

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**FILED**

MAY 19 2009

CLERK, U.S. DISTRICT COURT

By \_\_\_\_\_  
Deputy

UNITED STATES OF AMERICA

§  
§  
§  
§  
§

v.

No. **3-09 CR 136-K**

JEFFREY CHARLES BRUTEYN

**INDICTMENT**

The Grand Jury Charges:

**Introduction**

1. Beginning no later than December 2005 and continuing until in or about July 2007 (“the Relevant Period”), in the Dallas Division of the Northern District of Texas and elsewhere, the defendant, **Jeffrey Charles Bruteyn** (“the Defendant”), aided and abetted by persons known and unknown to the Grand Jury, knowingly and willfully used and employed a scheme, artifice, device, and contrivance to defraud investors in connection with sales of securities.

2. The Defendant offered and sold to investors securities known as Secured Debt Obligations and Collateral Secured Debt Obligations (both referred to hereafter as “SDOs”), and in connection with sales of those securities the Defendant misled, deceived and defrauded investors by misrepresenting, and by failing to disclose, material facts concerning the safety of the investments.

3. In particular, the Defendant knowingly and willfully misled and deceived

investors about insurance that supposedly protected their investments, about assets that supposedly were available to make investors whole in the event of investment losses, and about the Defendant's own qualifications and trustworthiness as a fiduciary who supposedly would safeguard the investors' funds.

#### **Manner and Means**

4. During the Relevant Period, in the Dallas Division of the Northern District of Texas and elsewhere, the Defendant, aided and abetted by persons known and unknown to the Grand Jury, directly and indirectly employed the following manner and means in furtherance of the fraudulent scheme.

#### **The Securities**

5. The SDOs offered and sold by the Defendant were securities, issued by business entities such as AmeriFirst Funding Corp. and AmeriFirst Acceptance Corp. ("issuers"), which the Defendant and his associates controlled.

6. Each SDO was a note, reflecting a debt that the issuer of the SDO owed to the purchaser. The SDOs earned interest at fixed rates that ranged from 7.25% to 8.5%.

7. The SDOs were also investment contracts, under which investors were entitled to receive, from a common enterprise, investment returns based on the business efforts of the issuers.

8. Along with each SDO, the investor received a Servicing Agreement, signed by the Defendant or one of his associates, that contained promises regarding the

management and protection of the investor's funds. The Servicing Agreements promised that the Defendant and his associates would, among other things:

- a. enter into a "relationship of trust" with the investor;
- b. "comply with all of the obligations of a fiduciary;" and
- c. "guarantee the entire principal investment."

**Sales of the SDOs**

9. The Defendant offered and sold SDOs to investors, both directly and indirectly. The Defendant personally met with investors and offered and sold SDOs, and he also arranged for salesmen to offer and sell SDOs.

10. The Defendant knew and intended that the salesmen would and did market the SDOs to prospective investors who were shopping for FDIC-insured certificates of deposit, and who were interested in the safety and security provided by such investments.

11. The Defendant supplied to the salesmen a list of representations about the SDOs, for the salesmen to provide to prospective investors, which included the following representations, among others:

- a. that the investment was "guaranteed by a Commercial Bank and reinsured by two outside AA rated insurance companies;"
- b. that the "reinsurers" were "Allianz and Lloyds of London . . . the two largest insurance companies in the world;" and
- c. that the investment was protected by "Fraud and Dishonesty

Insurance up to \$100,000 per account.”

12. The Defendant, as Managing Director of the issuers of the SDOs, signed and provided to investors, or caused to be provided to them, a letter that stated, among other things:

a. because of the “security” of an SDO, it was “a perfect investment vehicle for someone in a conservative financial position;”

b. the Defendant was a “Certified Regulatory and Compliance Professional . . . from the Wharton School of Business;” and

c. the Defendant “personally handle[d] all new client relations.”

13. The Defendant sent or caused to be sent to investors, via the mails and via commercial and private interstate carriers, investment agreements, account statements, and interest payments.

**Misrepresentations of Material Facts**

14. In connection with sales of SDOs, the defendant directly and indirectly made to investors and prospective investors, and caused to be made to them, a number of untrue statements of material facts, including the following:

a. that their investment would be insured by policies from major insurers, such as Allianz and Lloyd’s of London, when in fact, as the Defendant well knew, policies issued by those insurers only covered cars that were collateral for car loans that might be purchased with investor funds;

b. that their investment was guaranteed by a “commercial bank,” when in fact, as the Defendant well knew, no commercial bank guaranteed the investments;

c. that a fraud and dishonesty bond protected up to \$100,000 of the funds invested in each SDO, when in fact, as the Defendant well knew, the protection that the fraud and dishonesty bond provided to a particular investor was, if anything, far less than \$100,000;

d. that the Defendant’s family controlled a vast fortune from the Hess oil company, and would provide money to protect SDO investors from investment losses, when in fact, as the Defendant well knew, his relationship to the Hess family, if any, offered no protection or other benefits to investors in SDOs; and

e. that the Defendant held a Masters of Business Administration degree (“MBA”) from the Wharton School of Business at the University of Pennsylvania, when in fact, as the Defendant well knew, he held no such degree.

**Omissions of Material Facts**

15. In connection with sales of SDOs, the defendant directly and indirectly omitted to state material facts, and caused others to omit to state material facts, thus causing affirmative statements that were made to investors and prospective investors to be misleading under the circumstances under which those statements were made.

16. The Defendant omitted to state that he had once been associated with member firms of the National Association of Securities Dealers (“NASD”), a private

securities regulator, and that he was no longer allowed to associate with NASD member firms because of disciplinary actions by the NASD, including the following.

17. In January 2002, the NASD fined the Defendant \$15,000 and suspended him for 18 months from association with a member firm, based on misconduct that included executing unauthorized transactions in a customer account and misrepresenting whether he had followed customer instructions.

18. In March 2002, an NASD arbitration panel found that the Defendant had engaged in misconduct that included breach of fiduciary duty, among other things, and ordered the Defendant to pay a former client \$287,000.

19. In March 2003, the NASD permanently barred the Defendant from associating with any NASD member firm, for failing to provide information as required by NASD rules.

20. Because of the Defendant's failure to disclose his NASD disciplinary history, his statements about entering into a "relationship of trust" with investors, about complying with "all of the obligations of a fiduciary," and about being a Certified Regulatory and Compliance Professional, would and did mislead investors about the Defendant's qualifications and his trustworthiness.

COUNTS ONE through NINE

Securities Fraud

(15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2)

As to each of Counts One through Nine listed below, in the Dallas Division of the Northern District of Texas and elsewhere, the defendant, **Jeffrey Charles Bruteyn** (“the Defendant”) willfully and knowingly, by use of the mails and means and instrumentalities of interstate commerce, in connection with sales of SDOs to the investors identified below on or about the dates stated below, directly and indirectly:

- employed devices, schemes and artifices to defraud;
- made untrue statements of material facts and omitted to state material facts

that were necessary in order to make statements that were made not misleading in light of the circumstances under which the statements were made; and

- engaged in acts, practices and courses of business that operated and would operate as a fraud and deceit on a person,

all as alleged in Paragraphs 4 through 20 above, which are incorporated herein by reference.

<u>Count</u>	<u>Date</u>	<u>Investor</u>
1	December 21, 2005	J.A.L.
2	March 17, 2006	J.M.C.
3	April 4, 2006	W.M.G. and C.W.G.

<u>Count</u>	<u>Date</u>	<u>Investor</u>
4	April 13, 2006	L.V.
5	June 7, 2006	D.R.H.
6	June 17, 2006	J.M.C.
7	August 30, 2006	O.M.H. and T.D.H.
8	January 2, 2007	D.J.J.
9	February 8, 2007	D.J.J.

Each in violation of 15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2.

COUNT TEN

Forfeiture Allegation

(18 U.S.C. §§ 981(a)(1)(C) and 28 U.S.C. § 2461(c))

Upon conviction for any of the offenses alleged in Counts One through Nine of this Indictment, the defendant, **Jeffrey Charles Bruteyn**, shall forfeit to the United States any property, real or personal, constituting or derived from proceeds traceable to the respective offense, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), if any of the above property subject to forfeiture, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, it is the intent of the United States of America to seek forfeiture of any other property of the defendant up to the value of the above described property subject to forfeiture.

A TRUE BILL



FOREPERSON

JAMES T. JACKS  
ACTING UNITED STATES ATTORNEY



ALAN M. BUIE

Assistant United States Attorney  
Texas State Bar No. 00783751  
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Dallas, Texas 75242  
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Facsimile: 214.767.4104  
alan.buie@usdoj.gov

ORIGINAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

Related Case Information

Superseding Indictment:  Yes  No New Defendant:  Yes  No  
(Related) (Related)  
Pending CR Case in NDTX:  Yes  No If Yes, number: 3:07-CR-312-M,  
3:07-CR-344-M, and 3:08-CR-183-M  
Search Warrant Case Number \_\_\_\_\_  
R 20 from District of \_\_\_\_\_

1. Defendant Information

Juvenile:  Yes  No  
If Yes, Matter to be sealed:  
 Yes  No

Defendant Name JEFFREY CHARLES BRUTEYN  
Alias Name \_\_\_\_\_  
Address \_\_\_\_\_

County in which offense was committed: Dallas

2. U.S. Attorney Information

Alan M. Buie Bar # 00783751

3. Interpreter

Yes  No If Yes, list language and/or dialect: \_\_\_\_\_

4. Location Status

Already in Federal Custody (Philadelphia U.S. Marshals) *anz*  
 Already in State Custody  
 On Pretrial Release

\*\*\*PLEASE ISSUE AN ARREST WARRANT\*\*\*

5. U.S.C. Citations

Total # of Counts as to This Defendant: 10  Petty  Misdemeanor  Felony

Citation	Description of Offense Charged	Count(s)
15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2	Securities Fraud	1-9
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)	Forfeiture Allegation	10

Date 18 May 09

Signature of AUSA: *[Signature]*

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JEFFREY CHARLES BRUTEYN

**3-09 CR 136-K**

INDICTMENT

15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, and 18 U.S.C. § 2  
Securities Fraud

18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)  
Forfeiture Allegation

10 Counts

A true bill rendered

DALLAS

FOREPERSON

Filed in open court this 19 day of MAY 2009

Clerk

PLEASE ISSUE AN ARREST WARRANT

UNITED STATES DISTRICT/MAGISTRATE JUDGE

No Criminal Case Pending