

ENDORSED
First Judicial District Court

JAN 18 2012

Santa Fe, Rio Arriba &
Los Alamos Counties
EO 13081-2288
Santa Fe, NM 87504-2288



FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

STATE OF NEW MEXICO,
Plaintiff.

vs.

Michael Maxwell
Defendant.

No. D-01-CR-2012-00003
NM SEC 09-039

CRIMES CHARGED

GRAND JURY INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1: FRAUD (over \$20,000.00)

On or between July 1, 2007 and August 15, 2007, in Santa Fe County, State of New Mexico the above named defendant did intentionally misappropriate or take money, which had a market value of over \$20,000.00 belonging to Robert Duncan and Carole Duncan, or another, by means of fraudulent conduct, practices on representations, contrary to NMSA 1978, §30-6-6 (2006), and NMSA §30-1-13.

COUNT 2: FORGERY (ISSUE or TRANSFER)

That on or between July 1, 2007 and December 1, 2007, in Santa Fe County, State of New Mexico, the above named defendant with intent to injure, deceive or cheat Robert Duncan and Carole Duncan, or another gave or delivered to Robert Duncan and Carole Duncan a bank statement entitled "Maxwell Real Estate Holdings LLC" from the Bank of America NA, Tampa, Florida for the month of June 1, 2007 through June 30, 2007 pertaining to account number 0043 9053 5915, knowing the statement to be a forged writing contrary to NMSA, §30-16-10 (A)(2) and (B), (1986) and NMSA §30-1-13.

COUNT 3: FRAUDULENT SALE OF SECURITY, SECURITIES FRAUD

That on or between October 29, 2007 and July 1, 2008, in Santa Fe County, State of New Mexico the above named defendant did commit the crime of securities fraud. The defendant offered to sell and sold to Robert Duncan and Carole Duncan (Duncans), a security, to wit: that on or about

October 29, 2007 the Duncans transferred \$270,000.00 to Michael Maxwell and Steven Maxwell, as an investment in a condominium real estate project located in Santa Barbara, California; that sometime after May, 2008 the Duncans were told by Michael Maxwell that the Santa Barbara investment was "off" and their investment money (\$270,000.00) had been invested with *Ox Investments, LLC* or *Ox Energy and Natural Resource Fund*, which constitutes a security, including but not limited to, a profit sharing agreement, a certificate of interest or participation in a security, and/or an investment contract.

In connection with this offer to sell and sale, or offer to purchase or purchase of a security, directly or indirectly, the defendant:

- A. Employed a device, scheme or artifice to defraud; and/or
- B. Made an untrue statement of material fact; or failed to state a necessary material fact where such omission would be misleading; and/or
- C. Engaged in an act, promise or course of business which operates or would operate as a fraud or deceit upon a person;

The fraudulent practices, material misrepresentations, and omissions by defendant include, but are not limited to: Michael Maxwell failed to disclose to the Duncans that he did not possess a securities license as a broker dealer and/or sales representative; Michael Maxwell also falsely represented that his company "Maxwell Real Estate Holdings, LLC" maintained a bank account with the Bank of America, account # 0043 9055 5915, with a statement ending balance for the month of June, 2007 of \$1,340,172.00; Michael Maxwell also falsely represented that he owned or was in full control of a property located at 911 E. La Guerra in Santa Barbara, California; Michael Maxwell earlier had misrepresented to the Duncans that he owned a three acre property located in Edgewood, New Mexico when in fact, the property was owned by his parents, Anthony and Elvira Maxwell, contrary to NMSA 1978 §58-13B-30, and 39 (1986), and NMSA §30-1-13.

COUNT 4: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKERDEALER OR SALES REPRESENTATIVE

On or between October 29, 2007 and July 1, 2008, in Santa Fe County, State of New Mexico, the above named defendant committed the crime of engaging in the business of effecting transactions in securities without licenses required by the Securities Act, contrary to NMSA, §58-13B-3 (1986) and §58-13B-39 (1986), and NMSA §30-1-13.

COUNT 5: FRAUD (OVER \$20,000.00)

That on or between September 15, 2007 and October 29, 2007, in Santa Fe County, State of New Mexico the above named defendant did intentionally misappropriate or take money, which had a market value of over \$20,000.00 belonging to Robert Duncan and Carole Duncan or another, by means of fraudulent conduct, practices or representations, contrary to NMSA 1978, §30-16-6 (2006), and NMSA §30-1-13.

COUNT 6: FRAUDULENT SALE OF A SECURITY (SECURITIES FRAUD)

On or between December 1, 2007 and January 18, 2008, in Santa Fe County, State of New Mexico the above named defendant did commit the crime of securities fraud.

The defendant offered to sell or sold to Robert Duncan and Carole Duncan, a security, to wit: an offer to invest in "safe short term investments", described as "#1 commodity funds", which included the "Euro" and "Japan Index", with the promise of a return or profit to Robert Duncan and Carole Duncan for the purposes of servicing their HELOC loan.

In connection with this offer to sell or sale, or offer to purchase or purchase of a security, directly or indirectly, the defendant purposely and directly or indirectly:

- A. Employed a device, scheme or artifice to defraud; and/or
- B. Made an untrue statement of material fact or failed to state a necessary material fact, where such an omission would be misleading, and/or
- C. Engaged in an act, promise or course of business which operates or would operate as a fraud upon a person.

The fraudulent practices, material misrepresentations, and omissions by defendant include, but are not limited to: Michael Maxwell failed to disclose to the Duncans that he did not possess a securities license as a broker dealer and/or sales representative; Michael Maxwell also falsely represented that his company "Maxwell Real Estate Holdings, LLC" maintained a bank account with the Bank of America, account # 0043 9055 5915, with a statement ending balance for the month of June, 2007 of \$1,340,172.00; Michael Maxwell also falsely represented that he owned or was in full control of a property located at 911 E. La Guerra in Santa Barbara, California; Michael Maxwell earlier had misrepresented to the Duncans that he owned a three acre property located in Edgewood, New Mexico when in fact, the property was owned by his parents, Anthony and Elvira Maxwell, contrary to NMSA 1978 §58-13B-30, and 39(1986), and NMSA §30-1-13.

COUNT 7: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

That on or between December 1, 2007 and January 18, 2008, in Santa Fe County, State of New Mexico, the above named defendant offered to sell and sold to Robert Duncan and Carole Duncan an offer to invest in: "safe short term investments", described as "#1 commodity funds", which included the "Euro" and "Japanese Index", that were required to be registered under the New Mexico Securities Act of 1986, (Securities Act), contrary to §58-13B-20(1997) and §58-13B-39(1986), and NMSA §30-1-13.

COUNT 8: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKER DEALER OR SALES REPRESENTATIVE

On or between December 1, 2007 and January 18, 2008, in Santa Fe County, State of New Mexico, the above named defendant committed the crime of engaging in the business of effecting transactions in securities without licenses required by the Securities Act, contrary to NMSA, §58-13B-3 (1986) and §58-13B-39 (1986), and NMSA §30-1-13.

COUNT 9: FRAUD (OVER \$20,000.00)

That on or between December 1, 2007 and January 18, 2008, in Santa Fe County, State of New Mexico the above named defendant did intentionally misappropriate or take money, which had a market value of over \$20,000.00 belonging to Robert Duncan and Carole Duncan or another, by means of

fraudulent conduct, practices or representations, contrary to NMSA 1978, §30-16-6 (2006), and NMSA §30-1-13.

COUNT 10: FRAUD (OVER \$2,500.00)

That on or about March 10, 2008, in Santa Fe County, State of New Mexico the above named defendant did intentionally misappropriate or take money, which had a market value of over \$2,500.00 belonging to Robert Duncan and Carole Duncan or another, by means of fraudulent conduct, practices or representations, contrary to NMSA 1978, §30-16-6 (2006), and NMSA §30-1-13.

COUNT 11: FRAUDULENT SALE OF A SECURITY (SECURITIES FRAUD)

On or about May 9, 2008, in Santa Fe County, State of New Mexico the above named defendant did commit the crime of securities fraud.

The defendant offered to sell or sold to Robert Duncan and Carole Duncan, a security, to wit: an investment interest in "Ox Investments, LLC" consisting of granddaughter Amanda Campanelli's trust account, for the purpose of obtaining a greater return and profit for Amanda Campanelli by the time she reached the age of twenty one years old.

In connection with this offer to sell or sale, or offer to purchase or purchase of a security, directly or indirectly, the defendant purposely and directly or indirectly:

- A. Employed a device, scheme or artifice to defraud; and/or
- B. Made an untrue statement of material fact or failed to state a necessary material fact, where such an omission would be misleading, and/or
- C. Engaged in an act, promise or course of business which operates or would operate as a fraud upon a person.

The fraudulent practices, material misrepresentations, and omissions by defendant include, but are not limited to: Michael Maxwell failed to disclose to the Duncans that he did not possess a securities license as a broker dealer and/or sales representative; Michael Maxwell also falsely represented that his company "Maxwell Real Estate Holdings, LLC" maintained a bank account with the Bank of America, account # 0043 9055 5915, with a statement ending balance for the month of June, 2007 of \$1,340,172.00; earlier, Michael Maxwell also falsely represented that he owned or was in full control of a property located at 911 E. La Guerra in Santa Barbara, California; furthermore, Michael Maxwell had also misrepresented to the Duncans that he owned a three acre property located in Edgewood, New Mexico when in fact, the property was owned by his parents, Anthony and Elvira Maxwell. Contrary to NMSA 1978 §58-13B-30, and 39 (1986), and NMSA §30-1-13.

COUNT 12: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

That on or about May 9, 2008, in Santa Fe County, State of New Mexico, the above named defendant offered to sell and sold to Robert Duncan and Carole Duncan a security, to wit: an investment interest in "Ox Investments, LLC" consisting of granddaughter Amanda Campanelli's trust account, that was required to be registered under the New Mexico Securities Act of 1986, (Securities Act), contrary to §58-13B-20 (1997) and §58-13B-39 (1986), and NMSA §30-1-13.

COUNT 13: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKER-DEALER OR SALES REPRESENTATIVE

On or about May 9, 2008, in Santa Fe County, State of New Mexico, the above named defendant committed the crime of engaging in the business of effecting transactions in securities without a license required by the Securities Act, contrary to NMSA, §58-13B-3 (1986) and §58-13B-39 (1986), and NMSA §30-1-13.

COUNT 14: FRAUD (OVER \$2,500.00)

That on or about May 9, 2008, in Santa Fe County, State of New Mexico the above named defendant did intentionally misappropriate or take money, which had a market value of over \$2,500.00 belonging to Robert Duncan and Carole Duncan or another, by means of fraudulent conduct, practices or representations, contrary to NMSA 1978, §30-16-6 (2006), and NMSA §30-1-13.

COUNT 15: MONEY LAUNDERING (Over \$100,000.00)

That on or between October 29, 2007 and July 1, 2008, in Santa Fe County, State of New Mexico, the above named defendant did knowingly conduct, structure, engage in or participate in a financial transaction, to wit: by an electronic transfer in the amount of \$270,000.00 from Robert and Carole Duncan's Home Equity Line of Credit with Bank of America, into his account with Bank of America Edgewood Times LLC, account number 0043 9055 5915, which funds involved the proceeds of a specified unlawful activity, that is fraud (over \$20,000.00) or in the alternative, securities fraud, designed, in whole or in part, to conceal or disguise, the nature, location, source, ownership or control of the proceeds of said specified unlawful activity and that the property involved in the financial transaction had a value of over \$100,000.00 or more and represented the proceeds of the specified unlawful activity, contrary to NMSA30-51-1 to 30-51-4, 1978 and NMSA30-1-13 1978.

COUNT 16: MONEY LAUNDERING (over \$50,000.00)

That on or between July 1, 2007 and August 15, 2007, in Santa Fe County, State of New Mexico, the above named defendant did knowingly conduct, structure, engage in or participate in a financial transaction, to wit: depositing cashier's check number 0513403315 dated August 15, 2007 in the amount of \$78,950.00 drawn on Wells Fargo Bank NA into Edgewood Times LLC DBA Greenfields Title and Financial First Community Bank (US Bank) account number 3097307, which funds involved the proceeds of a specified unlawful activity, that is fraud (over \$20,000.00) designed, in whole or in part, to conceal or disguise, the nature, location, source, ownership or control of the proceeds of said specified unlawful activity and that the property involved in the financial transaction had a value of \$20,000.00 or more and represented the proceeds of the specified unlawful activity, contrary to NMSA 30-51-4, 1978 and NMSA 30-1-13 1978.

COUNT 17: CONSPIRACY TO COMMIT RACKETEERING

That on or between June 1, 2007 and August 31, 2008, in Santa Fe County, State of New Mexico the defendant, with Steven Maxwell, and/or another person or persons, by words or acts, agreed together to commit racketeering; and they intended to commit racketeering, contrary to NMSA 1978, §30-28-2 and §30-42-4(D) and §30-1-13.

COUNT 18: RACKETEERING

That on or between June 1, 2007 and August 31, 2008, and Santa Fe County, State of New Mexico, the above named defendant committed the crime of Racketeering.

While associated with enterprises, namely limited liability companies called The Edgewood Times LLC, Maxwell Real Estate Holdings LLC, Edgewood Times LLC DBA Greenfields Title and Financial, Ox Investments LLC, and a corporation called Ox Development, the above named defendant operated as an owner, corporate officer, manager and/or as a financial adviser with these named entities in the purported operation of real estate and/or commercial development projects, and/or short term and longer term investment opportunities, in both Santa Fe County, New Mexico and Santa Barbara, California.

The defendant conducted the affairs of the enterprise by intentionally engaging in a pattern of racketeering activity. The pattern of racketeering activity included two or more crimes of:

- A. Securities Fraud as charged in counts 3, 6, and 11 in connection with the sale or offer to sell securities, to wit: investments and other safe short term investments, which constituted a certificate of interest or participation in a security, and/or an investment contract and/or a profit sharing agreement with investors Robert Duncan and Carole Duncan, in violation of the New Mexico Securities Act of 1986; and,
 - B. Fraud (over \$20,000.00) as charged in counts 1, 5, and 9; and,
 - C. Fraud (over \$2,500.00) as charged in counts 10 and 14;
 - D. Money Laundering (over \$100,000.00), over (\$50,000.00) as charged in counts 15 and 16;
- contrary to NMSA §30-42-1 to 30-42-5 (1986).

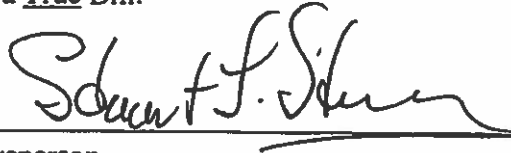
ELS
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PM

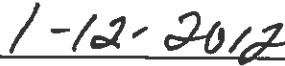
The names of the witnesses upon whose testimony this Indictment is based are as follows:

Benjamin Baker, Anne Layne, Terri Orton, and Robert Duncan

I hereby certify that the foregoing Indictment is a True Bill.

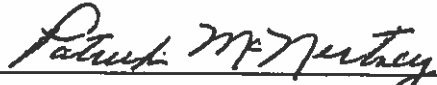


Foreperson



Date

APPROVED:



Special Commissioned Assistant District Attorney

CASE INFORMATION

NO. D-0101-GJ-2011-0000 7

To: MICHAEL MAXWELL

DOB:

SSN:

Address: 194 Horton Road
Edgewood, New Mexico 87015

BOOKING/ARREST DATE: 1/5/2012

BOOKING/ARREST#:

DEF.ATTY:

PHYSICAL DESCRIPTION OF DEFENDANT:

Height: 6' 00"

Weight: 190

Race: H

Eye Color: BROWN

Hair Color: BROWN

Other:

COUNTS 1, 5, 9, 15, 18 2nd Degree Felonies
COUNTS 3, 4, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17 3RD Degree Felonies
COUNT 2 4TH Degree Felony

4th Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.
3rd Degree Felony: Basic sentence of 3 years imprisonment and not more than \$5,000 fine.
2nd Degree Felony: Basic sentence of 9 years imprisonment and not more than \$10,000 fine.
1st Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.
USE OF FIREARM ALTERATION TO BASIC SENTENCE (FE): Basic sentence of imprisonment increased by 1 year for first offense in which a firearm is used and 3 years for subsequent offenses in which a firearm is used.
USE OF HATE CRIME ENHANCEMENT: Basic sentence of imprisonment is increased by one (1) year, unless second offense, then the basic sentence is increased by two (2) years.
Special Penalty: (Receiving or Transferring a Stolen Vehicle (Possession) only) Basic sentence of one year and/or \$5,000 fine.
Misdemeanor: Less than 1 year in the County Jail and/or not more than \$1,000 fine.
Petty Misdemeanor: Not more than 6 months in the County Jail and/or not more than \$500 fine.

Penalty for Driving While Under the Influence, Felony Offense: (4th or Subsequent Offense): Basic sentence of 18 months and not more than \$5,000 fine, including a mandatory jail term of not less than 6 months.
Penalty for Driving While Under the Influence - Misdemeanor: If 1st Offense, basic sentence is maximum 90 days jail and \$500 fine, and if aggravated an additional 48 hours jail time; if 2nd Offense, basic sentence is mandatory 72 hours in jail and \$500 fine to maximum of 364 days and \$1,000 fine, and if aggravated an additional 96 hours jail time; if 3rd Offense, basic sentence is a mandatory 30 days in jail and \$750 fine to maximum of 364 days and \$1,000 fine, and if aggravated an additional mandatory 60 days jail time.
Penalty for Driving While License Suspended or Revoked: Traffic Code Misdemeanor, Special (suspension/revocation); or not less than 7 consecutive days imprisonment and mandatory fine not less than \$300 nor more than \$1,000 (DWI revocation).
Penalty for Reckless Driving: Upon first conviction, basic sentence of 5 days to 90 days imprisonment, and/or \$25 to \$100 fine. Upon a second or subsequent conviction, basic sentence of 10 days to 6 months imprisonment, and/or \$50 to \$1,000 fine.
Penalty for Traffic Code Misdemeanor: fine of not more than \$300 or imprisonment for not more than 90 days or both.
Penalty Assessment Misdemeanor: See Schedule in Traffic Code, Section 66-8-116.

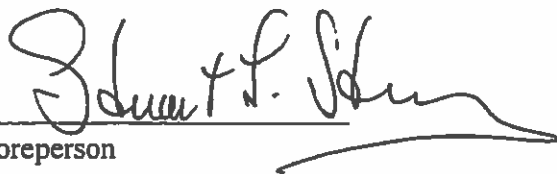
1st Degree Felony for Child Abuse (Intentionally Caused) (Resulting in Death) (Child Under 12): Life imprisonment.
2nd Degree Felony Resulting in the Death of a Human Being: Basic sentence of 15 years but not less than 10 years nor more than 20 years imprisonment and not more than \$12,500 fine.
3rd Degree Felony Resulting in the Death of a Human Being: Basic sentence of 6 years but not less than 4 years nor more than 8 years imprisonment and not more than \$15,000 fine.
2nd Degree Felony, Sexual Offense Against A Child: Basic sentence of 15 years imprisonment and not more than \$12,500 fine.
3rd Degree Felony, Sexual Offense Against A Child: Basic sentence of 6 years imprisonment and not more than \$5,000 fine.

OPEN CHARGE OF MURDER

Penalty for FIRST DEGREE MURDER (Willful and Deliberate) or (Depraved Mind)
CAPITAL FELONY: Life Imprisonment
SECOND DEGREE MURDER: Basic sentence of 15 years imprisonment and not more than \$12,500 fine.
VOLUNTARY MANSLAUGHTER: Basic sentence of 6 years imprisonment and not more than \$15,000 fine.
INVOLUNTARY MANSLAUGHTER: 4th Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.
Penalty for FIRST DEGREE MURDER (Felony Murder):
CAPITAL FELONY: Life Imprisonment

STATEMENT OF TRUE BILL

	True Bill	NO True Bill
Count 1	✓	
Count 2	✓	
Count 3	✓	
Count 4	✓	
Count 5	✓	
Count 6	✓	
Count 7	✓	
Count 8	✓	
Count 9	✓	
Count 10	✓	
Count 11	✓	
Count 12	✓	
Count 13	✓	
Count 14	✓	
Count 15	✓	
Count 16	✓	
Count 17	✓	
Count 18		


Foreperson

1-12-2012
Date