

THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

FILED IN MY OFFICE
DISTRICT COURT CLERK

2012 JUN -7 PM 4: 43

STATE OF NEW MEXICO
Plaintiff,

THERESA VALENCIA

BY _____ DEPUTY

D1329CR201200205
No

vs:

RUSSELL J. DILS, A/K/A "RUSTY DILS"
d/b/a SOUTHWEST MACHINERY AND EQUIPMENT
Defendant.

Louis P McDonald

INDICTMENT

COUNT 1: FRAUDULENT SALE OF SECURITY, SECURITIES FRAUD

On November 3rd, 2009 In Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to Patrick Clark, a security, to wit: a promissory note for \$20,000.00, at an interest rate of 17%, promising a return of principal and interest, after a 24 month term.

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

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

The fraudulent practices, material misrepresentations, and material omissions by defendant include, but are not limited to: Russell J. Dils failed to disclose to Patrick Clark that he had multiple civil judgments and

Notices of Delinquent Taxes owed; Russell J. Dils failed to disclose to Patrick Clark that he did not possess a securities license as a broker dealer and/or sales representative; Russell J. Dils failed to disclose to Patrick Clark that the South Dakota Division of Securities had issued an Order to Cease and Desist and Refrain against Dils and Southwest Machinery and Equipment on October 11th, 2011; Russell J. Dils failed to disclose to Patrick Clark that the Pennsylvania Securities Commission issued a Summary Order to Cease and Desist against Southwest Machinery and Equipment, Russell J. Dils, on or about September 9th, 2009; and Russell J. Dils failed to disclose to Patrick Clark that the Oklahoma Department of Securities had filed a Subpoena Duces Tecum against Southwest Machinery and Equipment on August 18th, 2011; contrary to NMSA 1978 § 58-138-30, and 39.

COUNT 2: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

On or about November 3rd, 2009 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to Patrick Clark an investment in Southwest Machinery and Equipment, and gave him a promissory note which was required to be registered under the New Mexico Securities Act of 1986 contrary to NMSA 1978 § 58-138-20 and § 58-138-39.

COUNT 3: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKERDEALER OR SALES REPRESENTATIVE

On or about November 3rd, 2009 in Sandoval 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 as required by the New Mexico Securities Act of 1986, contrary to NMSA 1978, § 58-138-3 and § 58-138-39.

COUNT 4: FRAUDULENT SALE OF SECURITY, SECURITIES FRAUD

On April 11th, 2011 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to Jonathon Cheah, a security, to wit: a Security Agreement for \$10,000.00, at an interest rate of 15%, promising a return of principal and interest, after a 24 month term.

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

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

The fraudulent practices, material misrepresentations, and material omissions by defendant include, but are not limited to: Russell J. Dils failed to disclose to Jonathon Cheah that he had multiple civil judgments and Notices of Delinquent Taxes owed; Russell J. Dils failed to disclose to Jonathon Cheah that he did not possess a securities license as a broker dealer and/or sales representative or agent; Russell J. Dils failed to disclose to Jonathon Cheah that the South Dakota Division of Securities has issued an Order to Cease and Desist and Refrain against Dils and Southwest Machinery and Equipment on October 11th, 2011; Russell J. Dils failed to disclose to Jonathon Cheah that the Pennsylvania Securities Commission issued a Summary Order to Cease and Desist against Southwest Machinery and Equipment, Russell J. Dils, on or about September 9th, 2009; and Russell J. Dils failed to disclose to Jonathon Cheah that the Oklahoma Department of Securities had filed a Subpoena Duces Tecum against Southwest Machinery and Equipment on August 18th, 2011; contrary to NMSA 1978 § 58-13C-501 and 508 (2010).

COUNT 5: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

On or about April 11th, 2011 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to Jonathan Cheah an investment in Southwest Machinery and Equipment and gave him a Security Agreement, which was required to be registered under the New Mexico Uniform Securities Act, ("Act", hereafter) contrary to NMSA 1978, § 58-13C-301 and 508 (2010).

COUNT 6: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKERDEALER OR AGENT

On or about April 11th, 2011 in Sandoval County, State of New Mexico, the above named defendant committed the crime of engaging in the business of effecting transactions as a broker-dealer or agent in securities without a license as required by the Act, contrary to NMSA 1978 § 58-13C-401, 402, and 508 (2010).

COUNT 7: FRAUDULENT SALE OF SECURITY, SECURITIES FRAUD

On November 1st, 2010 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to Gregory Kaler, a security, to wit: a promissory note for \$25,000.00, at an interest rate of 15%, promising a return of principal and interest, upon the completion of a 24 month term.

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

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

The fraudulent practices, material misrepresentations, and material omissions by defendant include, but are not limited to: Russell J. Dils failed to disclose to Gregory Kaler that he had multiple civil judgments and Notices of Delinquent Taxes owed; Russell J. Dils failed to disclose to Gregory Kaler that he did not possess a securities license as a broker dealer and/or agent; Russell J. Dils failed to disclose to Gregory Kaler that the South Dakota Division of Securities has issued an Order to Cease and Desist and Refrain against Dils and Southwest Machinery and Equipment on October 11th, 2011; Russell J. Dils failed to disclose to Gregory Kaler that the Pennsylvania Securities Commission issued a Summary Order to Cease and Desist against Southwest Machinery and Equipment, Russell J. Dils, on or about September 9th, 2009; and Russell J. Dils failed to disclose

to Gregory Kaler that the Oklahoma Department of Securities had filed a Subpoena Duces Tecum against Southwest Machinery and Equipment on August 18th, 2011; contrary to NMSA 1978 § 58-13C-501 and 508 (2010).

COUNT 8: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

On or about November 1st, 2010 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to Gregory Kaler an investment in Southwest Machinery and Equipment, and gave him a promissory note which was required to be registered under the Act, contrary to NMSA 1978 § 58-13C-301 and 508 (2010).

COUNT 9: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKERDEALER OR AGENT

On or about November 1st, 2010 in Sandoval County, State of New Mexico, the above named defendant committed the crime of engaging in the business of effecting transactions in securities as a broker-dealer or agent without a license as required by the Act, contrary to NMSA 1978, § 58-13C-401 and 508 (2010).

COUNT 10: FRAUDULENT SALE OF SECURITY, SECURITIES FRAUD

On October 31st, 2011 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to William Villatore, a security, to wit: a promissory note for \$15,000.00, at an interest rate of 17%, promising a return of principal and interest, upon the completion of a 24 month term.

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

- A. Employed a device, scheme or artifice to defraud; or
- B. Made an untrue statement of material fact; or failed to state a necessary material fact where such omission would be misleading; or

C. Engaged in an act, practice or course of business which operates or would operate as a fraud or deceit upon a person.

The fraudulent practices, material misrepresentations, and material omissions by defendant include, but are not limited to: Russell J. Dils failed to disclose to William Villatore that he had multiple civil judgments and Notices of Delinquent Taxes owed; Russell J. Dils failed to disclose to William Villatore that he did not possess a securities license as a broker dealer and/or sales representative; Russell J. Dils failed to disclose to William Villatore that the South Dakota Division of Securities has issued an Order to Cease and Desist and Refrain against Dils and Southwest Machinery and Equipment on October 11th, 2011; Russell J. Dils failed to disclose to William Villatore that the Pennsylvania Securities Commission Issued a Summary Order to Cease and Desist against Southwest Machinery and Equipment, Russell J. Dils, on or about September 9th, 2009; and Russell J. Dils failed to disclose to William Villatore that the Oklahoma Department of Securities had filed a Subpoena Duces Tecum against Southwest Machinery and Equipment on August 18th, 2011; contrary to NMSA 1978 § 58-13C-501 and 508 (2010).

COUNT 11: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

On or about October 31st, 2011 in Sandoval County, State of New Mexico, the above named defendant offered to sell and sold to William Villatore an investment in Southwest Machinery and Equipment, and gave him a promissory note which was required to be registered under the Act, contrary to NMSA 1978 § 58-13C-301 and 508 (2010).

COUNT 12: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKERDEALER OR AGENT

On or about October 31st, 2011 in Sandoval 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 as required by the New Mexico Uniformed Securities Act, contrary to NMSA 1978, § 58-13C-501 and 508 (2010).

COUNT 13: FRAUDULENT SALE OF SECURITY, SECURITIES FRAUD

On October 4th, 2011 in Sandoval County, State of New Mexico, the above named defendant offered to sell to Benjamin Bosworth, (Benjamin Baker) a security, to wit: a promissory note for \$25,000.00, at an interest rate of 17%, promising a return of principal and interest, upon the completion of a 24 month term.

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

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

The fraudulent practices, material misrepresentations, and material omissions by defendant include, but are not limited to: Russell J. Dils failed to disclose to Benjamin Bosworth that he had multiply civil judgments and Notices of Delinquent Taxes owed; Russell J. Dils failed to disclose to Benjamin Bosworth that he did not possess a securities license as a broker dealer and/or agent; Russell J. Dils failed to disclose to Benjamin Bosworth that the South Dakota Division of Securities has issued an Order to Cease and Desist and Refrain against Dils and Southwest Machinery and Equipment on October 11th, 2011; Russell J. Dils failed to disclose to Benjamin Bosworth that the Pennsylvania Securities Commission issued a Summary Order to Cease and Desist against Southwest Machinery and Equipment, Russell J. Dils, on or about September 9th, 2009; and Russell J. Dils failed to disclose to William Bosworth that the Oklahoma Department of Securities had filed a Subpoena Duces Tecum against Southwest Machinery and Equipment on August 18th, 2011; contrary to NMSA 1978 § 58-13C-501 and 508 (2010).

COUNT 14: SALE OR OFFER TO SELL AN UNREGISTERED SECURITY

On or about October 4th, 2011 in Sandoval County, State of New Mexico, the above named defendant offered to sell to Benjamin Bosworth, (Benjamin Baker) an investment in Southwest Machinery and Equipment, and gave him a promissory note which was required to be registered under the Act, contrary to NMSA 1978 § 58-13C-301 and 508 (2010).

COUNT 15: SALE OR OFFER TO SELL A SECURITY BY UNLICENSED BROKERDEALER OR AGENT

On or about October 4th, 2011 in Sandoval County, State of New Mexico, the above named defendant committed the crime of engaging in the business of effecting transactions in securities as a broker-dealer or agent without a license as required by the Act, contrary to NMSA 1978, § 58-13C-401, 402, and 508 (2010).

COUNT 16: RACKETEERING

That on or between November 3rd, 2009 and October 31st, 2011 in Sandoval County, State of New Mexico, the above named defendant committed the crime of Racketeering.

While associated with an enterprise, namely a sole proprietorship called Southwest Machinery and Equipment, the above named defendant operated as an owner, manager and /or as a financial adviser with this named entity in the purported operation of taking investment money and lending out for equipment lease purchases (woodcutting equipment), while operating out of an address located at 502 Devon Court, Rio Rancho, New Mexico 87124; defendant gave promissory notes, to the investors referenced herein, namely Patrick Clark, Jonathon Cheah, Gregory Kaier, William Villatore and Benjamin Bosworth; promising a return of principal after a term of either one or two years, and monthly interest payments based on a rate of interest depending on the amount of money invested.

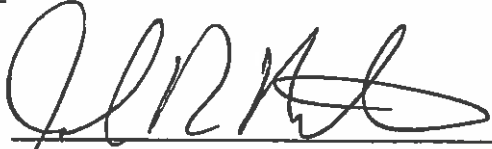
The defendant conducted the affairs of the enterprise by intentionally engaging in a pattern of racketeering activity. The pattern of racketeering activity included two or more crimes of:

Securities Fraud as charged in counts I, IV, VII, X, and XIII, in connection with the sale or offer to sell securities, to wit: through the issuance of promissory notes as owner of Southwest Machinery and Equipment promising both a set rate of return and a return of the principal invested, after the passage of a specified period of time; contrary to NMSA 1978 § 30-42-1 to 30-42-5.

RESPECTFULLY SUBMITTED:

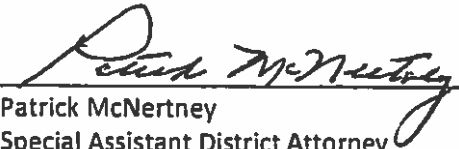

Patrick McNertney, Esquire
Special Assistant District Attorney
NM/RLD Securities Division
Toney Anaya Building
2550 Cerrillos Road
Santa Fe, NM 87505
505-476-4505

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


Foreperson

6/7/2012
Date

APPROVED:


Patrick McNertney
Special Assistant District Attorney

CASE INFORMATION

To: RUSSELL J. DILS

DOB:

SSN:

OLN: 056434780

HGT: 5' 11"

WGT: 240LBS.

EYES: BLUE

HAIR: GREY

ADDRESS: 502 DEVON CT.
RIO RANCHO, NM 87124

COUNTS 1 to 15 3RD Degree Felonies
COUNT 16 2ND 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 Penalty: not less than 4 days nor more than 364 days and fine up to \$1,000 (non-DWI related 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.

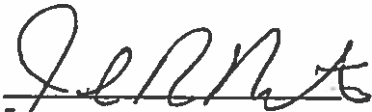
INVOLUNTARY MANSLAUGHTER: 4th Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.

Penalty for FIRST DEGREE MURDER (Felony Murder):

CAPITAL FELONY: Life Imprisonment

STATEMENT OF TRUE BILL

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


Foreperson

6/7/2012
Date