



One Fabulous Skyline

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***Martin v. State***, (03/30/94) No. 618-91, Maloney, J.

**Facts:** Appellant was charged in three separate indictments with securities fraud. It was alleged that she and a co-defendant [see ***Connor v. State***, 809 S.W.2d 560 (Tex.App. - Austin 1991, pet. granted) whose sentences were the same as hers] formed an oil company named Gaelic Petroleum and sold securities to a fellow named Alfred O. Broome, and defrauded him by failing to disclose "certain matters" about the company. Appellant entered plea of nolo contendere to the three indictments. The trial court placed her on ten years probation, conditioned on payment of restitution in the amount of \$65,179.08, which amount "represented half of the total amount allegedly lost by approximately forty investors in Gaelic Petroleum." Broome was the only "victim" named in the indictments.

**Jurisdiction / Court of Criminal Appeals:** The Court of Criminal Appeals is not bound by the interpretation of federal statutes by federal courts.

**Probation / Conditions of Probation:** (1) Art. 42.12, Sec. 11(b), V.A.C.C.P., limitation on restitution to the "victim" refers to the victim of the crime for which defendant has been charged, convicted and sentenced; (2) Restitution may be awarded pursuant to a plea bargain agreement to victims not otherwise named within a charging instrument so long as the amounts agreed to and the persons to whom restitution is to be paid under the agreement have a factual basis in the record and are just; (3) An unauthorized condition of probation may be deleted by reformation; (4) Cause remanded to trial court to delete restitution order for defrauded securities investors not otherwise named within indictment.