 SECUTIRTIES-MAKE UNTRUE STATEMENT F3	
COURT IMPOSES 5 YRS ECU PROBATION	
TERMS & CONDITIONS IMPOSED BY PROBATION	
PAY RESTITUTION	
FEES & COSTS IMPOSED	
RESTITUTION IN THE AMOUNT OF \$441501.53	
COURT NOTES THAT THE DEF HAS 433 DAYS PRESENTENCE CREDIT	
ATTY CHARLES ELLIOTT APPEARS REGARDING BOND	
COURT GRANTS THE MOTION FOR REMISSION	
MONEY TO BE RETURNED TO MR. DEXTER BUT CHECK TO BE MAILED TO MR. ELLIOTT FOR MR. DEXTER	
DEF REMANDED	
FLG: CLERKS MEMO SHERIFF, RESTITUTION WORKSHEET SENT TO ACCTING, ORDER, MOTION TO WITHDRAW PLEA	

/JAG