

IND

1 CATHERINE CORTEZ MASTO  
Attorney General  
2 CONRAD HAFEN  
Chief Deputy Attorney General  
3 Bureau of Criminal Justice  
Nevada Bar No.: 3727  
4 555 E. Washington Ave, Suite 3900  
Las Vegas, Nevada 89101  
5 (702) 486-3420  
Attorney for Plaintiff

FILED

DEC 3 11 39 AM '08

  
CLERK OF COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

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9 THE STATE OF NEVADA, )  
10 )  
11 Plaintiff, )  
12 vs. )  
13 BRIAN K. KROLICKI AND )  
KATHRYN A. BESSER, )  
14 Defendants. )

CASE NO.: C250045  
DEPT. NO.: VIII

**INDICTMENT**

16 STATE OF NEVADA )  
17 ) ss.  
COUNTY OF CLARK )

18 The Defendants above named, BRIAN K. KROLICKI and KATHRYN A. BESSER,  
19 accused by the Clark County Grand Jury of the crimes of MISAPPROPRIATION AND  
20 FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER (2 Counts) in violation of NRS  
21 204.030; MISAPPROPRIATION BY TREASURER (2 Counts) in violation of NRS 204.050;  
22 PRINCIPAL TO THE CRIME OF MISAPPROPRIATION AND FALSIFICATION OF  
23 ACCOUNTS BY PUBLIC OFFICER in violation of NRS 195.020 and 204.030 and PRINCIPAL  
24 TO THE CRIME OF MISAPPROPRIATION BY TREASURER in violation of NRS 195.020 and  
25 204.050 committed at and within the County of Clark, State of Nevada, between July 1, 2001,  
26 and December 31, 2006, as follows:

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COUNT I

**MISAPPROPRIATION AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER  
(A Category D Felony – NRS 204.030)**

The Defendant, **BRIAN K. KROLICKI**, a public officer, receiving money on behalf of, or for, or on account of, this State or of any department of the State Government or of any bureau or fund created by law in which the State is directly or indirectly interested, did knowingly keep any false account, or make any false entry or erasure in any account, of or relating to any money so received by him; did fraudulently alter, falsify, conceal, destroy or obliterate any such account; or did willfully omit or refuse to pay over to the State, its officer or agent authorized by law to receive the money, or to the proper officer or authority empowered to demand and receive it, any money received by him as such an officer when it is a duty imposed upon him by law to pay over and account for the money; in the amount of \$250 or more to wit: That between July 1, 2001, and December 31, 2006, the Defendant, while the Nevada State Treasurer, received Nevada College Savings Program state earned money belonging to the State of Nevada in the amount of \$250.00 or more, pursuant to contracts with Upromise Inc., Upromise Investments Inc., Strong Capital Management Inc. and Strong Investment Inc. That Defendant knowingly kept a false account of the money; fraudulently concealed an account of the money; or willfully omitted or refused to pay over the money to the State of Nevada when it was a duty imposed upon him to pay over and account for said money.

COUNT II

**MISAPPROPRIATION AND FALSIFICATION OF ACCOUNTS BY PUBLIC OFFICER  
(A Category D Felony – NRS 204.030)**

The Defendant, **BRIAN K. KROLICKI**, a public officer, receiving money on behalf of, or for, or on account of, this State or of any department of the State Government or of any bureau or fund created by law in which the State is directly or indirectly interested, did knowingly keep any false account, or make any false entry or erasure in any account, of or relating to any money so received by him; did fraudulently alter, falsify, conceal, destroy or obliterate any such account; or did willfully omit or refuse to pay over to the State, its officer or

1 agent authorized by law to receive the money, or to the proper officer or authority empowered  
2 to demand and receive it, any money received by him as such an officer when it is a duty  
3 imposed upon him by law to pay over and account for the money; in the amount of \$250 or  
4 more to wit: That between July 1, 2001, and December 31, 2006, the Defendant, while the  
5 Nevada State Treasurer, received Nevada College Savings Program marketing and  
6 administrative support money belonging to the State of Nevada in the amount of \$250.00 or  
7 more, pursuant to contracts with Upromise Inc., Upromise Investments Inc., Strong Capital  
8 Management Inc. and Strong Investment Inc. That Defendant knowingly kept a false account  
9 of the money; fraudulently concealed an account of the money; or willfully omitted or refused  
10 to pay over the money to the State of Nevada when it was a duty imposed upon him to pay  
11 over and account for said money.

12 **COUNT III**

13 **MISAPPROPRIATION BY TREASURER**  
14 **(A Category D Felony – NRS 204.050)**

15 The Defendant, **BRIAN K. KROLICKI**, while the Nevada State Treasurer, willfully  
16 misappropriated any money, funds or securities received by or deposited with him as  
17 treasurer, or committed any other malfeasance or willful neglect of duty in his office where the  
18 amount misappropriated was \$250 or more, to wit: That between July 1, 2001, and December  
19 31, 2006, the Defendant, while the Nevada State Treasurer, received Nevada College  
20 Savings Program state earned money belonging to the State of Nevada in the amount of  
21 \$250.00 or more, pursuant to contracts with Upromise Inc., Upromise Investments Inc., Strong  
22 Capital Management Inc. and Strong Investment, Inc. That Defendant willfully misappropriated  
23 the money received by him or committed other malfeasance or willfully neglected a duty in his  
24 office by failing to pay over to the State of Nevada said money.

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COUNT IV

**MISAPPROPRIATION BY TREASURER  
(A Category D Felony – NRS 204.050)**

The Defendant, **BRIAN K. KROLICKI**, while the Nevada State Treasurer, Treasurer, willfully misappropriated any money, funds or securities received by or deposited with him as treasurer, or committed any other malfeasance or willful neglect of duty in his office where the amount misappropriated was \$250 or more, to wit: That between July 1, 2001, and December 31, 2006, the Defendant, while the Nevada State Treasurer, received College Savings Program marketing and administrative support money belonging to the State of Nevada in the amount of \$250.00 or more, pursuant to contracts with Upromise Inc., Upromise Investments Inc., Strong Capital Management Inc. and Strong Investment Inc. That Defendant willfully misappropriated the money received by him or committed other malfeasance or willfully neglected a duty in his office by failing to pay over to the State of Nevada said money.

COUNT V

**PRINCIPAL TO THE CRIME OF MISAPPROPRIATION AND FALSIFICATION OF  
ACCOUNTS BY PUBLIC OFFICER  
(A Category D Felony – NRS 195.020 and 204.030)**

The Defendant, **KATHRYN A. BESSER**, being a person concerned in the commission of a felony, gross misdemeanor or misdemeanor who aids or abets in its commission and whether present or absent is a principal to wit: That between July 1, 2001, and December 31, 2006, in violation NRS 195.020 and 204.030, the Defendant, did aid and abet Brian K. Krolicki in knowingly keeping a false account of Nevada College Savings Program marketing money; fraudulently concealing an account of Nevada College Savings Program marketing money; or willfully omitting or refusing to pay over the Nevada College Savings Program marketing money to the State of Nevada when it was a duty imposed upon Brian K. Krolicki to pay over and account for said money in the amount of \$250.00 or more.

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COUNT VI

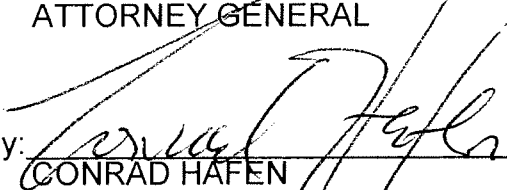
**PRINCIPAL TO THE CRIME OF MISAPPROPRIATION BY TREASURER  
(A Category D Felony – NRS 195.020 and 204.050)**

The Defendant, **KATHRYN A. BESSER**, being a person concerned in the commission of a felony, gross misdemeanor or misdemeanor who aids or abets in its commission and whether present or absent is a principal to wit: That between July 1, 2001, and December 31, 2006, in violation of NRS 195.020 and 204.050, the Defendant, did aid and abet Brian K. Krolicki in willfully misappropriating Nevada College Savings Program marketing and administrative support money received by him or committing other malfeasance or willful neglect of duty in failing to pay over to the State said monies received by or deposited with Brian K. Krolicki in the amount of \$250.00 or more, pursuant to contracts with Upromise Inc., Upromise Investments Inc., Strong Capital Management Inc. and Strong Investment Inc.

All of which is contrary to the form, force and effects of the statutes in such cases made and against the peace and dignity of the State of Nevada.

DATED this 2 day of <sup>December</sup>~~November~~, 2008.

CATHERINE CORTEZ MASTO  
ATTORNEY GENERAL

By:   
CONRAD HAFEN  
Chief Deputy Attorney General

ENDORSEMENT: A True Bill

  
FOREPERSON, Clark County Grand Jury

Grand Jury #08AGJ038X

Attorney General's Office  
555 E. Washington, Suite 3900  
Las Vegas, NV 89101

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**WITNESSES**

Janice Wright

Pat McKeon

James J. Fadule

Steve Wood

Chris Giunchigliani

Gina Brooks

John Perry Comeaux

Lynette Doege

Jack Peeler

Bernie McNamara

Carol Gehl