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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KOLE BRIMHALL,

Defendant.

FELONY INFORMATION

COUNT 1: 15 U.S.C. §§ 77q(a) and 77x
(Fraud in the Offer and Sale of Securities)

Case: 2:24-cr-00374
Assigned To : Sam, David
Assign. Date : 11/13/2024
Description: USA v. Brimhall

The United States Attorney charges:

I. Background

At all times relevant to this Felony Information:

1. Defendant KOLE BRIMHALL ("BRIMHALL") was a resident of Utah County, Utah.
2. Defendant BRIMHALL was a sales agent for ALPHA INFLUENCE, LLC ("ALPHA") through his companies ALPHA KOLETURE LLC, KOLETURE INVESTMENTS LLC, and BRIM KOLETURE, INC.

3. ALPHA was registered as a Utah corporation with the state of Utah on July 22, 2019.

4. Neither BRIMHALL nor anyone working at ALPHA was licensed to offer and sell securities when BRIMHALL sold investments.

II. The Scheme and Artifice to Defraud

5. Beginning in and around March 2020 and continuing until approximately April 2022, within the District of Utah and elsewhere,

KOLE BRIMHALL,

defendant herein, employed a device, scheme, or artifice to defraud investors, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises, and omissions of material facts.

6. Beginning in or around March 2020, BRIMHALL offered and sold investment contracts, which are securities, for “Alpha Automated Stores” generally for \$30,000 to \$40,000 each.

7. The investments offered a “fully managed and automated Amazon Store” using a “done for you system” and promised a Return on Investment “within 12-18 months.” The solicitations claimed a “4K-7K avg month take home.”

8. In executing the scheme and artifice to defraud, and in furtherance thereof, BRIMHALL:

- a. willfully and knowingly, directly and indirectly, by the use of means and instruments of interstate commerce, and of the mails, and of the facilities of national securities exchanges, used and employed manipulative and deceptive devices and contrivances in connection with the offer and sale of securities by: (1) employing a device, scheme, and

artifice to defraud; (2) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (3) engaging in acts, transactions, practices, and courses of business which would operate and did operate as a fraud and deceit upon other persons, in violation of 15 U.S.C. § 77q(a) and 15 U.S.C. § 77x (Securities Fraud) and 18 U.S.C. § 2 (Aiding and Abetting);

III. Object of the Scheme and Artifice to Defraud

9. It was the object of the scheme and artifice to defraud for defendant BRIMHALL to fraudulently obtain \$4,960,000 from approximately 130 investors through false statements, misrepresentations, deception, and omissions of material facts.

IV. Manner and Means of the Scheme and Artifice to Defraud

10. In execution and furtherance of the scheme and artifice to defraud, defendant BRIMHALL, made or caused to be made, one or more of the following false and fraudulent representations to the investor victims: that he was a “construction worker turned millionaire by [age] 25,” who was selling the opportunity to make passive income through a \$40,000 investment in a “done for you” Amazon store, where investors would “make \$3K-7K per month passively” and obtain return on investment “within 12-18 months.” BRIMHALL further claimed:

- a. that ALPHA had been operating successfully for years, which was not true;
- b. that the investment would generate “consistent, predictable, monthly returns”, when it did not;
- c. that the investment principal would be recouped within 12-18 months, which was not true;

- d. that the Alpha Automation Team would manage and operate the Amazon stores, select products, handle pricing, reselling, and order fulfillment; when in fact, a third-party fulfillment company was utilized;
- e. that returns would be generated by the automated Amazon store managed by the Alpha Automation Team; when in fact, these Amazon stores were almost never successful at generating investment returns sufficient to recoup the principal paid;
- f. that the investment funds would be used toward opening and operating an Amazon store; when in fact, the vast majority of the investment funds were used to pay sales commissions to BRIMHALL and others at ALPHA;
- g. that ALPHA had connections with high-ranking Amazon executives in Seattle; when in fact, it did not; and
- h. that stores operated within Amazon's policies; when in fact, the operation of these stores violated Amazon's policies.

11. It was part of the scheme and artifice to defraud that defendant BRIMHALL, in order to lull investor victims into a false sense of security about their investments, did knowingly make or cause to be made material misrepresentations to investors, including, without limitation, providing investors with falsified and misleading records to make it appear that other investor stores were profitable and with false promotional videos that did the same.

12. It was part of the scheme and artifice to defraud that defendant BRIMHALL, failed to disclose to investors the following material facts, among others:

- a. these securities were not registered with the Utah Division of Securities, did not qualify for an exemption from registration, and were not federally covered securities for which any notice filing was made;
- b. BRIMHALL was not licensed to sell securities;

- c. BRIMHALL was not licensed and was not qualified to render investment advice;
- d. BRIMHALL received a commission out of the money he raised for these investments; and
- e. on a routine basis, and for years, investors did not timely receive their investment returns as promised.

13. During the course and scope of the scheme and artifice to defraud, defendant BRIMHALL sold approximately 130 Automated Amazon stores investments totaling approximately \$4,960,000.00 of which he kept at least \$1,097,709.82 for himself in commissions.

COUNT 1
15 U.S.C. § 77q(a) and 15 U.S.C. § 77x
(Fraud in the Offer and Sale of Securities)

14. All the allegations in this Information are incorporated herein by reference and realleged as though fully set forth herein.

15. Beginning in and around March 2020 and continuing to and around April 2022, within the District of Utah and elsewhere,

KOLE BRIMHALL,

defendant herein, willfully and knowingly, directly and indirectly, by the use of means and instruments of interstate commerce, and of the mails, and of the facilities of national securities exchanges, used and employed manipulative and deceptive devices and contrivances in connection with the offer and sale of securities, by: (1) employing a device, scheme, and artifice to defraud; (2) making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made, in light of the

circumstances under which they were made, not misleading; and (3) engaging in acts, transactions, practices, and courses of business which would operate and did operate as a fraud and deceit upon other persons, in instances including but not limited to the count below:

COUNT	DATE (on or about)	USE OF INTERSTATE MEANS
1	02/24/2022	Wire Transfer of \$40,000 from investor C.T. from Cyprus Credit Union account ending in XXX4939 to Alpha Influence LLC

All in violation of 15 U.S.C. § 77q(a) and 15 U.S.C. § 77x (Securities Fraud) and 18 U.S.C. § 2 (Aiding and Abetting).

NOTICE OF INTENT TO SEEK FORFEITURE


Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon conviction of any offense violating 15 U.S.C. §§ 78j(b), 78ff, and 17 C.F.R. § 240.10b-5, the defendant(s) shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the offense. The property to be forfeited includes, but is not limited to:

- A money judgment equal to the value of any property not available for forfeiture as a result of any act or omission of the defendant(s) for one or more of the reasons listed in 21 U.S.C. § 853(p).

Substitute property as allowed by 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p).

Dated this 13th day of November, 2024.

TRINA A. HIGGINS
United States Attorney



RUTH HACKFORD-PEER
Assistant United States Attorney