

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-06-423

STATE OF MAINE

v.

THOMAS R. ACKER,
Defendant

) CRIMINAL INDICTMENT FOR
)
) UNLICENSED SALE OF SECURITIES
) (32 M.R.S.A. § 10301) [COUNTS I, III, &
) VII];
)
) SALE OF UNREGISTERED SECURITIES)
) 32 M.R.S.A. § 10401 [COUNTS II, IV, VIII];
)
) SECURITIES FRAUD (32 M.R.S.A. § 10201)
) [COUNTS V & IX];
)
) THEFT BY MISAPPLICATION OF
) PROPERTY (17-A M.R.S.A. § 358)
) [COUNT VI)

ATN: 443035A
CTN: 8464

THE GRAND JURY CHARGES:

**COUNT ONE
(UNLICENSED SALE OF SECURITIES)
(CLASS C)**

From on or about July 1, 2000 to on or about December 31, 2002 in the Counties of York, Cumberland, Sagadahoc, Knox, Kennebec and Lincoln, State of Maine, and pursuant to one scheme or course of conduct, Thomas R. Acker, acting intentionally or knowingly, did transact business in the State of Maine as a broker-dealer or sales representative by offering to sell or selling what were in fact securities, for investment with the Renaissance International Bank and/or Dennis Broska, to persons listed on Exhibit A, which is attached and incorporated by reference, without being licensed to do so under the Maine Revised Securities Act, all being in violation of 32 M.R.S.A. § § 10301 (1) and 10604 (1)(A), (6) and (7) (1999).

COUNT TWO
SALE OF UNREGISTERED SECURITIES
(CLASS C)

From on or about July 1, 2000 through on or about December 31, 2002, in the Counties of York, Cumberland, Knox, Lincoln, Sagadahoc and Kennebec, State of Maine, and pursuant to one scheme or course of conduct, Thomas R. Acker, acting intentionally or knowingly, did offer to sell or sell to the persons listed on Exhibit A, which is attached and incorporated by reference, what were, in fact, securities, for investment with the Renaissance International Bank and/or Dennis Broska, when such securities were not, in fact, registered under the Revised Maine Securities Act, all in violation of 32 M.R.S.A. §§ 10401 & 10604(1)(A). (1999)

COUNT THREE
UNLICENSED SALE OF SECURITIES
(CLASS C)

From on or about July 1, 2002 to on or about December 31, 2004 in the Counties of York, Cumberland, Sagadahoc, Knox, Kennebec and Lincoln, State of Maine, and pursuant to one scheme or course of conduct, Thomas R. Acker, acting intentionally or knowingly, did transact business in the State of Maine as a broker-dealer or sales representative by offering to sell or selling what were in fact securities, namely purported limited partnership interests in AMCAP I, LP, to the persons listed on Exhibit B, which is attached and incorporated by reference, without being licensed to do so under the Maine Revised Securities Act, all in violation of 32 M.R.S.A. §§10301 and 10604 (1)(A), (6) and (7) (1999).

COUNT FOUR
SALE OF UNREGISTERED SECURITIES
(CLASS C)

From on or about July 1, 2002 through on or about December 31, 2004, in the Counties of York, Cumberland, Knox, Lincoln, Sagadahoc and Kennebec, State of Maine, and pursuant to one scheme or course of conduct, Thomas R. Acker, acting intentionally or knowingly, did offer to sell or sell to the persons listed on Exhibit B, which is attached and incorporated by reference, what were, in fact, securities, namely purported limited partnership interests in AMCAP I, LP, when such securities were not, in fact, registered under the Revised Maine Securities Act, all in violation of 32 M.R.S.A. §§ 10401 and 10604(1)(A), (6), and (7) (1999).

**COUNT FIVE
SECURITIES FRAUD AND DECEPTION
(CLASS C)**

From on or about July 1, 2001 through on or about December 31, 2004, in the Counties of York, Cumberland, Sagadahoc, Lincoln, Knox and Kennebec, State of Maine and pursuant to one scheme or course of conduct in connection with the offer, sale or purchase of any security, Thomas R. Acker, acting intentionally or knowingly, did, directly or indirectly,

- a) Employ any device, scheme or artifice to defraud;
- b) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- c) Engage in any act, practice or course of business which operates or would operate as a deceit upon any person listed in Exhibit B.

To wit, with regards to the persons listed in Exhibit B, which is attached and incorporated by reference, Thomas R Acker did intentionally or knowingly:

- 1) Fail to disclose that AMCAP I, LP was not a limited partnership organized under the laws of the State of Maine at the time he solicited monies or exercised control over monies tendered to him for investment purposes;
- 2) Fail to disclose that the majority of money tendered by each person for investment in the AMCAP I, LP program would not, in fact, be invested in AMCAP I, LP or any other investment program;
- 3) Make untrue statements to potential investors and investors in the AMCAP I, LP program by representing that the principal amounts invested were secured, guaranteed, protected, “backed by gold”, “backed by Lloyd’s of London” or otherwise protected from loss; or
- 4) Make untrue statements to investors which minimized the level of risk and maximized the rate of return for monies invested in the AMCAP I, LP program.

All of the above was in violation of 32 M.R.S.A §§ 10201 and 10604 (1999).

**COUNT SIX
THEFT BY MISAPPLICATION OF PROPERTY
(CLASS B)**

From on or about August 1, 2002 to on or about December 31, 2004 in the Counties of Cumberland and York, State of Maine, Thomas R. Acker did commit theft pursuant to one scheme or course of conduct by obtaining property, consisting of money having an aggregate value in excess of \$10,000, from persons on Exhibit C which is attached and incorporated by reference, upon an agreement or subject to a known legal obligation to make specified payments or disposition to a third person or to a fund administered by that person, specifically to the limited partnership investment program described as AMCAP I, LP, to the persons in Exhibit C, and did intentionally or recklessly fail to make the required payments and dealt with the property as his own, all in violation of 17-A M.R.S.A. §§ 358, 354 and 362.

**COUNT SEVEN
UNLICENSED SALE OF SECURITIES
(CLASS C)**

From on or about June 1, 2004 to on or about December 31, 2004 in the County of Cumberland, State of Maine, Thomas R. Acker, acting intentionally or knowingly, did transact business in the State of Maine as a broker-dealer or sales representative by offering to sell or selling what was in fact a security, namely a promissory note from the Phoenix Project, Inc. to Adullam Gospel Church, Inc., without being licensed to do so under the Maine Revised Securities Act, all being in violation of 32 M.R.S.A. §§ 10301 (1), and 10604 (1)(A), (6) and (7) (1999).

**COUNT EIGHT
SALE OF UNREGISTERED SECURITIES
(CLASS C)**

From on or about June 1, 2004 to on or about December 31, 2004 in the County of Cumberland, State of Maine, Thomas R. Acker, acting intentionally or knowingly, did offer to sell or sell what was in fact a security, namely a promissory note from the Phoenix Project, Inc. to Adullam Gospel Church, Inc., when such security was not, in fact, registered under the Revised Maine Securities Act, all in violation of 32 M.R.S.A. §§ 10401 & 10604(1)(A). (1999).

**COUNT NINE
SECURITIES FRAUD AND DECEPTION
(CLASS C)**

From on or about July 1, 2004 through on or about December 31, 2004, in the County of Cumberland, State of Maine and pursuant to one scheme or course of conduct in connection with the offer, sale or purchase or any security, Thomas R. Acker, acting intentionally or knowingly, did, directly or indirectly,

- d) Employ any device, scheme or artifice to defraud;
- e) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- f) Engage in any act, practice or course of business which operates or would operate as a deceit upon a person.

To wit, Thomas R. Acker did intentionally or knowingly:

- 1) Fail to disclose to the Adullam Gospel Church or its designated agents that Thomas R. Acker was not licensed under the laws of the State of Maine to sell what was in fact a security, namely the promissory note titled "Promissory Note from the Phoenix Project, Inc. [the Borrower] to Adullam Gospel Church, Inc., [the Lender], in the principal amount of \$400,000.00;

- 2) Fail to disclose to the Adullam Gospel Church or its designated agents that the security offered and sold, namely the promissory note titled “Promissory Note from the Phoenix Project, Inc. [the Borrower] to Adullam Gospel Church, Inc., [the Lender]”, in the principal amount of \$400,000.00 was not registered under the laws of the State of Maine; or
- 3) Fail to disclose to the Adullam Gospel Church or its designated agents that Thomas R. Acker would use as his own \$50,000 or more of the moneys received from the sale of the security, namely the promissory note titled “Promissory Note from the Phoenix Project, Inc. [the Borrower] to Adullam Gospel Church, Inc., [the Lender}”, in the principal amount of \$400,000.00.

All of the above was in violation of 32 M.R.S.A §§ 10201 and 10604 (1999).

A TRUE BILL

DATED:

FOREPERSON