

The People of the State of California vs Sylvia Celeste Brown and Kensil Dalzell Brown

MUNICIPAL COURT OF CALIFORNIA
SANTA CLARA COUNTY JUDICIAL DISTRICT
SAN JOSE FACILITY

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs

SYLVIA CELESTE BROWN (10/19/36)
Campbell, CA

Kensil Dalzell Brown (10/08/43)
San Jose, CA

Defendant(s)

The undersigned is informed and believes that:

COUNT ONE

That in the County of Santa Clara, State of California, on or about and between February 1, and February 24, of 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DAZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25110-25540 (SALE OF SECURITY WITHOUT PERMIT) in that the said defendants did willfully offer and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to ROBIN AND GREG CROSS, without having first qualified said offer and sale with the Commissioner of Corporations of the State of California.

COUNT TWO

That in the County of Santa Clara, State of California, on or about and between February 1, and February 24, of 1988, the said Defendants, SYLVIA CELEST BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25401-25540 (SALE OF SECURITIES BY MEANS OF WRITTEN OR ORAL COMMUNICATIONS CONTAINING FALSE STATEMENTS OR OMISSIONS) in that the said defendants did offer to sell and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to ROBIN AND GREG CROSS, by means of a communication which included an untrue statement of a material fact and omitted to state a material fact necessary in order to make the statements not misleading, in light of the circumstances under which they were made.

COUNT THREE

That in the County of Santa Clara, State of California, on or about and between February 1, and June 7, 1989, the said Defendant, KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25541 (USE OF DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD in that the said defendant did willfully employ a device, scheme, and artifice to defraud ROBIN AND GREG CROSS, and did willfully engage in act, practice and course of business course of business which operated and would operate as a fraud and deceit upon such person in connection with the offer, purchase, and sale of a security, to wit: INVESTMENT CONTRACT.

COUNT FOUR

That in the County of Santa Clara, State of California, on or about and between February 24, 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Penal Code Section 484-487.1 (GRAND THEFT) in that the said defendants did unlawfully take personal property, to wit: MONEY, of a value exceeding four hundred dollars (\$400.00), the property of ROBIN and GREG CROSS.

It is further alleged that the offenses described in Counts one through four were not discovered, within the meaning of Section 803 of the California Penal Code, until June 7, 1989, when a complaint was registered with the Department of Corporations by Robin & Greg Cross. Prior to that date, no law enforcement agency had any knowledge, actual or constructive, of the defendants criminal activities with respect to the sale of the securities to Robin & Greg Cross.

On or about June 7, 1989, the Crosses reported to the Department the defendants' sale of securities in a gold mining venture. The Department of Corporations initiated an investigation, and subsequently, through the use of its investigative and subpoena powers, discovered the defendants' misrepresentations, omissions, and failure to qualify the offering with the Commissioner of Corporations of the State of California. The reason no law enforcement agency had any knowledge of these activities earlier was that no complaints had been received prior to June 7, 1989.

Similarly, Robin & Greg Cross had no knowledge, actual of constructive, of the defendants' criminal activities prior to June 7, 1989, because the defendants misrepresented the nature and status of the investment.

The defendants initially misrepresented to the Crosses that the gold mine was close to operation, and that their investment of \$20,000 was needed to pay immediate operating expenses. Defendants failed to inform the Crosses of their personal and corporate indebtedness, and further failed to inform them that a substantial portion of their investment would be immediately channeled into other bank accounts unrelated to the gold mine. Further, the defendants failed to inform the Crosses directly when they declared bankruptcy in April of 1988.

Even after the Crosses learned of the loss of their investment, Defendants Kensil Brown continued to provide assurances that the investment had been a regrettable, but ordinary business loss due to lack of capital, and that their money could be recovered through the sale of mining equipment. After repeated efforts to get their money back, the Crosses finally registered a complaint with the Department of Corporations on June 7, 1989. Only after that date, and by virtue of the Department's investigation, did the Crosses discover defendants' misrepresentations, omissions, and failure to qualify the offering with the Commissioner of Corporations of the State of California.

Defendants criminal activities could not have been discovered by the Crosses earlier, because they were unsophisticated investors, who had no knowledge of the regulations regarding qualification of securities, and further, had no way of knowing that a substantial portion of their investment had been channeled into other ventures by the Browns.

COUNT FIVE

That in the County of Santa Clara, State of California, on or about and between February 1, and March 1, of 1988, the said Defendants, SYLVIA CELEST BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25110-25540 (SALE OF SECURITY WITHOUT PERMIT) in that the said defendants did willfully offer and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to MARK HELLING, without having first qualified said offer and sale with the Commissioner of Corporations of the State of California.

COUNT SIX

That in the County of Santa Clara, State of California, on or about and between February 1, and March 1, of 1988, the said Defendants, SYLVIA CELEST BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25401-25540 (SALE OF SECURITIES BY MEANS OF WRITTEN OR ORAL COMMUNICATIONS CONTAINING FALSE STATEMENTS OR OMISSIONS) in that the said defendants did offer to sell and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to MARK HELLING, by means of a communication which included an untrue statement of a material fact and omitted to state a material fact necessary in order to make the statements not misleading, in light of the circumstances under which they were made.

COUNT SEVEN

That in the County of Santa Clara, State of California, on or about and between February 1, and June 7, 1989, the said Defendant, KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25541 (USE OF DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD) in that the said defendant did willfully employ a device, scheme, and artifice to defraud MARK HELLING, and did willfully engage in act, practice and course of business which operated

and would operate as a fraud and deceit upon such person in connection with the offer, purchase, and sale of a security, to wit: INVESTMENT CONTRACT.

COUNT EIGHT

That in the County of Santa Clara, State of California, on or about and between March 1, 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Penal Code Section 484-487.1 (GRAND THEFT) in that the said defendants did unlawfully take personal property, to wit: MONEY, of a value exceeding four hundred dollars (\$400.00), the property of MARK HELLING.

It is further alleged that the offenses described in Counts five through eight were not discovered, within the meaning of Section 803 of the California Penal Code, until June 7, 1989, when a complaint was registered with the Department of Corporations by Robin & Greg Cross. Prior to that date, no law enforcement agency had any knowledge, actual or constructive, of the defendants criminal activities with respect to the sale of the securities to Mark Helling.

On or about June 7, 1989, the Crosses reported to the Department the defendants' sale of securities in a gold mining venture. The Department of Corporations initiated an investigation, and subsequently, through the use of its investigative and subpoena powers, discovered the defendants' misrepresentations, omissions, and failure to qualify the offering with the Commissioner of Corporations of the State of California. The reason no law enforcement agency had any knowledge of these activities earlier was that no complaints had been received prior to June 7, 1989.

Mark Helling had no knowledge, actual or constructive, of the defendants' criminal activities prior to March 25, 1990, because the defendants' misrepresented the nature and status of the investment.

The defendants initially misrepresented to Helling that the gold mine was close to operation, and that his investment of \$20,000 was needed to pay immediate operating expenses. Defendants failed to inform Helling of their personal and corporate indebtedness, and further failed to inform them that a substantial portion of their investment would be immediately channeled into other bank accounts unrelated to the gold mine. Further, the defendants failed to inform Helling directly when they declared bankruptcy in April of 1988.

Even after Helling learned of the loss of his investment, Defendants Kensil Brown continued to provide assurances that the investment had been a regrettable, but ordinary business loss due to lack of capital, and that Helling's money could be recovered through the sale of mining equipment.

On or about March 25, 1990, the Department of Corporations contacted Helling to obtain a statement from him regarding his investment in the defendant's gold mine. Only after

that date, and by virtue of the Department's investigation, did Helling discover defendants' misrepresentations, omissions, and failure to qualify the offering with the Commissioner of Corporations of the State of California.

Defendants criminal activities could not have been discovered by Helling earlier, because he was an unsophisticated investor, who had no knowledge of the regulations regarding qualification of securities, and further, had no way of knowing that a substantial portion of his investment had been channeled into other ventures by the Browns.

If the above-named defendant(s) is/are presently on probation in Santa Clara County, any evidence presented at a preliminary hearing in the instant case will be used not only as a basis for a holding in this case but also as a circumstance for a violation of probation and, at any formal hearing on that violation of probation, the People will move the transcript of the preliminary hearing into evidence as a basis for the violation.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant SYLVIA CELESTE BROWN, for the above-listed crimes. Wherefore, A WARRANT OF ARREST IS REQUESTED therefore.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant KENSIL DALZELL BROWN, for the above-listed crimes. Wherefore, A WARRANT OF ARREST IS REQUESTED therefore.

Complainant therefore prays that the said defendant(s) may be dealt with according to law.

I certify under penalty of perjury that the foregoing is true and correct. Executed on May 19, 1992, in SANTA CLARA County, California.