

FAYETTE CIRCUIT COURT
7 DIVISION
CIVIL ACTION NO. 08-CI-6120

JOHN SHANNON BOUCHILLON

PLAINTIFF

v.

COMPLAINT

JOHN Y. BROWN, JR.
Serve: John Y. Brown, Jr.

[REDACTED]

and

BROWN OPERATING COMPANY, LLC
Serve: John Y. Brown, Jr.

[REDACTED]

and
SLC FOOD, INC.
GKL Resident Agents/Filings, Inc.

[REDACTED]

Serve: Kentucky Secretary of State

[REDACTED]

and

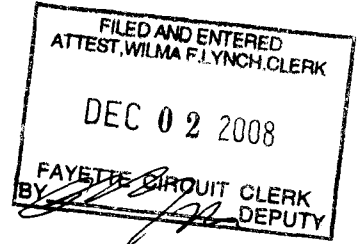
SUZANNE SOMERS
Suzanne S. Hamel

[REDACTED]

Serve: Kentucky Secretary of State

[REDACTED]

DEFENDANTS



Om

Comes the Plaintiff, John Shannon Bouchillon, by counsel, and for his Complaint against the Defendants, John Y. Brown, Jr., Brown Operating Company, LLC, SLC Food, Inc. and Suzanne Somers, hereby states as follows:

PARTIES

1. Plaintiff, John Shannon Bouchillon (“Bouchillon”), is a citizen of the Commonwealth of Kentucky with an address of [REDACTED]

2. Defendant, John Y. Brown, Jr. (“Brown”), is a citizen of the Commonwealth of Kentucky with an address of [REDACTED]

3. Defendant, Brown Operating Company, LLC (“BOC”), is a Kentucky Limited Liability Company with a principal place of business of [REDACTED]

4. Defendant, SLC Food, Inc. (“SLC”), is a Nevada corporation with a principal place of business of [REDACTED]

5. Defendant, Suzanne Somers (“Somers”), is a citizen of the state of California with an address of [REDACTED]

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this matter pursuant to KRS Chapter 23A as the amount in controversy exceeds the jurisdictional minimum of the Court.

7. This Court has personal jurisdiction over the Defendants because the Defendants have transacted business in the Commonwealth of Kentucky, breached contracts in the

Commonwealth of Kentucky, committed torts in the Commonwealth of Kentucky, and caused injury in the Commonwealth of Kentucky.

8. Venue is proper in this Court pursuant to KRS 452.450 and KRS 452.480 because the matter concerns a contract executed in Fayette County and tortious acts committed in Fayette County.

FACTS

9. On or about March, 2006 Brown approached Bouchillon to solicit Bouchillon's investment in a joint venture between Brown, BOC and SLC. At that time Brown made several representations to Bouchillon including, but not limited to, the following:

- a. That Brown and BOC had signed a deal with SLC in which the two were going to form a restaurant franchise named "Suzanne's Kitchen";
- b. That SLC held the licensing rights to Suzanne Somers "a nationally recognized celebrity and food entrepreneur";
- c. That "Suzanne's Kitchen" would be supported by the finances, name and good will of Suzanne Somers;
- d. That Brown was seeking capital contributions for "Suzanne's Kitchen" in the amount of \$1,000,000.00;
- e. That Brown would serve as "Suzanne's Kitchen's" chief executive officer and devote such time as was necessary for the success and growth of the new venture in order for it to achieve financial success;

f. That Brown would not take a salary as chief executive officer until such time as "Suzanne's Kitchen" became profitable;

g. That "Suzanne's Kitchen" would have access to, and be permitted to use, certain intellectual property, including, but not limited to, certain trade names, recipes, and the name, likeness and image of Suzanne Somers; and

h. That Suzanne Somers would act as a spokesperson for "Suzanne's Kitchen" and from time to time would make personal appearances, film commercials, market, promote and conduct other public relations and marketing activity in support of the business venture.

10. On or about March 7, 2006, based on the foregoing representations and others, Brown induced Bouchillon to invest \$250,000.00 in BOC which Brown represented would equate to a 8 1/3% interest in BOC and a 5% interest in "Suzanne's Kitchen."

11. On or about March 17, 2006, based on the foregoing representations and others, Brown induced Bouchillon to invest an additional \$150,000.00 in BOC which Brown represented would equate to an additional 5% interest in BOC and an additional 3% interest in "Suzanne's Kitchen." Brown agreed to personally guarantee Bouchillon's additional \$150,000.00 investment.

12. SLC and Somers were aware of the representations being made by Brown to Bouchillon and they assisted and encouraged Brown to solicit potential investors for "Suzanne's Kitchen." Alternatively, SLC and/or Somers were persons in "control" of Brown pursuant to KRS Chapter 292 and/or he was their agent.

13. At no point in time prior to Bouchillon's investment did any of the Defendants provide Bouchillon with any prospectus or other securities documents or disclosures.

14. SLC and Somers learned of Bouchillon's \$400,000 investment either on or shortly after March 7, 2006 and March 17, 2006.

15. Unbeknownst to Bouchillon, and never communicated to him, was the fact that Brown and/or BOC apparently had never formalized any agreement with SLC to establish the business venture "Suzanne's Kitchen". In fact, Brown and SLC spent from approximately February, 2006 until February, 2007 bickering amongst themselves about the terms of a final agreement to move forward with "Suzanne's Kitchen".

16. The fact that Brown and SLC were having a disagreement finalizing the terms for "Suzanne's Kitchen" was never disclosed to Bouchillon by any of the Defendants. To the contrary, all of the Defendants represented by either words and/or actions that an agreement had been finalized and that "Suzanne's Kitchen" was moving forward. In fact, the Defendants went so far as to open a company store in December, 2006 and flew Somers in for a ribbon cutting ceremony. Bouchillon was present at said opening and ceremony. At no point in time did any of the Defendants disclose to Bouchillon that an agreement between Brown and/or BOC and SLC had not been finalized or that there were any issues or disagreements between the parties.

17. On or about February 26, 2007 counsel for SLC wrote a letter to Brown indicating that SLC would no longer support the concept of "Suzanne's Kitchen." SLC's letter to Brown and BOC gave notice of the following:

a. That SLC was “terminating, revoking and cancelling” any and all agreements with Brown and BOC;

b. That Brown and BOC could no longer use the trade name, trademark or logo of “Suzanne’s Kitchen”; and

c. That Brown and BOC could no longer use Suzanne Somer’s name, likeness, image, endorsement and/or reputation.

18. The February 26, 2007 letter from SLC to Brown accused Brown of numerous inappropriate actions, including, but not limited to, the following:

a. Avoiding, delaying and refusing to negotiate, finalize, approve and sign an Operating Agreement and sublicense agreement (the “essential documents”) for “Suzanne’s Kitchen”;

b. Failing and refusing to act diligently;

c. Breaching the covenant of good faith and fair dealing;

d. Breaching fiduciary duties and inducing the opening of a “Suzanne’s Kitchen” store before the essential documents were signed;

e. Failing to capitalize “Suzanne’s Kitchen” with the mandatory \$1,000,000.00;

f. Falsifying accounting records to make it appear as if capital contributions were greater than those actually received; and

g. Disparaging the business by stating in June, 2006 that “Suzanne’s Kitchen” was not going to be successful.

19. On or about March 14, 2007 Brown wrote a letter to counsel for SLC accusing SLC of taking numerous actions which brought about the demise of “Suzanne’s Kitchen.” Brown accused SLC of acting inappropriately, including, but not limited to, the following:

a. Attempting to unconscionably alter the terms of the parties’ original agreement;

b. Altering the concept of “Suzanne’s Kitchen” from its original intent to one that would only offer organic foods which made the venture impractical and uneconomical;

c. Inappropriately halting the growth and development of “Suzanne’s Kitchen”; and

d. Inappropriately withdrawing support for the venture after receiving over \$1,000,000.00 in shareholder investments.

20. Brown’s March 14, 2007 letter to SLC threatened to sue SLC for five to ten million dollars.

21. As a result of the foregoing actions of the Defendants, “Suzanne’s Kitchen” failed as a business venture and Bouchillon lost the entirety of his \$400,000.00 investment.

CLAIMS

BREACH OF CONTRACT

22. Plaintiff incorporates the allegations contained within paragraphs 1-21 as if set forth fully herein.

23. The forgoing actions of the Defendants amount to a breach of their contract, express and/or implied with Bouchillon.

24. As a result of the Defendants' breach, Bouchillon has been damaged in an amount in excess of the jurisdictional minimum of this Court.

INTENTIONAL MISREPRESENTATION

25. Plaintiff incorporates the allegations contained within paragraphs 1-24 as if set forth fully herein.

26. The Defendants knew that the representations and/or omissions made to Bouchillon, both express and implied, through words, writing and conduct, were not true.

27. The representations and/or omissions of the Defendants induced Bouchillon to act and he relied on them in making his investment.

28. As a result of the Defendants' representations and/or omissions, Bouchillon has been damaged in an amount in excess of the jurisdictional minimum of this Court.

29. As a result of the Defendants' intentional representations and/or omissions, Bouchillon is entitled to punitive damages.

NEGLIGENT MISREPRESENTATION

30. Bouchillon incorporates the allegations contained within paragraphs 1-29 as if set forth fully herein.

31. The Defendants should have known that the representations and/or omissions made to Bouchillon, both express and implied, through words, writing and conduct, were not true.

32. The representations and/or omissions of the Defendants induced Bouchillon to act and he relied on them in making his investment.

33. As a result of the Defendants' representations and/or omissions, Bouchillon has been damaged in an amount in excess of the jurisdictional minimum of this Court.

SECURITIES LAW VIOLATIONS

34. Bouchillon incorporates by reference the allegations contained within paragraphs 1-33 as if set forth fully herein.

35. The Defendants' solicitation and receipt of Bouchillon's investment constituted a sale of securities as that term is defined in KRS Chapter 292.

36. Defendants' actions are in violation of KRS 292.320(1) which, among other things, prohibits misrepresentations and/or omissions in the offer and sale of a security.

37. The Defendants' actions were in violation of KRS 292.340 which, among other things, prohibits the sale of unregistered securities for which there is no exemption.


38. Pursuant to KRS 292.480, Bouchillon is entitled to bring an action against the Defendants for their violations of KRS Chapter 292 for rescission, damages, interest, and attorney fees.

39. As a result of the Defendants' violations of KRS Chapter 292, Bouchillon has been damaged in an amount exceeding the jurisdictional minimum of this Court.

WHEREFORE, Bouchillon prays for the following relief:

- a. Judgment against the Defendants exceeding the jurisdictional minimum of this Court;
- b. Rescission of his purchase of securities and a return of his investment;
- c. Pre-judgment and statutory interest;
- d. For his costs herein expended, including reasonable attorney fees;
- e. For trial by jury; and
- f. For any and all other relief to which he may appear entitled.

Respectfully submitted,



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Counsel for Plaintiff