

FILED DISTRICT COURT
Third Judicial District

MAY 08 2009

By XV SALT LAKE COUNTY
Deputy Clerk

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Attorneys for Plaintiff

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

THE STATE OF UTAH. : Bail \$ 50,000 J. Malley
Plaintiff, :
vs. : **CRIMINAL INFORMATION**
TERRY WAYNE BROWN, : Case No. 091903585
DOB: November 8, 1964 :
Defendant. : Judge _____

The undersigned, JONATHAN STEWART, upon oath, states on information and belief
that the defendant has committed the following crimes:

SECURITIES FRAUD
a second degree felony, 2 counts

ABUSE, NEGLECT, OR EXPLOITATION OF A VULNERABLE ADULT
a second degree felony, 1 count

COUNT 1
SECURITIES FRAUD
a second degree felony

Commencing on or about winter 2007, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **KAYLENE CASPER**, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit, in violation of Utah Code Ann. §§61-1-1 and 61-1-21. This violation is a second degree felony under Utah Law.

COUNT 2
SECURITIES FRAUD
a second degree felony

Commencing on or about June 2007, in the State of Utah, the defendant, in connection with the offer or sale of a security, directly or indirectly, to **EDNA HENRY**, made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit, in violation of Utah Code Ann. §§61-1-1 and 61-1-21. This violation is a second degree felony under Utah Law.

COUNT 3
ABUSE, NEGLECT OR EXPLOITATION OF A VULNERABLE ADULT
a second degree felony

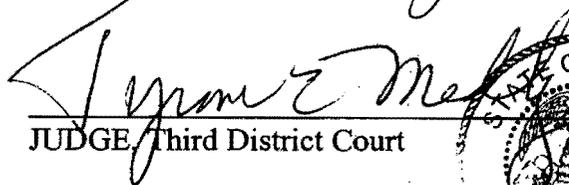
Commencing on or about June 2007, the defendant, in a position of trust and confidence, or in a business relationship, with a vulnerable adult (**Edna Henry**), and knowingly, by deception or intimidation, obtained or used, or endeavored to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult, in violation of Utah Code Ann. § 76-5-111. This violation is a second degree felony.

DATED this 5 day of May, 2009.

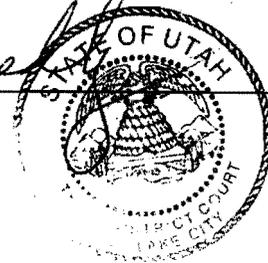


JONATHAN STEWART, Affiant

SUBSCRIBED AND SWORN to before me on this
5 day of May, 2009.



JUDGE, Third District Court



I CERTIFY THAT THIS IS A TRUE COPY OF
AN ORIGINAL DOCUMENT ON FILE IN THE
THIRD DISTRICT COURT, SALT LAKE
COUNTY, STATE OF UTAH

DATE: 7/15/09

DEPUTY COURT CLERK
THIRD DISTRICT COURT
SALT LAKE CITY

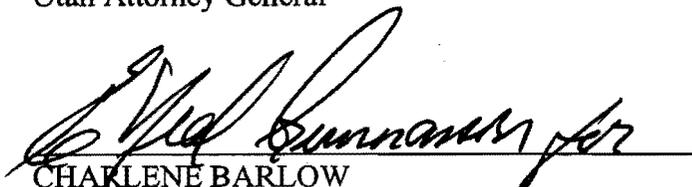
This CRIMINAL INFORMATION is based upon evidence from the following witnesses:

1. Kaylene Casper
2. Edna Henry
3. and others.

AUTHORIZED for presentment and filing this 30 day of April,
2009.

MARK L. SHURTLEFF
Utah Attorney General

By:


CHARLENE BARLOW
Assistant Attorney General

FILED DISTRICT COURT
Third Judicial District

MAY 05 2009

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

THE STATE OF UTAH, :
 :
 Plaintiff, : **AFFIDAVIT OF PROBABLE CAUSE**
 :
 vs. :
 :
 TERRY WAYNE BROWN : Case No: 091903585
 DOB: November 8, 1964 :
 : Judge _____
 Defendant. :

STATE OF UTAH)
 :ss
 COUNTY OF SALT LAKE)

I, JONATHAN STEWART, being first duly sworn upon oath, depose and state as follows:

1. I am currently employed as a Securities Compliance Investigator for the Utah Department of Commerce, Division of Securities. Prior to my employment with the Division of Securities, I was employed by the Utah Division of Consumer Protection as

an investigator. I hold a Bachelor of Science degree from the University of Utah in Sociology with a Certificate in Criminology. I am currently investigating possible violations of securities fraud, abuse, neglect, or exploitation of a vulnerable adult, and related criminal code violations by TERRY WAYNE BROWN.

2. The facts set forth in this affidavit are based upon the results of an investigation during which I have collected and reviewed records from two witnesses and other sources. I have received information from Kaylene Casper and Edna Henry.

PARTIES

3. TERRY WAYNE BROWN, at all pertinent times, resided in Woodland Hills, Utah County, Utah and his last known address was 340 W. Valley View Cir, Woodland Hills, Utah 84653.
4. BROWN filed for chapter 7 bankruptcy in March 1995.

BACKGROUND

5. BROWN told Casper he had come across an investment into securities and mutual funds that would give him a 20% return on a \$50,000 investment.
6. BROWN told Casper that if she invested in the Frederick Kunen account through TD Ameritrade with him (BROWN), she would be able to make the same kind of return he did for the rest of her life;
7. BROWN told Casper he would personally give her money back if it did not work out.
8. BROWN told Casper it was a "for sure deal."

9. BROWN told Henry that if she gave him \$35,000 he would invest it for her and she would get \$2,000 per month.
10. On May 18, 2007 Casper made a direct transfer of \$35,000 from her bank account to BROWN's bank account.
11. On June 21, 2007 Henry wire transferred \$35,000 to BROWN.
12. BROWN misrepresented or omitted material facts to Casper and Henry.

SECURITIES FRAUD

13. Between May 2007 and June 2007, BROWN accepted \$70,000 from the above named investors. Although request has been made, Casper has only received back \$7,900 and Henry has only received back \$4,000. The transactions involve investment contracts which are securities as defined by Utah Code Ann. §61-1-13 (1953, as amended).
14. BROWN misrepresented material facts to one or more investors in connection with the offer or sale of a security, including, but not limited to:
 - a. BROWN told Casper he could get her the kind of return he was getting for the rest of her life;
 - b. BROWN told Casper he would personally give her back her money if it did not work out;
 - c. BROWN told Casper it was a "for sure deal;"
 - d. BROWN told Henry he could get her \$2,000 per month;

15. BROWN omitted material facts in connection with the offer or sale of a security, including, but not limited to:
- a. BROWN did not tell Casper about the issuer's business and operating history;
 - b. BROWN did not provide Casper or Henry with financial statements for the Kunen investment;
 - c. BROWN did not tell Casper about the track record to previous investors;
 - d. BROWN did not tell Casper or Henry about risk factors for investors;
 - e. BROWN did not tell Casper or Henry the number of other investors;
 - f. BROWN did not discuss pertinent suitability factors with Casper or Henry;
 - g. BROWN did not tell Casper or Henry about any involvement of the issuer or the principals in certain legal proceedings, including bankruptcy and prior violation of state or federal securities laws;
 - h. BROWN did not tell Henry about commissions or compensation for selling the investment;
 - i. BROWN did not tell Casper or Henry whether the investment was a registered security or exempt from registration;
 - j. BROWN did not tell Casper or Henry whether he was licensed to sell securities;
 - k. BROWN did not tell Casper or Henry he had filed for bankruptcy in 1995;
 - l. BROWN did not tell Casper or Henry he had lost \$50,000 of his own money investing with Dr. Kunen.

m. BROWN did not tell Casper or Henry about Kunen.

COUNT 1
SECURITIES FRAUD, a second degree felony
(Casper)

16. In the winter of 2007 Kaylene Casper met Terry Wayne BROWN while she was working at Central Bank of Utah in Orem, Utah. BROWN would come to the bank to get help with wire transfers and his accounts. On one occasion, Casper noticed a \$15,000 wire transfer deposited into BROWN's account.
17. When BROWN came to the bank to check on his wire transfer he told Casper he had just been to the temple and had received an answer to his prayers. BROWN told Casper he felt destined and had received a revelation in the temple to help people who needed money. BROWN told Casper that out of the goodness of his heart he was being led to people who were in need of his help.
18. BROWN told Casper he had come across an investment with securities and mutual funds that would give him a 20% return on a \$50,000 investment. BROWN said the \$15,000 wire transfer that just came in was a return on his investment and was proof that this investment really was a good deal.
19. At the time Casper was working full-time making \$10.00 per hour.
20. BROWN said that if Casper invested in the Frederick Kunen account, (a company that trades stocks and mutual funds) through TD Ameritrade with him, she would be able to make the same kind of return he was making for the rest of her life. BROWN told

Casper she would receive a check from the return of the investment on the 21st of every month.

21. BROWN told Casper to do everything she could to get \$50,000 to invest, which was the minimum investment amount required by Kunen. Casper scrambled to get all the money she could. BROWN told her to borrow an extra \$10,000 to live off of because this was a “for sure deal.” BROWN promised Casper that she would make all of her money back after one year and she would never have to worry again.
22. BROWN told Casper he would personally give her back her money if it did not work out and that he would never let her lose her house or anyone else that invests and trusts him.
23. On May 18, 2007 Casper decided to invest by making a direct transfer of \$35,000 from her bank account to BROWN’s bank account at Central Bank of Utah. Casper told Brown the money she was investing came from the equity in her condo. BROWN said she would have to pool her money with his money and other investor’s money to reach the minimum investment amount. However, BROWN did not tell Casper the number of other investors.
24. BROWN told Casper her money would go into his TD Ameritrade account, he would provide her with the username and password so she could log into the account and watch her money grow.
25. The first month Casper invested she received a check for \$2,100 from BROWN. BROWN told her that her investment had made \$2,800 that month and he charged her

\$700 for his commission.

26. A few months later she logged into the BROWN's TD Ameritrade account to look at her investment and noticed the account was empty.
27. BROWN told Casper that Kunen was dead, but she should still get her money back. BROWN said Kunen had taken \$5,000,000, left the country, and then died.
28. BROWN insisted that Casper would get all of her money back because BROWN had filed against the Kunen Estate Receivership. BROWN said he had filed a claim for himself, Casper, and other investors he had referred to Kunen.
29. For six months Casper would call BROWN every two weeks asking him what was going on. BROWN always had something different he was doing to try and get her money back. BROWN continued to tell Casper he would make good on the money.
30. Casper made an individual claim to the trustee of Dr. Kunen's estate and she received back \$5,800. Although request has been made to get all of her money back, she has only received one interest payment of \$2,100 from BROWN and the payment from the trustee of \$5,800. Casper is owed a minimum of \$27,100, not including interest.

COUNT 2
SECURITIES FRAUD, a second degree felony
(Henry)

31. Edna Henry first met BROWN in June 2007 when she contacted him to help her refinance her home. BROWN owned TNT Lending. Henry learned about BROWN from her son who had previously refinanced his home through TNT Lending.

32. Three or four days after Henry refinanced her home, BROWN went to her work and told her there was some paperwork she needed to sign. Henry assumed the paperwork had to do with her home refinance. Because she was at work and did not have time to review what she was signing, she just signed it.
33. Henry later learned that the paperwork she had signed while at work was for a second mortgage taking out \$35,000 of her equity. Henry said she never requested this, nor did she ever speak to BROWN about getting a second mortgage.
34. Henry wanted to put the \$35,000 back into her home, but BROWN told her that if she gave him the money he could invest it for her and she would get \$2,000 per month. BROWN told Henry she could use the \$2,000 per month to pay her mortgage payment.
35. Henry decided to invest on June 21, 2007 by wire transferring \$35,000 to BROWN's account at Central Bank of Utah.
36. Henry received two monthly payments of \$2,000 after she invested, but then the payments stopped.
37. At some point, BROWN did send Henry a check for \$500 in the mail to help Henry pay for prescriptions and an insurance premium. Although request has been made to get back all of her money, Henry has only received back \$4,000 in interest payments and the additional \$500 Brown gave her. Henry is owed a minimum of \$30,500 not including interest.

**COUNT 3
ABUSE, NEGLECT, OR EXPLOITATION OF A VULNERABLE ADULT
a second degree felony
(Henry)**

38. When Henry invested with BROWN she was over the age of 65.

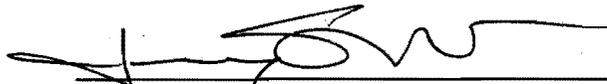
SUMMARY

Based upon my review of the evidence there is probable cause to believe that BROWN committed the crimes of:

SECURITIES FRAUD, a second degree felony, 2 counts

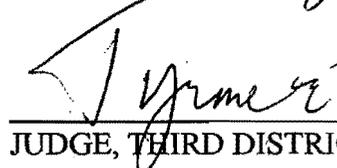
**ABUSE, NEGLECT, OR EXPLOITATION OF A VULNERABLE ADULT
a second degree felony, 1 count**

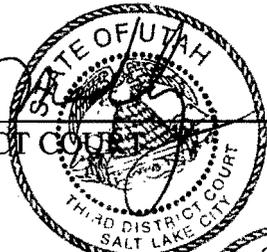
DATED this 4 day of MAY, 2009.



JONATHAN STEWART, Affiant

SUBSCRIBED AND SWORN before me this 5
day of May, 2009.



JUDGE, THIRD DISTRICT COURT

CERTIFY THAT THIS IS A TRUE COPY OF
AN ORIGINAL DOCUMENT ON FILE IN THE
THIRD DISTRICT COURT, SALT LAKE
COUNTY, STATE OF UTAH
DATE May 12 2009

DEPUTY CLERK

FILED DISTRICT COURT
Third Judicial District

MAY 05 2009

By XN SALT LAKE COUNTY
Deputy Clerk

CHARLENE BARLOW, Bar No. 0212
Assistant Attorney General
MARK L. SHURTLEFF, Bar No. 4666
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IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH, :

Plaintiff, :

vs. :

TERRY WAYNE BROWN, :
DOB: November 8, 1964 :

Defendant. :

Bail \$

50,000 J Medley

WARRANT OF ARREST

Case No

091903585

Judge _____

THE STATE OF UTAH TO ANY PEACE OFFICER IN THE STATE OF UTAH,

GREETINGS:

An Information, upon oath, having been this day made before me by Investigator Jonathan Stewart, and it appearing from the Information, or affidavit filed with the Information, that there is probable cause to believe that the public offense(s) of: **Securities Fraud, a second degree felony, 2 counts; and, Abuse, Neglect, or Exploitation of a Vulnerable Adult, a second degree felony, 1 count,** has been committed, and that the defendant, TERRY WAYNE

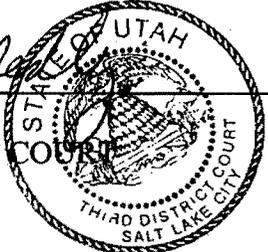
BROWN, has committed these offenses,

YOU ARE THEREFORE COMMANDED to arrest the above named defendant forthwith and bring the defendant before this court, or before the nearest or most accessible magistrate for setting bail. If the defendant has fled justice, you shall pursue the defendant into any other county of this state and there arrest the defendant. The offenses listed above are felonies.

Bail is set in the amount of \$ 50,000 Bm

DATED this 5 day of May, 2009.

Vyome E. M...
HONORABLE,
JUDGE, THIRD DISTRICT COURT



Defendant's Last Known Address:

340 West Valley View Circle
Woodland Hills, Utah

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH

DATE: May 5, 2009

Heidi...
DEPUTY COURT CLERK

