

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Case No.

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. DAVID A. BANKS,
2. DEMETRIUS K. HARPER,
a/k/a Ken Harper,
3. GARY L. WALKER,
4. CLINTON A. STEWART,
a/k/a C. Alfred Stewart,
5. DAVID A. ZIRPOLO,
and,
6. KENDRICK BARNES,

Defendants.

INDICTMENT

**Conspiracy to Commit Mail & Wire Fraud, 18 U.S.C. § 1349
Mail Fraud, 18 U.S.C. §§ 1341 & 2
Wire Fraud, 18 U.S.C. §§ 1343 & 2**

The Grand Jury charges that:

COUNT 1

Introduction

_____ At all times relevant to the Indictment:

1. A number of companies, hereinafter referred to as “staffing companies,” were in

the business of providing temporary labor to other companies, hereinafter referred to as “requesting companies.” Staffing companies generally had a database of employees, with various skill sets, available to be placed in positions at requesting companies. Typically, when a requesting company hired a staffing company, the requesting company provided the staffing company with job descriptions or similar lists of the types of skills needed in employees. The staffing company then found employees, from its database, to place at the requesting company.

2. Staffing companies sometimes also provided a service called “payrolling.” A payrolling transaction typically involved employees who had been pre-selected by the requesting company to work for the requesting company. In a payrolling transaction, a staffing company was primarily paid to handle administrative tasks, such as tax withholding and reporting related to these employees.
3. In either a traditional or a payrolling transaction, once a staffing company placed an employee at the requesting company, that employee reported to work at the requesting company and, after working, completed a form on which the employee reported the times he/she has worked (a “time reporting card”). The time reporting card was approved by a supervisor at the requesting company and then forwarded to the staffing company to be processed. The staffing company processed the time reporting card, generated a payroll check or direct deposit payment, and usually forwarded the payment directly to the employee who has completed the work. The

staffing company then generated an invoice and sent it to the requesting company.

The Conspiracy

4. Beginning in or around October, 2002, and continuing thereafter until in or around February, 2005, in the State and District of Colorado and elsewhere, the defendants, **DAVID A. BANKS, DEMETRIUS K. HARPER, GARY L. WALKER, CLINTON A. STEWART, DAVID A. ZIRPOLO**, and **KENDRICK BARNES**, combined, conspired, confederated and agreed together and with others known and unknown to the Grand Jury, to commit Mail Fraud, in violation of Title 18, United States Code, Section 1341, and Wire Fraud, in violation of Title 18, United States Code, Section 1343.

Manner and Means of the Conspiracy

5. The defendants operated or were associated with companies called Leading Team, Inc. (“LT”), IRP Solutions Corporation (“IRP”), or DKH, LLC (“DKH”), sometimes doing business as DKH Enterprises. The defendant used these entities to help perpetrate a scheme to defraud various staffing companies. Although LT, IRP, and DKH, all used office space on the second floor of a building located at 7350 Campus Drive, Colorado Springs, Colorado, and employed many of the same people, the defendants disguised or misrepresented the connections among these companies and sometimes served as commercial references for each other.
6. Through LT, IRP, or DKH, defendants **BANKS, HARPER, WALKER,**

STEWART, and **ZIRPOLO** made arrangements for staffing companies to pay employees purportedly working at one or more of those companies. The defendants themselves were often paid as employees, through payrolling arrangements, in this manner. Defendants **BANKS, HARPER, WALKER, STEWART**, and **ZIRPOLO** induced the staffing companies to enter these arrangements by making false representations that LT, IRP, or DKH had large current or impending contracts with one or more large government agencies, including the United States Department of Homeland Security, the United States Bureau of Prisons, the United States Department of Justice, and the New York City Police Department.

7. The defendants approved and submitted to staffing companies time reporting cards containing false statements about the number of hours worked by employees, the times of day during which employees worked, and/or the nature of the work performed by employees. These time reporting cards were submitted to staffing companies using the United States mail and/or via interstate facsimile transmissions, and their submission caused the staffing companies to issue payments to the defendants and other employees working at LT, IRP, and DKH.
8. After receiving invoices from the staffing companies, the defendants **BANKS, HARPER, WALKER, STEWART**, and **ZIRPOLO** caused LT, IRP, and DKH not to pay the staffing companies for their services. Defendants **BANKS,**

HARPER, WALKER, STEWART, and ZIRPOLO used a variety of tactics to prevent staffing companies from discovering that LT, IRP, and/or DKH did not have the ability to pay the monies they owed to staffing companies. These tactics included making fraudulent representations about slow government payment cycles, taking steps to prevent staffing companies from learning that employees paid through payrolling transactions had previously worked for LT, IRP, and/or DKH through other staffing companies, refusing to meet with staffing companies representatives to discuss payments of monies owed to staffing companies, and refusing entry at the business premises at 7350 Campus Drive to staffing company representatives.

9. Staffing companies that were victims of the scheme included: (1) Robert Half International; (2) Adecco Technical; (3) Kforce, Inc./Hall, Kinion & Associates, Inc.; (4) Analysts International Corporation; (5) Manpower, Inc.; (6) Ajilon Professional Staffing, LLC; (7) Ciber, Inc.; (8) Today's Office Staffing, Inc.; (9) Talent Tree; (10) Computer Task Group; (11) Option One, Inc./Mentor 4, Inc.; (12) Pro Staff/Advecta; (13) Professional Consulting Network; (14) Organic People; (15) Computer Horizons; (16) Interactive Business Systems; (17) Systems Engineering Services Corporation; (18) Aquent; (19) Sunnyside; (20) The Job Store; (21) Personnel Plus; (22) Express Personnel Services; (23) ETI Professionals, Inc.; (24) Labor Ready; (25) Lloyd Staffing; (26) Productive Data

Solutions, Inc.; (27) Idea Integration; (28) TAC Worldwide; (29) Snelling Personnel Services; (30) Spherion; (31) AppleOne Staffing; (32) SOS Staffing; (33) Technisource; (34) ESG Consulting, Inc.; (35) Kelly Services, Inc.; (36) Staffmark; (37) The Computer Merchant, Ltd.; (38) Judge Technical Services, Inc.; (39) Boecore; (40) MSX International; (41) Headway Staffing; and (42) Blackstone Technology Group, Inc.

Overt Acts in Furtherance of the Conspiracy

10. In furtherance of the conspiracy, the defendants committed overt acts including but not limited to the following:
 - a. On or about December 13, 2002, **DAVID A. BANKS** forwarded an email from **DEMETRIUS K. HARPER** to an Adecco Technical employee with attached time reporting cards for various employees, including **CLINTON A. STEWART** and **KENDRICK BARNES**;
 - b. On or about July 1, 2003, **CLINTON A. STEWART** sent an email to an employee of the Computer Task Group with the subject line, “RE: Need to place one (1) additional technical resource;”
 - c. On or about July 28, 2003, **DEMETRIUS K. HARPER** and **CLINTON A. STEWART** met with a representative of Systems Engineering Services Corporation;
 - d. On or about August 3, 2003, **DEMETRIUS K. HARPER** and **GARY L.**

WALKER submitted or caused the submission of a time reporting card to Today's Office Staffing, Inc. indicating that **WALKER** had worked 59.5 hours between July 28, 2003, and August 2, 2003;

- e. On or about August 4, 2003, **DEMETRIUS K. HARPER** and **GARY L. WALKER** submitted or caused the submission of a time reporting card to Talent Tree indicating that **WALKER** had worked 59.5 hours between July 28, 2003, and August 2, 2003;
- f. On or about September 15, 2003, **DAVID A. BANKS** and **CLINTON A. STEWART** submitted or caused the submission of a time reporting card to Systems Engineering Service Corporation indicating that **BANKS** had worked 125.5 hours between September 1, 2003, and September 15, 2003;
- g. On or about September 17, 2003, **DAVID A. BANKS** and **CLINTON A. STEWART** submitted or caused the submission of a time reporting card to Computer Horizons indicating that **BANKS** had worked 123.5 hours between September 1, 2003, and September 15, 2003;
- h. On or about November 11, 2003, **GARY L. WALKER** sent an email to **DEMETRIUS K. HARPER** and **KENDRICK BARNES** containing contact information for various staffing companies;
- i. On or about April 2, 2003, **GARY L. WALKER** sent an email to an Analysts International employee with an attached spreadsheet containing

approved hours for employees including **CLINTON A. STEWART** and **KENDRICK BARNES**;

- j. On or about March 14, 2004, **GARY L. WALKER, DEMETRIUS K. HARPER**, and **DAVID A. ZIRPOLO** submitted or caused the submission of a time reporting card to Lloyd's Staffing for the week ending March 14, 2004;
- k. On or about April 12, 2004, **DAVID A. BANKS** and **DAVID A. ZIRPOLO** met with a representative of Snelling Personnel Services;
- l. On or about September 27, 2004, **CLINTON A. STEWART, a/k/a C. Alfred Stewart**, and **DAVID A. ZIRPOLO** submitted or caused the submission of a time reporting card to the Computer Merchant, Ltd. for the week ending September 26, 2004;
- m. On or about December 3, 2004, **DAVID A. BANKS** signed a service agreement, as Chief Operating Officer of IRP Solutions Corporation, with MSX International; and
- n. On or about January 14, 2005, **DAVID A. ZIRPOLO** sent an email to an employee of Blackstone Technology Group with the subject line, "Staffing Information."

All in violation of Title 18, United States Code, Section 1349.

COUNT 2

11. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
12. On or about June 23, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from AppleOne Employment Services to IRP for 103.5 hours of work purportedly performed by employees during the week ending June 19, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 3

13. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
14. On or about August 16, 2004, in the State and District of Colorado and elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper**, and **DAVID A. ZIRPOLO**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Kelly Services, Inc. to IRP for 174.5 hours of work purportedly performed by **ZIRPOLO** and other employees during the week ending August 15, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 4

15. The grand jury re-alleges and re-incorporates paragraphs 1-3 and 5-9.
16. On or about August 22, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DEMETRIUS K. HARPER, CLINTON A. STEWART, and KENDRICK BARNES**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Staffmark to IRP for 200 hours of work purportedly performed by various employees, including 40 hours of work purportedly performed by **BARNES** during the week ending August 22, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 5

17. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
18. On or about August 24, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DAVID A. ZIRPOLO, and KENDRICK BARNES**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial

interstate carrier, an invoice from ESG Consulting to IRP for 52 hours of work purportedly performed by **BARNES** during the week ending August 22, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 6

19. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
20. On or about August 25, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from AppleOne Employment Services to IRP for 101 hours of work purportedly performed by various employees during the week ending August 21, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 7

21. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
22. On or about September 4, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DAVID A. ZIRPOLO, and KENDRICK BARNES**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or

private or commercial interstate carrier, an invoice from Technisource to IRP for 216 hours of work purportedly performed by **BARNES** during August, 2004, including 52 hours of work purportedly performed by **BARNES** during the week ending August 21, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 8

23. The grand jury re-alleges and re-incorporates paragraphs 1-3 and 5-9.
24. On or about September 12, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DEMETRIUS K. HARPER, CLINTON A. STEWART**, and **KENDRICK BARNES**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Staffmark to IRP for 198.5 hours of work purportedly performed by various employees, including 42 hours of work purportedly performed by **BARNES** during the week ending September 12, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 9

25. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
26. On or about September 13, 2004, in the State and District of Colorado and

elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper**, for the purpose of executing the scheme described in paragraphs 5-9 above, transmitted and caused to be transmitted by means of wire communication in interstate commerce an email message from kharper@irp-solutions.com to cmullen@tcml.com containing the subject line: "Immediate Need/Possible Alliance."

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 10

27. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
28. On or about September 14, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS**, for the purpose of executing the scheme described in paragraphs 5-9 above, transmitted and caused to be transmitted by means of wire communication in interstate commerce an email message from david.banks@irp-solutions.com to sslakey@esginc.com containing the subject line: "RE: Outstanding Balance."

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 11

29. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
30. On or about September 20, 2004, in the State and District of Colorado and elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper**, and **DAVID A. ZIRPOLO**, having devised and intended to devise the scheme described in

paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Kelly Services, Inc. to IRP for 230.5 hours of work purportedly performed by **ZIRPOLO** and other employees during the week ending September 19, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 12

31. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
32. On or about October 1, 2004, in the State and District of Colorado and elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper, CLINTON A. STEWART, and DAVID A. ZIRPOLO**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from the Computer Merchant, Ltd. to IRP for 46.5 hours of work purportedly performed by **ZIRPOLO** during the week ending September 26, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 13

33. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
34. On or about November 2, 2004, in the State and District of Colorado and

elsewhere, **DAVID A. BANKS, DEMETRIUS K. HARPER, a/k/a Ken Harper,** and **DAVID A. ZIRPOLO,** having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Boecore to IRP for 86 hours of work purportedly performed by employee S.T. between October 16, 2004, and October 29, 2004.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 14

35. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
36. On or about November 4, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS,** for the purpose of executing the scheme described in paragraphs 5-9 above, transmitted and caused to be transmitted by means of wire communication in interstate commerce an email message from david.banks@irp-solutions.com to kpillas@technisource.com containing the subject line: "Letter Addressing Outstanding IRP Invoices."

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 15

37. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
38. On or about November 19, 2004, in the State and District of Colorado and

elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier check no. 189008, in the amount of \$1,928.15, payable to a purported employee from Judge Technical Services, Inc.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 16

39. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
40. On or about December 14, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS** and **DEMETRIUS K. HARPER, a/k/a Ken Harper**, for the purpose of executing the scheme described in paragraphs 5-9 above, transmitted and caused to be transmitted by means of wire communication in interstate commerce an email message from ken.harper@irp-solutions.com to JBassett@tcml.com containing the subject line: "RE: Account Status."

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 17

41. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
42. On or about December 24, 2004, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DEMETRIUS K. HARPER, a/k/a Ken Harper**,

and **DAVID A. ZIRPOLO**, for the purpose of executing the scheme described in paragraphs 5-9 above, transmitted and caused to be transmitted by means of wire communication in interstate commerce an invoice from Headway Corporate Staff Administration to IRP for 256.5 hours of work purportedly performed by various employees for the period ending December 19, 2004.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 18

43. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
44. On or about January 7, 2005, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DEMETRIUS K. HARPER, a/k/a Ken Harper, CLINTON A. STEWART, a/k/a C. Alfred Stewart, and DAVID A. ZIRPOLO**, for the purpose of executing the scheme described in paragraphs 5-9 above, transmitted and caused to be transmitted by means of wire communication in interstate commerce an invoice from Headway Corporate Staff Administration to IRP for 282.5 hours of work purportedly performed by various employees for the period ending December 31, 2004.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 19

45. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
46. On or about January 11, 2005, in the State and District of Colorado and elsewhere,

DAVID A. BANKS, DEMETRIUS K. HARPER, a/k/a Ken Harper, and **DAVID A. ZIRPOLO,** having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Boecore to IRP for 80 hours of work purportedly performed by employee S.T. between December 27, 2004, and January 9, 2005.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 20

47. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
48. On or about January 15, 2005, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, CLINTON A. STEWART, a/k/a C. Alfred Stewart,** **DAVID A. ZIRPOLO,** and **KENDRICK BARNES,** having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from MSX International to IRP for 91 hours of work purportedly performed by **BARNES** between January 1, 2005, and January 15, 2005.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 21

49. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
50. On or about January 21, 2005, in the State and District of Colorado and elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper, CLINTON A. STEWART,** and **DAVID A. ZIRPOLO**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from the Computer Merchant, Ltd. to IRP for 88 hours of work purportedly performed by **ZIRPOLO** during the weeks ending January 9, 2005, and January 16, 2005.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 22

51. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
52. On or about January 31, 2005, in the State and District of Colorado and elsewhere, **DAVID A. ZIRPOLO**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from Blackstone Technology Group, Inc. to IRP for 320 hours of work purportedly performed by various employees during the month of January, 2005.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 23

53. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
54. On or about January 31, 2005, in the State and District of Colorado and elsewhere, **DAVID A. BANKS, DAVID A. ZIRPOLO, and KENDRICK BARNES**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier, an invoice from MSX International to IRP for 111 hours of work purportedly performed by **BARNES** between January 16, 2005, and January 31, 2005.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 24

55. The grand jury re-alleges and incorporates paragraphs 1-3 and 5-9.
56. On or about February 18, 2005, in the State and District of Colorado and elsewhere, **DEMETRIUS K. HARPER, a/k/a Ken Harper**, having devised and intended to devise the scheme described in paragraphs 5-9 above and for the purpose of executing that scheme and attempting to do so, caused to be deposited, to be sent or delivered by United States mail or private or commercial interstate carrier check no. 190803, in the amount of \$1,008.75, payable to a purported

employee from Judge Technical Services, Inc.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 25

Criminal Forfeiture Allegation

57. Upon conviction of one or more of the offenses alleged in Counts 1-23 of this indictment, the defendants, **DAVID A. BANKS, DEMETRIUS K. HARPER, GARY L. WALKER, CLINTON A. STEWART, DAVID A. ZIRPOLO,** and **KENDRICK BARNES**, shall forfeit to the United States pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 1956(c)(7), and 1961(1), and Title 28, United States Code, Section 2461(c), all property constituting or derived from proceeds traceable to the commission of the offense(s), including but not limited to a sum of money equal to \$5,386,394.55 in United States currency.
58. If any of the property described above, as a result of any act or omission of the defendants:
- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third party;
 - c. has been substantially diminished in value; or
 - d. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code,

Section 982(b)(1) and Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL:

Ink signature on file in the clerk's office
FOREPERSON

DAVID M. GAOUETTE
Acting United States Attorney

s/ Matthew T. Kirsch
By: Matthew T. Kirsch
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