15 MAR -6 AM 8:56

DISTRICT COURT, COUNTY OF JEFFERSON, COLORADO 100 Jefferson County Parkway Golden, CO 80401	FILED COMBINED COURT JEFFERSON COUNTY, CO
PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. ROBERT SCOTT WIENS, DOB: 11/13/1962 Defendant.	▲COURT USE ONLY▲
CYNTHIA H. COFFMAN, Attorney General SEAN CLIFFORD* First Assistant Attorney General Criminal Justice Section 1300 Broadway, 9th Floor Denver, Colorado 80203 720-508-6692 Registration Number: 28260 *Counsel of Record	Case No.: 15CR 703 Ct. Rm./Div.: 9

COLORADO STATE GRAND JURY INDICTMENT

COUNT ONE:	SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1) C.R.S. (Class 3 Felony) {50052} {as to Janet Theurer, Robert Theurer, Boulder River Investments LLC, Jason Haack, and Diversified Funding Incorporated}
COUNT TWO:	SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony) {50053} {as to Janet Theurer, Robert Theurer, Boulder River Investments LLC, Bud Harris, Cathy Considine, and Barbara Bouvette}
COUNT THREE:	THEFT, §§ 18-4-401(1)(b) and (2)(d) C.R.S. (2007) (Class 3 Felony), {0801V} {as to Janet Theurer, Robert Theurer, Boulder River Investments LLC, Bud Harris, Cathy Considine, and Barbara Bouvette}
COUNT FOUR:	FORGERY, § 18-5-102(1)(c), C.R.S. (Class 5 Felony) {1001C} {as to Jason Haack, Robert Theurer and Janet Theurer}

COUNT FIVE:	FORGERY, § 18-5-102(1)(c), C.R.S. (Class 5 Felony) {1001C} {as to Robert Theurer and Janet Theurer}
COUNT SIX:	FORGERY, § 18-5-102(1)(c), C.R.S. (Class 5 Felony) {1001C} {as to Robert Theurer, Janet Theurer, and Jason Haack}
COUNT SEVEN:	FORGERY, § 18-5-102(1)(c), C.R.S. (Class 5 Felony) {1001C} {as to Jason Haack}
COUNT EIGHT:	SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1) C.R.S. (Class 3 Felony) {50052} {as to Mark Huisinger and Financial Design Implementation and Construction, Inc.}
COUNT NINE:	SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony) {50053} {as to Mark Huisinger and Financial Design Implementation and Construction, Inc.}
COUNT TEN:	THEFT, §§ 18-4-401(1)(b) and (2)(d) C.R.S. 2007 (Class 3 Felony), {0801V}{as to Mark Huisinger and Financial Design Implementation and Construction, Inc.}
COUNT ELEVEN:	SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1) C.R.S. (Class 3 Felony) {50052} {as to Jodi Funke and Archie Searp }
COUNT TWELVE:	SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony) {50053} {as to Titan Investment Group, Jodi Funke and Archie Searp}
COUNT THIRTEEN:	FORGERY, § 18-5-102(1)(c), C.R.S. (Class 5 Felony) {1001C} {as to Jodi Funke, and Archie Searp}
COUNT FOURTEEN:	SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1) C.R.S. (Class 3 Felony) {50052} {as to George Childs}
COUNT FIFTEEN:	SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony) {50053} {as to George Childs, Chuck Kirby, John Magrain, and Vision's Funding }
COUNT SIXTEEN:	THEFT, §§ 18-4-401(1)(b) and (2)(d) C.R.S. 2007 (Class 3 Felony), {0801V} {as to George Childs, Chuck Kirby, John Magrain, and Vision's Funding}
COUNT SEVENTEEN:	SECURITIES FRAUD, §§ 11-51-501(1)(b) and 11-51-603(1) C.R.S. (Class 3 Felony) {50052}{as to Eric Ward}

COUNT EIGHTEEN:	SECURITIES FRAUD, §§ 11-51-501(1)(c) and 11-51-603(1) C.R.S. (Class 3 Felony) {50053} {as to Eric Ward and WS Construction Management, LLC}
COUNT NINETEEN:	THEFT, §§18-4-401(1)(b) and (2)(d) C.R.S. 2007 (Class 3 Felony), {0801V} {as to Eric Ward and WS Construction Management, LLC}

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. ROBERT SCOTT WIENS, DOB: 11/13/1962 Defendant.	▲COURT USE ONLY▲
CYNTHIA H. COFFMAN, Attorney General SEAN CLIFFORD* First Assistant Attorney General Criminal Justice Section 1300 Broadway, 9th Floor Denver, Colorado 80203 720-508-6692 Registration Number: 28260 *Counsel of Record	Case No.: 14 CR 001 Ct. Rm. 209
COLORADO STATE GRAND JURY INDICTMENT	

Of the 2014-2015 term of the Denver District Court in the year 2015, the 2014-2015 Colorado State Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following:

ESSENTIAL FACTS

RXM Holdings Ltd. ("RXM") was a registered Delaware corporation. Robert Scott Wiens ("Wiens") was listed as the director of the corporation on the incorporation paperwork. Wiens conducted business on behalf of RXM in the State of Colorado. Wiens promoted an investment opportunity that constituted the offer or sale of a security on behalf of RXM. Offering documents provided to investors by Wiens state that RXM is a "boutique proprietary trading operation specializing in the purchase and sale of US Stock Index futures contracts." Investment money collected by Wiens was deposited at various futures trading companies.

Wiens was not licensed as a broker-dealer, investment advisor, securities sales representative, investment advisor representative, or registered to trade commodities on behalf of others during all relevant time periods. This was not disclosed to investors.

Wiens held himself out as a competent and successful trader of futures. Wiens provided offering documents to potential investors titled "Agreement to Lease Funds to RXM Holdings Ltd.," which outlined the investment and also made verbal assertions related to the investment. Invested money was to serve as "leased funds" in the investment operation. The "leased funds" were to be deposited into a secure account at a designated futures trading company and were to serve as "proof of funds" to the trading company that would enable Wiens to trade futures on margin out of a separate trading account according to the rules of the trading company. The investor providing the "leased funds" was referred to as an "equity backer" by Wiens in the offering documents. Wiens represented to investors that their investment funds would be deposited into a secure account at the trading firm that could not be moved out of the account without the express written consent of the investor or designee. In exchange, the investors would receive a return on their "leased funds." This amount varied. Percentages promised included, but were not limited to, .15% and .25%, of the invested amount per day. Wiens indicated that these "leased funds" percentages were "guaranteed" to the investor regardless of RXM/Wiens' trading success and carried no risk. Some agreements also indicated that investors would be entitled to a percentage of the profits generated by RXM/Wiens through futures trading.

According to Wiens, actual futures trading money for the RXM/Wiens investment operation was to be provided by another investor called a "matching partner." The "matching partner" was purported to have agreed to commit large sums of money to Wiens for him to trade U.S. stock index futures. Corresponding with the "matching partner" funds was a separate "loss account" that would cover any potential trading losses Wiens and RXM incurred.

Futures trading companies employ policies to identify the source of invested funds. Investors were instructed by Wiens to set up new bank accounts. They were instructed to name these accounts after RXM Holdings. Investors would then place their investment funds into these accounts. Investor money would then be transferred to the futures trading company from these accounts. The accounts would also receive funds back from trading. This naming convention gave the appearance that funds were being deposited into and withdrawn from trading accounts controlled by RXM/Wiens which would serve to thwart trading company policies.

Wiens did not disclose to investors that their "leased funds" accounts were completely accessible by Wiens. No actual or binding limitations were placed on the accounts that would prevent the funds from being moved or disbursed despite documents provided to investors by Wiens to the contrary. Wiens did not maintain each investor's money in a segregated account. Rather, investor money was comingled with other investors' money, placed in trading accounts and used to trade futures contracts by Wiens, used to repay prior or other investors, moved to personal and business accounts of Wiens, and used for non-investment related expenses, including personal expenditures by Wiens.

Wiens did not disclose the extent of the losses that he experienced while trading futures prior to accepting most investment funds. In contrast, investors were provided with account statements that had been altered to hide losses and the transfer of their funds. At no point did the investors in the RXM "leased money" opportunity authorize their investment money to be moved or utilized in any manner other than to simply be held in a designated account

Wiens did not disclose that a "matching partner" would not provide trading funds to the operation. No "matching partner's" funds were ever received or used to trade stock index futures by RXM/Wiens. Investor money was at risk of loss, despite assertions to the contrary. Wiens did not disclose that he had not set up and would not set up a loss account. Wiens did not cover trading losses with a designated RXM account as he presented to investors. "Interest" money paid to investors for their "leased funds" came from other investors' money.

Investor money that was used by Wiens to trade futures without their permission was lost. For the RXM opportunity, Wiens suffered net futures trading losses each month he traded with "leased money" investors' funds, except October of 2010 when he earned a profit of $598.90. Wiens made other material misleading statements and omissions to investors.

Wiens did not disclose prior civil judgments to investors. In case 06CV389 a state tax judgment was entered against Wiens in the amount of $3,144.93 on July 10, 2006 in Eagle County, Colorado. In case 09C44033 a civil judgment was entered on June 16, 2009 against Wiens in the amount of $5,601.63 in Jefferson County, Colorado. A federal tax lien was assessed against Wiens in the amount of $8,943.63 on June 5, 2006.

COUNT ONE
(Securities Fraud – F3)

On or about and between January 1, 2010 and June 23, 2010, in and triable in the State of Colorado, ROBERT SCOTT WIENS, in connection with the offer or sale of any security to Janet Theurer, Robert Theurer, Boulder River Investments LLC, Jason Haack and Diversified Funding Incorporated, with a date of discovery occurring on or about June 5, 2012 directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (b) and 11-51-603 (1) (Securities Fraud – Class 3 Felony), against the peace and dignity of The People of the State of Colorado.

COUNT TWO
(Securities Fraud – F3)

On or about and between January 1, 2010 and June 5, 2012, with a date of discovery occurring on or about June 5, 2012, and triable in the State of Colorado, ROBERT SCOTT WIENS in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and knowingly engaged in any course of business which operated or would operate as a fraud or deceit upon investors with RXM Holdings, LTD, including Janet Theurer, Robert Theurer, Boulder River Investments LLC, Bud Harris, Cathy Considine, and Barbara Bouvette, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (c) and 11-51-603 (1), and against the peace and dignity of The People of the State of Colorado.

COUNT THREE
(Theft of $20,000 or More – F3)

On or about and between February 5, 2010 and June 23, 2010, with a date of discovery occurring on or about June 5, 2012, in or triable in the State of Colorado, ROBERT SCOTT WIENS unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: U.S. currency, of Janet Theurer, Robert Theurer, Boulder River Investments LLC, Bud Harris, Cathy Considine, and Barbara Bouvette, with the value of twenty thousand dollars or more, without authorization, or by threat or deception, and knowingly used, concealed, or abandoned the thing of value in such manner as to permanently deprive Janet Theurer, Robert Theurer, Boulder River Investments LLC, Bud Harris, Cathy

Considine, and Barbara Bouvette, of its use or benefit; in violation of §§18-4-401(1)(b) and (2)(d), C.R.S. (2007) in such case made and provided and against the peace and dignity of The People of the State of Colorado.

COUNT FOUR
(Forgery – F5)

On or about January 5, 2011, in the State of Colorado, ROBERT SCOTT WIENS, with the intent to defraud Jason Haack, Robert Theurer and Janet Theurer, unlawfully, feloniously, and falsely made, completed, altered, or uttered a written instrument which was or which purported to be, or which was calculated to become or to represent if completed, namely: account statement dated December 31, 2010; in violation of § 18-5-102(1)(c), C.R.S.

COUNT FIVE
(Forgery – F5)

On or about and between April 30, 2012 to May 4, 2012, in the State of Colorado, ROBERT SCOTT WIENS, with the intent to defraud Robert Theurer and Janet Theurer, unlawfully, feloniously, and falsely made, completed, altered, or uttered a written instrument which was or which purported to be, or which was calculated to become or to represent if completed, namely: account statement dated April 30, 2012; in violation of § 18-5-102(1)(c), C.R.S.

COUNT SIX
(Forgery – F5)

On or about February 10, 2010, in the State of Colorado, ROBERT SCOTT WIENS, with the intent to defraud Robert Theurer, Janet Theurer, and Jason Haack unlawfully, feloniously, and falsely made, completed, altered, or uttered a written instrument which was or which purported to be, or which was calculated to become or to represent if completed, namely: "RXM Holdings Proof of 18% Funds"; in violation of § 18-5-102(1)(c), C.R.S.

COUNT SEVEN
(Forgery – F5)

On or about May 18, 2011, in the State of Colorado, ROBERT SCOTT WIENS, with the intent to defraud Jason Haack unlawfully, feloniously, and falsely made, completed, altered, or uttered a written instrument which was or which purported to

be, or which was calculated to become or to represent if completed, namely: account statement dated April 29, 2011; in violation of § 18-5-102(1)(c), C.R.S.

The facts supporting Counts One through Seven are as set forth below:

1. All of the facts supporting all other counts in this Indictment and the Essential Facts are incorporated in Counts One through Seven by this reference.

2. Boulder River Investments ("BRI") is a limited liability company registered in Colorado and owned by Janet and Robert Theurer (the "Theurers"). The Theurers and BRI had a history of engaging in business dealings with Jason Haack ("Haack"). Haack owned and operated a company called Diversified Funding Inc. ("DFI").

3. In January of 2010, Haack solicited Robert Theurer to participate in the RXM/Wiens "leased money" investment. Haack reported he was already participating. The investment outlined by Haack was based upon information received from Wiens. Wiens "guaranteed" .25% "interest" per day of the amount invested as "leased money." Haack and the Theurers agreed to a split of this interest money they received from RXM/Wiens. Haack and the Theurers also agreed to a split of any profits that were generated.

4. The money from BRI was combined and deposited into Penson Futures account #0995. Wiens represented that only Haack could withdraw or move the deposited investment funds. In exchange for the investment Wiens provided Haack with an "Agreement to Lease Funds to RXM Holdings, Ltd." As evidence of the investment. Haack provided a copy of the agreement to the Theurers. Wiens provided an additional document to Haack and the Theurers purporting to show $61,492.35 was being held in a separate account by Wiens which would ensure interest could be paid to BRI. Robert Theurer received this on February 10, 2010. In fact, this account was the primary trading account and did not have this actual amount of money in it.

5. BRI initially invested $300,000 on or about February 5, 2010. The Theurers, through BRI, aggregated investment monies from other individuals to invest with Wiens and RXM in addition to their own funds. These people included Cathy Considine, Bud Harris and Barbara Bouvette who contributed investment money. BRI withdrew and reinvested money with RXM/Wiens on numerous occasions over the time period of February 2, 2010 to June 23, 2010. BRI invested a total of $1,149,400 with RXM and Wiens; Some monies were returned to BRI as purported principal and interest. This resulted in a net loss to BRI of over $20,000. Money returned to BRI included other investors' money.

6. In January of 2012 Robert Theurer and Wiens met at a coffee shop in Lakewood Colorado. In the months prior to this meeting, Wiens fell behind on "leased money" interest payments to the Theurers. At the meeting, Wiens acknowledged he was behind on interest payments and that he owed the interest arrearages to the Theurers. Wiens made promises that he would get the money from alternate sources after this meeting.

7. Wiens continuously led the Theurers and Haack to believe that the investment money was still in their designated Penson Futures account. Wiens provided documents to the Theurers which purported to be Penson Futures account balance statements. The first statement was dated December 31, 2010 and was provided to the Theurers by Haack on or about January 5, 2011. The second statement was dated April 30, 2012 and was uttered by Wiens to the Theurers approximately the first week of May (April 30, 2012 to May 4, 2012). Both statements contain false information including, but not limited to, false balance information. In addition, the account referenced in the April 30, 2012 statement had been shut down by Wiens by this date. Review of statements received directly from Penson Futures indicates that the account balances were not as set forth in either statement.

8. Wiens also provided a false Penson Futures account statement to Haack on May 18, 2011. The statement was dated April 29, 2011. The statement contains false information including, but not limited to, false balance information. In addition, the account referenced in the April 29, 2011 statement had been exhausted of all funds by Wiens by this date. Review of the statement received directly from Penson Futures indicates that the account balance was not as set forth in the statement provided by Wiens.

9. On June 5, 2012, Wiens met with Robert Theurer at an office in Littleton, Colorado. At this meeting, Wiens admitted that the Theurers' investment money was gone. He admitted that he used the Theurers' money for futures trading, to cover trading losses, and to pay interest on "leased money." Wiens reported that there was no money left in the account to repay him. In fact, no money had been in the account since January 5, 2011.

COUNT EIGHT
(Securities Fraud – F3)

On or about and between November 1, 2010 and December 16, 2011, in and triable in the State of Colorado, ROBERT SCOTT WIENS, in connection with the offer or sale of any security to Mark Huisinger and Financial Design Implementation and Construction, Inc., directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (b) and 11-51-603 (1), (Securities Fraud – Class 3 Felony), against the peace and dignity of The People of the State of Colorado.

COUNT NINE
(Securities Fraud – F3)

On or about and between November 1, 2010 and December 16, 2011, in and triable in the State of Colorado, ROBERT SCOTT WIENS in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and knowingly engaged in any course of business which operated or would operate as a fraud or deceit upon investors with Wiens and RXM Holdings, LTD, including Mark Huisinger and Financial Design Implementation and Construction, Inc., contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (c) and 11-51-603 (1), and against the peace and dignity of The People of the State of Colorado.

COUNT TEN
(Theft of $20,000 or More – F3)

On or about and between December 23, 2010 and December 16, 2011, with a date of discovery on or about March 16, 2012, in or triable in the State of Colorado, ROBERT SCOTT WIENS unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: U.S. currency, of Mark Huisinger and Financial Design Implementation and Construction, Inc., with the value of twenty thousand dollars or more, without authorization, or by threat or deception, and knowingly used, concealed, or abandoned the thing of value in such manner as to permanently deprive Mark Huisinger and Financial Design Implementation and Construction, Inc., of its use or benefit; in violation of §§18-4-401(1)(b) and (2)(d), C.R.S. (2007) in such case made and provided and against the peace and dignity of The People of the State of Colorado.

The facts supporting Counts Eight through Ten are as set forth below:

10. All of the facts supporting all other counts in this Indictment and the Essential Facts are incorporated in Counts Eight through Ten by this reference.

11. Mark Huisinger ("Huisinger") was a Colorado investor. Huisinger was operator of a company called Financial Design Implementation and Construction, Inc. ("FDIC"). Wiens initially solicited Huisinger to invest in the "leased money" investment scheme in November of 2010. Huisinger received an "Agreement to Lease Funds to RXM Holdings, Ltd." offering document. The agreement was signed by Huisinger and Wiens on December 17, 2010. Huisinger/FDIC initially invested $250,000 in the operation on December 23, 2010. Huisinger/FDIC was to receive .15% interest on the "leased funds" per day.

12. After FDIC's initial investment with RXM/Wiens, Huisinger withdrew principal. Investment money was reinvested and withdrawn by Huisinger/FDIC with Wiens on a number of occasions between January 6, 2011 and December 16, 2011. Some monies were repaid to Huisinger/FDIC up until December 22, 2011. Money that was repaid did not solely come from FDIC's funds at the Penson Futures account as Wiens had represented. Rather, money repaid to Huisinger/FDIC included money that came from other investors' accounts. Wiens used portions of Huisinger's/FDIC's money to repay other investors Huisinger/FDIC received "interest" payments on invested sums. This "interest," which was paid to Huisinger/FDIC, came from sources that included Huisinger's/FDIC's own principal and from other investor money.

13. Between April 18, 2011 and July 5, 2011, Wiens presented to Huisinger that he converted Huisinger's/FDIC's "leased money" investment into another investment opportunity. Based on representations of Wiens, Huisinger believed that RXM/Wiens still owed Huisinger/FDIC approximately $50,000 in principal investments from the initial RXM "leased money" investment. Wiens represented to Huisinger that he was leaving his present firm, RXM, and starting a new futures firm and would be leasing a seat on the Chicago Mercantile Exchange. Initially, the new investment opportunity was substantially the same as the RXM opportunity, though Wiens later advised that he converted the $50,000 owed to Huisinger/FDIC to an equity interest in the new firm. Subsequently, this investment was no longer a "leased money" arrangement like the prior investment.

14. Wiens did not disclose that he was the sole owner and president of RXM and no remaining monies were actually transferred from a Penson account to Wiens' new opportunity. Wiens did not disclose that money from Huisinger's RXM

investment had been used to cover losses while closing the Penson accounts before he accepted Huisinger's/FDIC's final investment of $30,000 in the new opportunity on December 16, 2011. In total, Huisinger/FDIC suffered a financial loss that exceeded $20,000.

COUNT ELEVEN
(Securities Fraud – F3)

On or about and between December 1, 2010 and March 23, 2012 in and triable in the State of Colorado, ROBERT SCOTT WIENS, in connection with the offer or sale of any security to Jodi Funke and Archie Searp, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (b) and 11-51-603 (1), (Securities Fraud – Class 3 Felony), against the peace and dignity of The People of the State of Colorado, and as more fully set out below:

COUNT TWELVE
(Securities Fraud – F3)

On or about and between December 1, 2010 and May 31, 2011, in and triable in the State of Colorado, ROBERT SCOTT WIENS in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and knowingly engaged in any course of business which operated or would operate as a fraud or deceit upon Titan Investment Group, Jodi Funke, and Archie Searp, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (c) and 11-51-603 (1), and against the peace and dignity of The People of the State of Colorado.

COUNT THIRTEEN
FORGERY § 18-5-102(1)(c), C.R.S. (F5)

On or about April 1, 2011, in the State of Colorado, ROBERT SCOTT WIENS, with the intent to defraud Jodi Funke and Archie Searp, unlawfully, feloniously, and falsely made, completed, altered, or uttered a written instrument which was or which purported to be, or which was calculated to become or to represent if completed, namely: account statement of Penson Futures; in violation of § 18-5-102(1)(c), C.R.S.

The facts supporting Counts Eleven through Thirteen are as set forth below:

15. All of the facts supporting all other counts in this Indictment and the Essential Facts are incorporated in Counts Eleven through Thirteen by this reference.

16. Jodi Funke and Archie Searp ("Funke" and "Searp") were members of Titan Investment Group ("Titan"). Jeff Olson ("Olson") acted as an intermediary and introduced Funke and Searp to Wiens. Wiens offered the "leased money" investment opportunity to Funke and Searp by way of a conference call thirty to forty-five days prior to their investment. Wiens represented that he did not need to be licensed to trade securities and he would not be trading their "leased money" funds. Funke and Searp were provided an "Agreement to Lease Funds to RXM Holdings, Ltd" by Wiens. The agreement is dated January 14, 2011 and sets forth that RXM/Wiens agrees to pay Titan .15% per day on leased funds. Titan invested a total of $500,000 between February 9, 2011 and July 17, 2011.

17. Funke and Searp became concerned about their investment money and went to Colorado to confront Wiens in May of 2011. Wiens confessed to Funke and Searp that their money was gone. He stated he used their investment money to trade futures and pay other investors contrary to what he had led them to believe when soliciting their investment funds. Wiens stated he could pay them $75,000 towards their investment amount. Wiens in fact had access to an additional $74,980 in the Titan account from which he could have repaid them. Wiens executed a promissory note on May 12, 2011. The note states that RXM/Wiens owes Titan a remaining $425,000. On July 17, 2011, Titan invested an additional $5,375 with Wiens.

18. On approximately April 1, 2011 Wiens provided a document purporting to be a Penson account statement for March of 2011 to Funke and Searp. The document appeared to reflect a balance of $500,000 in the Titan account. In reality, Titan had $250,000 in their Penson account at the time that Wiens uttered the false document to Funke and Searp. Their other $250,000 had been deposited into a trading account without their authorization. Wiens admitted to Funke and Searp that he had provided them with false account statements.

COUNT FOURTEEN
(Securities Fraud – F3)

On or about and between January 1, 2010 and August 18, 2011, with a date of discovery on or about August 16, 2013, in and triable in the State of Colorado, ROBERT SCOTT WIENS, in connection with the offer or sale of any security to George Childs, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in

order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (b) and 11-51-603 (1) (Securities Fraud – Class 3 Felony), against the peace and dignity of The People of the State of Colorado.

COUNT FIFTEEN
(Securities Fraud – F3)

On or about and between February 12, 2010 and November 25, 2011, with a date of discovery on or about August 16, 2013, in and triable in the State of Colorado, ROBERT SCOTT WIENS in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and knowingly engaged in any course of business which operated or would operate as a fraud or deceit upon investors with RXM Holdings, LTD, including George Childs, Chuck Kirby, John Magrain, and Visions Funding, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (c) and 11-51-603 (1), and against the peace and dignity of The People of the State of Colorado.

COUNT SIXTEEN
(Theft of $20,000 or More – F3)

On or about and between February 12, 2010 and August 18, 2011, with a date of discovery on or about August 13, 2013, in or triable in the State of Colorado, ROBERT SCOTT WIENS unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: U.S. currency, of George Childs, Chuck Kirby, John Magrain, and Visions Funding, with the value of twenty thousand dollars or more, without authorization, or by threat or deception, and knowingly used, concealed, or abandoned the thing of value in such manner as to permanently deprive George Childs, Chuck Kirby, John Magrain and Visions Funding of its use or benefit; in violation of §§18-4-401(1)(b) and (2)(d), C.R.S. (2007) in such case made and provided and against the peace and dignity of The People of the State of Colorado.

The facts supporting Counts Fourteen through Sixteen are as set forth below:

19. All of the facts supporting all other counts in this Indictment and the Essential Facts are incorporated in Counts Fourteen through Sixteen by this reference.

20. Vision's Funding ("Vision's) was an Arizona corporation. George Childs ("Childs") was president of the company in 2010 and 2011. Chuck Kirby and John Magrain ("Kirby" and "Magrain") were investors with Vision's.

21. Childs was solicited by Wiens to invest with RXM/Wiens in an investment different than the "leased money" investment offered to other investors.

22. Wiens represented that he needed investment money to fund trading losses incurred while trading futures. Wiens/RXM offered to pay an interest rate of 6% on invested funds. Childs, on behalf of Vision's, invested $108,511 with RXM/Wiens from February 12, 2010 to March 21, 2011.

23. Wiens did not report to Childs prior to investing that investment money would be used for purposes other than to cover trading losses. Wiens did not report that investment money would be used to pay interest to prior investors, for non-investment related expenses, and for trading futures contracts. In fact, Vision's investment money was used to repay prior investors. Vision's in turn was repaid a portion of its $108,511 investment. This return on investment money was BRI investment money. Vision's did not earn 6% interest as promised and suffered a loss of greater than $20,000.

24. Childs and Vision's were still owed the bulk of their investment. Wiens offered Childs a way to recoup lost investment monies. Wiens represented to Childs that he was going to purchase a seat on the Chicago Mercantile Exchange with Childs' and Visions' investment money. Childs and another investor combined their money and invested $113,000 with Wiens in May 26 and August 18 of 2011. Wiens did not disclose that investment money was going to be used to trade futures contracts. The money was accepted by Wiens and was used to repay prior investors of the "leased money" investment scheme and to trade futures contracts. Wiens sent a check to Vision's that returned for insufficient funds on November 25, 2011.

COUNT SEVENTEEN
(Securities Fraud – F3)

On or about and between August 1, 2011 and August 31, 2011, in and triable in the State of Colorado, ROBERT SCOTT WIENS, in connection with the offer or sale of any security to Eric Ward, directly or indirectly, unlawfully, feloniously, and willfully made an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (b) and 11-51-603 (1), (Securities Fraud – Class 3 Felony), against the peace and dignity of The People of the State of Colorado.

COUNT EIGHTEEN
(Securities Fraud – F3)

On or about and between August 1, 2011 and November 7, 2011, in and triable in the State of Colorado, ROBERT SCOTT WIENS in connection with the offer or sale of any security, directly or indirectly, unlawfully, feloniously, and knowingly engaged in any course of business which operated or would operate as a fraud or deceit upon Eric Ward and WS Construction Management LLC, contrary to the form of the statutes in such case made and provided, C.R.S. §§11-51-501 (1) (c) and 11-51-603 (1), and against the peace and dignity of The People of the State of Colorado.

COUNT NINETEEN
(Theft of $20,000 or More – F3)

On or about and between August 1, 2011, with a date of discovery on or about May 8, 2012, in or triable in the State of Colorado, ROBERT SCOTT WIENS unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: U.S. currency, of Eric Ward and WS Construction Management LLC, with the value of twenty thousand dollars or more, without authorization, or by threat or deception, and knowingly used, concealed, or abandoned the thing of value in such manner as to permanently deprive Eric Ward and WS Construction Management LLC of its use or benefit; in violation of §§18-4-401(1)(b) and (2)(d), C.R.S. (2007) in such case made and provided and against the peace and dignity of The People of the State of Colorado.

The facts supporting Counts Seventeen through Nineteen are as set forth below:

25. All of the facts supporting all other counts in this Indictment and the Essential Facts are incorporated in Counts Seventeen through Nineteen by this reference.

26. Eric Ward ("Ward") was solicited by Wiens to invest in an investment different than the "leased money" investment offered to other investors.

27. Ward was a resident of South Dakota when he was solicited by Wiens to participate in an investment offering. Ward was the Chief Operating Officer of WS Construction Management ("WS"). Wiens provided a subscription agreement, promotional materials, and offering documents to Ward. Money invested was to go to purchase units of Robert Scott Wiens, LLC ("RSWLLC")

at $1,000 per unit. Ward, through WS, invested $150,000 with Wiens by way of a wire transfer on August 31, 2011. The money was wired to Wiens' account at TCF Bank located in Colorado.

28. Wiens provided promotional materials to Ward prior to Ward's investment. In these promotional materials Wiens describes RSWLLC as a "boutique proprietary trading operation specializing in the purchase and sale of stock index futures contracts and capable of creating positive monthly cash flow in an up, down or indecisive market." Wiens' description of his trading method is similar to the representation he made to investors in the "leased funds" investment. Materials indicated that Wiens would contribute $150,000 of matching risk capital. No such contribution was made by Wiens. Wiens conveyed unrealistic profit projections given his unsuccessful history of trading futures contracts. Contained in the promotional materials Wiens provided to Ward was a document titled, "Year-To-Date Distributions." This document purported to show large distributions of profit given to a "Referring Partner." "Matching Partner," "Trading Partner," and "Capital Partner." In reality the reported profits in this document were false and distributions were not made by RSWLLC as presented.

29. The operating agreement provided to Ward by Wiens states that the principal place of business for RSWLLC was Lakewood, Colorado. The business purpose of RSWLLC was to "trade the equity in the account, for profit, in S&P e-mini exchange traded futures contracts on the IOM exchange, but not limited to just the S&P e-mini futures contracts." In addition, the agreement states, "The Manager will be responsible for the normal day to day trading operations of the LLC which includes but is not limited to order entry, order flow and position management to the best of his ability."

30. Wiens travelled to South Dakota and met with Ward in person. He demonstrated his trading platform to Ward. In addition to the offering and subscription documents, Wiens provided Ward with spreadsheets and historical data to lead Ward to believe that he was a successful trader of futures contracts. The subscription agreement was dated August 30, 2011. Prior to accepting the investment, Wiens made verbal representations regarding the investment. Wiens stated that if Ward invested $150,000 with Wiens he would only use $10,000 for trading. The remaining money would be kept by RSWLLC and simply remain in an account but not be used to trade futures. Wiens stated that if he wanted to use any of the remaining $140,000 for trading he would seek the express approval of Ward or Ward could chose to withdraw the money.

31. Wiens spent the bulk of Ward's investment money rather than holding the additional $140,000 in an account by November 7, 2011. Ward's investment money was either lost trading futures contracts or used for unauthorized expenditures such as making payments to previous investors and paying Wiens' rent. A small amount of money was paid back to Ward. After the money was lost, Wiens provided excuses to Ward why he could not return Ward's money. Wiens stopped communicating with Ward about the investment. Wiens later admitted to Ward that he lost Ward's money trading futures contracts.

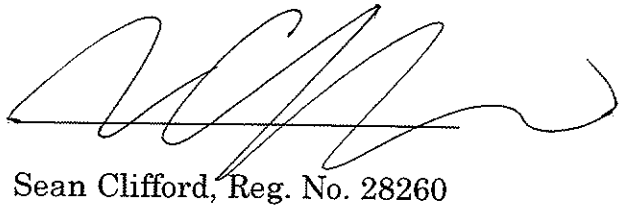
32. Wiens did not disclose to Ward that he had a history of losing money trading futures contracts. Wiens did not disclose that he lost prior investors' money trading futures contracts. He did not disclose to Ward that he had previously tendered forged account statements to investors. He did not disclose that he was not licensed to sell securities or futures. He did not disclose that he used prior investor money to repay other investors.

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
PEOPLE OF THE STATE OF COLORADO, Plaintiff, v. ROBERT SCOTT WIENS, DOB: 11/13/1962 Defendant.	▲COURT USE ONLY▲
CYNTHIA H. COFFMAN, Attorney General SEAN CLIFFORD* First Assistant Attorney General Criminal Justice Section 1300 Broadway, 9th Floor Denver, Colorado 80203 720-508-6692 Registration Number: 28260 *Counsel of Record	Case No.: 14 CR 001 Ct. Rm. 209

NOTIFICATION UNDER C.R.S. §13-73-103

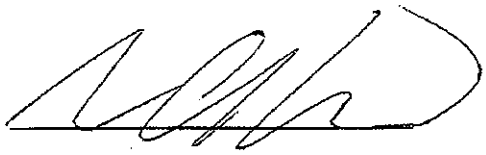
Pages 20 through 23 of the True Bills from the Grand Jury have purposely been omitted due to C.R.S. §13-73-103, which states that the identity of the State-wide Grand Jurors shall be deemed confidential. Pages 20 through 23 have the name and signatures of the Grand Jury Foreperson.

CYNTHIA H. COFFMAN
ATTORNEY GENERAL



Sean Clifford, Reg. No. 28260
First Assistant Attorney General
Criminal Justice Section

CYNTHIA H. COFFMAN
ATTORNEY GENERAL

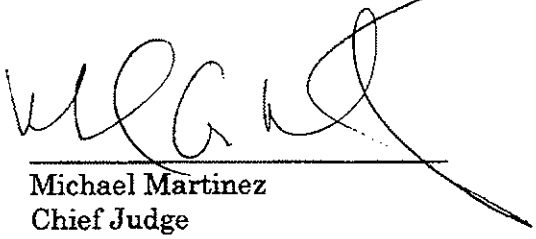


Sean Clifford, Reg. No. 28260
First Assistant Attorney General
Criminal Justice Section

The 2014-2015 State Grand Jury presents the within Indictment, and the same is hereby

Ordered filed this 5th day of March, 2015.

Pursuant to C.R.S. 13-73-107, the Court hereby designates the County of Jefferson, Colorado, as the county of venue for the purposes of trial.



Michael Martinez
Chief Judge
Second Judicial District