

***IN THE DISTRICT COURT OF THE UNITED STATES
For the Western District of New York***

**OCTOBER 2023 GRAND JURY
(Impaneled October 11, 2023)**

THE UNITED STATES OF AMERICA

-vs-

**INDICTMENT
24-CR-**

DYLAN PAUL COSTANZA

(Counts 1-17)

TOMMY LEE COBURN

(Counts 1-5, 17)

KYLE PAUL EDWARD GIBSON

(Counts 1, 6-17)

HEATHER DIERNA

(Counts 1-3)

Violations:

Title 18, United States Code,
1341, 1349, 1956(h) and 2.

(17 Counts and 4 Forfeiture
Allegations)

INDICTMENT

The Grand Jury Charges That:

At all times relevant to this Indictment:

INTRODUCTION

Defendants and Coconspirators

1. The defendants, **DYLAN PAUL COSTANZA** (“**COSTANZA**”), **TOMMY LEE COBURN** (“**COBURN**”) and **KYLE PAUL EDWARD GIBSON** (“**GIBSON**”), resided in Florida.

2. The defendant, **HEATHER DIERNA** (“**DIERNA**”), resided in Rochester, New York.

3. Coconspirators A.D., J.E. and S.D. resided in Florida.

Costanza's Entities

4. On or about October 20, 2020, **COSTANZA** incorporated Hi-Tech Industrial Company LLC ("Hi- Tech Industrial") in Florida with an address in Delray Beach, Florida.

5. On or about January 27, 2021, **COSTANZA** incorporated Simple Pro Solutions LLC ("Simple Pro Solutions") in Florida with an address in Delray Beach, Florida.

6. On or about June 14, 2021, **COSTANZA** incorporated Day Cost Marketing LLC ("Day Cost Marketing) in Florida with an address in Boca Raton, Florida.

Coburn's Entities

7. On or about January 19, 2021, **COBURN** incorporated North Atlantic Supply Company LLC ("North Atlantic Supply") in New York with an address of 90 State Street, Suite 700, Office 40, Albany, New York.

8. On or about June 28, 2021, **COBURN** incorporated Top Tier Chemicals LLC ("Top Tier Chemicals") in New York with an address of 75 S. Clinton Ave., Suite 510, Rochester, New York.

Gibson's Entity

9. On or about February 18, 2021, **GIBSON** incorporated Nationwide Chemicals LLC ("Nationwide Chemicals") in Florida with an address in West Palm, Florida.

Coconspirators' Entities

10. On or about April 12, 2021, **COSTANZA** and coconspirators A.D. and J.E. incorporated Prince Venture Capital LLC in Florida with an address in Boca Raton, Florida.

11. On or about February 11, 2021, coconspirator J.E. incorporated what is being identified as E. Holdings LLC in Florida with an address in Boca Raton, Florida.

12. On or about February 11, 2021, coconspirator A.D. incorporated what is being identified as D. Enterprise LLC in Florida with an address in Boca Raton, Florida.

13. On or about August 26, 2021, coconspirator S.D. incorporated Wholesale Chem Supplies LLC in Florida with an address in Lauderdale Lakes, Florida.

Object of Conspiracy/Scheme

14. The defendants and their coconspirators used the four companies, Hi-Tech Industrial, North Atlantic Supply, Top Tier Chemicals, and Nationwide Chemicals (collectively, the "Sham Companies"), to trick thousands of large companies throughout the United States (collectively, the "Victim Companies" and individually, a "Victim Company") into paying fraudulent invoices.

COUNT 1
COSTANZA, COBURN, GIBSON and DIERNA
(Conspiracy to Commit Mail Fraud)

The Grand Jury Further Charges That:

15. The allegations in the Introduction and Count 17 are incorporated herein by reference.

THE OBJECT OF THE CONSPIRACY

16. Between in or about October 2020, and in or about January 2022, in the Western District of New York, and elsewhere, the defendants, **DYLAN PAUL COSTANZA, TOMMY LEE COBURN, KYLE PAUL EDWARD GIBSON** and **HEATHER DIERNA**, did knowingly, willfully, and unlawfully combine, conspire, and agree with others, known and unknown to the Grand Jury, including A.D., J.E. and S.D., to devise a scheme and artifice to defraud the Victim Companies, and to obtain money and property from the Victim Companies by means of false and fraudulent pretenses, representations, and promises, and for the purposes of executing such scheme and artifice to place in any post office and authorized depository for mail matter, matter and things to be sent and delivered by the Postal Service; to deposit, and cause to be deposited, matter and things to be sent and delivered by private and commercial interstate carrier; and to knowingly cause to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed matter and things, in violation of Title 18, United States Code, Section 1341.

17. The object of the conspiracy was to mass mail fraudulent invoices in the names of the Sham Companies to several thousand Victim Companies to trick the Victim Companies into paying the fraudulent invoices under the mistaken belief that the Victim Companies had previously ordered and received the multi-purpose cleaner and degreaser (“cleaner/degreaser”) products listed on the fraudulent invoices.

OVERVIEW OF CONSPIRACY

18. The defendants obtained the names and addresses of primarily large companies (the Victim Companies) located all over the United States to whom they could mail a document which appeared to be a legitimate invoice for cleaner/degreaser products that the Victim Companies would believe they had previously ordered and received.

19. The defendants targeted large companies because it was less likely during the COVID-19 pandemic that such companies' account payable departments would question whether another of the companies' departments had in fact previously ordered and received the cleaner/degreaser products listed on the fraudulent invoices.

20. The defendants also targeted large companies because the relatively small amounts owed on the fraudulent invoices would be less likely to raise questions regarding the legitimacy of the fraudulent invoices.

21. The defendants also targeted large companies because the accounts payable departments do not order products for their companies, and thus it would be less likely that the accounts payable departments would question or be suspicious of the grossly inflated prices for the cleaner/degreaser products listed on the fraudulent invoices.

22. With respect to the Sham Companies, Hi-Tech Industrial and Nationwide Chemical, fraudulent invoices were mailed from Florida in the names of those two companies to several thousands of Victim Companies throughout the United States.

23. With respect to North Atlantic Supply and Top Tier Chemicals, fraudulent invoices were first shipped together in bulk to **DIERNA** in the Rochester, New York area.

DIERNA then mailed the individual false invoices from Rochester, New York to several thousands of Victim Companies throughout the United States.

24. While intending that the fraudulent invoices look exactly like legitimate invoices, the defendants placed in hard-to-find places statements on the second page (a) that the documents were merely “solicitations” to order product, and (b) that there was no obligation to pay the amounts listed on the fraudulent invoices. Such hard-to-find statements were inserted so that if the defendants were questioned by any of the Victim Companies or government agencies, they could falsely claim that the intended purpose of the documents was merely to “solicit” future business from the Victim Companies. Below are two examples of such documents that look like legitimate invoices, but which contain the hard-to-find “solicitation” and “no obligation to pay” statements on the second page of the document.



North Atlantic Supply Company

info@NorthAtlanticSupplyCompany.com
 250 Mill Street Rochester, NY. 14614
 (888) 30-NORTH

DATE: 3/12/2021
 I.D. # NA-21011

TO: [Redacted]
 Sarasota FL 34240
 (941) 488-7374



100620

ITEMIZED ORDER FORM / QUOTE	QTY	UNIT PRICE	AMOUNT
Concentrated Cleaner and Degreaser	1	\$579.99	\$579.99
Shipping	1	\$58.89	\$58.89
Discount (Code:50OFF2021)	1	(\$50.00)	(\$50.00)
ADD ADDITIONAL ITEMS BELOW THIS LINE			
MARCH SALES TAX			
SUBTOTAL			588.88
TAX			-
TOTAL			\$ 588.88

YOUR BUSINESS IS APPRECIATED
 WE DO NOT EXPORT TO CANADA
 CHECKS SHOULD BE MAILED TO CORPORATE OFFICE BELOW

NorthAtlanticSupplyCompany.com

TO: [Redacted]
 Sarasota FL 34240

MAILING ADDRESS:
North Atlantic Supply Company
 250 Mill Street
 Rochester, NY. 14614
 (888) 30-NORTH

DATE: 3/12/2021
 ID #: NA-21011
 ENCLOSED TOTAL:

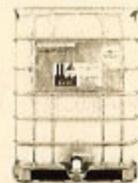
DEGREASERS		
BEAST	CONCENTRATED, HEAVY-DUTY DEGREASER	KE-22
BLAST	HIGH-STRENGTH, CITRUS FOAM DEGREASER	KE-204R
TRUI-ROBOLT	SOY-BASED TAR AND ASPHALT REMOVER	KE-76C
CITRA-BOLT	FAST DRY CITRUS ELECTRICAL CLEANER	KE-77D
CITRA-CRYSTALS	CITRUS DEGREASER POWDER	KE-172E
D-SCALE	INHIBITED ACID DETERGENT/CONCRETE CLEANER	FE-114
ECO-ZYM	ECO-FRIENDLY ENZYME DEGREASER	FE-185BEO
BACKFETE	CONCRETE CLEANER - ENZYME POWDER	KE-282R
SAFETY-SOLVE	SAFETY SOLVENT ELECTRICAL CLEANER	FE-200A
CITRA-SOLVE	CITRUS ELECTRICAL EQUIPMENT DEGREASER	KE-261R
CHEM-FLOCATOR	FOAMING OVEN & GRILL CLEANER	FE-101D
PORT-TRICKS	DEGREASER PORTION CONTROL PACKETS	PORT-TRICKS

DISINFECTANTS		
CITRA-SHIELD	CITRUS DISINFECTANT SPRAY	KE-15
SHIELD	DISINFECTANT FOAM CLEANER	FE-20A
SHIELD-Q	LIQUID SPRAY DISINFECTANT	TR
SHIELD-G-CITRUS	DISINFECT CITRUS CONCENTRATE	FE-15AP
SHIELD-G-LEMON	DISINFECT LEMON CONCENTRATE	FE-15AP
SHIELD-Q-FINE	DISINFECT FINE CONCENTRATE	KE-164Fz
SHIELD-ULTRA	HOSPITAL GRADE DISINFECTANT	KE-17M
DISCIDE	ULTRA DISINFECTANT WIPE	DISCIDE
EL-CAMARON	MILD ACID BOWL CLEANER	EL-CAMARON
PORT-PDS	PORTION DISINFECTANT PACKETS	PORT-PDS
PUNCH-CITRUS	CITRUS DISINFECTANT FOGGER	KE-150T
TUFF-SURF	MILD ACID BOWL CLEANER	TUFF-SURF
WHITE DIAMOND	70% ACID BOWL CLEANER	WHITE DIAMOND
WIPE-DUTY	TABLETS, KILLS C. DIFF.	WIPE-DUTY

DRAIN AND GREASE TRAP		
BIO-ZYME	DISSOLVING ENZYME BLOCKS	KE-398Z
BLAST-OUT	NON-ACID DRAIN OPENER	BLAST-OUT
MASTER-A	ACID URINAL OPENER/DESCALER	KE-1148A
BLITZ	NON-ACID URINAL OPENER	BLITZ
CHISEL	CITRUS GREASE TRAP OPENER	CHISEL
DRAIN-POWER	SULFURIC ACID DRAIN OPENER	DRAIN-POWER
DRAIN-SEAL	URINAL / DRAIN ODOR SEAL	DRAIN-SEAL
DRIP-B	DYE LIQUID ENZYMES	KE-196B
ECO-ZYM-CHEK	HIGH COUNT LIQUID ENZYMES	KE-185BCH
ECO-ZYM-CITRUS	HIGH COUNT LIQUID ENZYMES	KE-192BCT
ECO-ZYM	DRAIN / FRUIT FRY ELIMINATOR	ECO-ZYM
HYDRO-BEAST	GREASE TRAP DEEP CLEANER/OPENER	FE-131HVD
POWERZYME	POWDERED BACTERIAL ENZYMES	KE-39
RESOLVE-IT	LIQUID ENZYME DRAIN DEODORIZER	RESOLVE

AUTOMATIC DISPENSING SYSTEMS		
PRO-DRINKERET FLOW-TRIP	DRAIN/GREASE TRAP AUTOMATIC DRIP SYSTEM	PRO-DRINK
PRO-DRINKERET FLOW-TRIP	DRAIN/GREASE TRAP AUTOMATIC DRIP SYSTEM	PRO-DRINK
PRO-BATTERY DRAIN-CHIEF	DRAIN/GREASE TRAP AUTOMATIC DRIP SYSTEM	PRO-DRINK
PRO-DRINKERET CHIEF-TIUS	ADVANCED AUTOMATIC DRIP SYSTEM	PRO-DRINK

DUMPSTER AND TRASH CHUTE		
AEROSOLS		
BLAST	DUMPSTER CLEANER & DEODORIZER	KE-204T
PUNCH - MIGHTY TEA	TRASH ROOM ODOR FOGGER	KE-105MT
PUNCH - BUG BOMB	INDUSTRIAL INSECT FOGGER	KE-204Z
GRANULES		
DUMPSTER DAISY	ODOR GRANULES & INSECT REPELLENT	DDAMPSTER-B
DUMPSTER-E	ODOR GRANULES & INSECT REPELLENT	DDAMPSTER-A
3FO GRANULES	CHEERY DEODORIZING GRANULES	KE-131
SCENT-BLOCK	HEAVY-DUTY DEODORANT BLOCK	KE-112D
LIQUID SOLUTIONS		
CITRA-CIDE	ALL NATURAL INSECTICIDE LIQUID	KE-106A
ENZO IV - CHERRY	HIGH COUNT LIQUID ENZYMES	KE-185BCH
ENZO IV - CITRUS	HIGH COUNT LIQUID ENZYMES	KE-185BCT
ODOR-OUT II	CONCENTRATED LIQUID DEODORIZER	KE-131
ODOR-OUT III	OIL-BASE LIQUID DEODORIZER	KE-131
SHARPSHOOTER	TRASH CHUTE CLEANER/DEODORIZER	FE-2049D
MISTERS & APPLICATORS		
ULTIMATE MISTER	DUMPSTER/CHUTE AUTO MISTING SYSTEM	AROMA-F
HOSE CONNECT SPRAYER	FOAMING HOSE CONNECT SPRAYER	FO-100A
PUMP SPRAYER1	1 GALLON PUMP SPRAYER	FO-1
PUMP SPRAYER2	3 GALLON PUMP SPRAYER	FO-3
PUMP SPRAYER3	FOAMING PUMP SPRAYER (2 GAL)	FO-12



North Atlantic Supply Company
 250 Mill Street
 Rochester, NY, 14614
 (888) 30-NORTH

Visit NorthAtlanticSupplyCompany.com for more information about our products and services. To place an order please contact your sales representative directly.

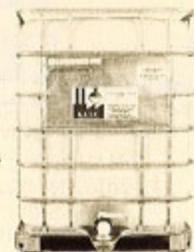
North Atlantic Supply Company is proud to offer most products in one, five, fifty, or two hundred and fifty gallon containers. Call (877) 80-NORTH or visit NorthAtlanticSupplyCompany.com to place an order or request a quote!

STEM CLEANERS, WEED KILLERS, INDUSTRIAL CLEANER, DRAIN OPENERS, DISINFECTANTS, AUTOMOTIVE, ODOR CONTROL, SOLVENT BASED CLEANERS, ALL NATURAL

This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer.

We proudly serve the following industries and more:

- Manufacturing
- Food Industry
- Chemicals / Fertilizer
- Pet Food / Animal
- Feed Minerals / Building Materials
- Seed and Grain Pharmaceuticals
- Automotive



North Atlantic Supply Company (888) 30-NORTH
 250 Mill Street
 Rochester, NY, 14614 www.NorthAtlanticSupplyCompany.com

ORDER FORM

Nationwide Chemicals

777 S. Flagler Dr. Suite 800 West Tower
 West Palm Beach, FL 33401
 (866) 204-3623
 NationwideChemicals.com

~~18297~~
 18297

DATE: 3/9/2021
 SALES ID #: REF-10391

MAIL TO ADDRESS:



Wolf Creek MT 59648

SHIP TO ADDRESS:



Wolf Creek MT 59648
 (406) [REDACTED]

DATE	SALES ID #	SHIP
3/9/2021	REF-10391	Fed Ex

PRODUCT	DESCRIPTION	QUANTITY	UNIT PRICE	QUOTED TOTAL
SHOP CLEAN - 1104	MULTI-PURPOSE CONCENTRATE CLEANER AND DEGREASER: CAR WASH / TRUCK WASH / SHOP WASH	4	129.95	519.80
Freight	Standard Shipping	1	58.59	58.59

SPECIAL INSTRUCTIONS

ASK ABOUT OUR CUSTOM BLENDED CLEANING SUPPLIES.

SUBTOTAL \$ 578.39
 TAX RATE 0.000%
 TAX \$ -
 S & H \$ -
TOTAL \$ 578.39

Make all checks payable to
Nationwide Chemicals

Thank You For Your Business!

Please include your sales I.D. number # on your check/order or detach the portion below.

Your Company:



Wolf Creek MT 59648
 (406) [REDACTED]

Remittance:

Nationwide Chemicals
 777 S. Flagler Dr. Suite 800 West Tower
 West Palm Beach, FL 33401
 (866) 204-3623

DATE: 3/9/2021
 SALES ID #: REF-10391

VISIT NATIONWIDECHEMICALS.COM FOR ALL YOUR CLEANING NEEDS!

NATIONWIDE CHEMICALS

FROM AGRICULTURE TO SHOP, WE HAVE A GREEN SOLUTION THAT IS RIGHT FOR YOU. TO LEARN MORE CALL (866) 204-3623

Dehydrate-IT offers a special blend of tough cleaning agents formulated to remove silt and soil from walls, fixtures, sealed wood, painted surfaces, yet gentle enough to be used as a multi-surface cleaner. It also removes heavy stains. SKU: DehydIT10

Citrus Clean is a non-butyl cleaner, degreaser and deodorant for use with power washer, scrubbers mops buckets, and spray-and-wipe applications. This advanced formula quickly emulsifies soil types such as animal fats and petroleum greases. SKU: CitClean105

Now infused with SenCo's molecular counteracting technology, Day1 Clean cuts through dirt, grime, AND odors! Leaves no streaks, haze, or residues. Low-foam and concentrated. It works best mixed 1:3 ounces per gallon. Apply with an automatic scrubber or mop for terrific results! SKU: Day103

An Environmentally safe cleaner formulated for everything from tough degreasing to mild cleaning, this industrial-strength concentrate holds grease, dirt, grime and soil in suspension for easy removal and rinsing. Industrial Clean is always friendly to earth while getting the job done. SKU: Indust118

Get the Purple EnergyHouse that handles everything from heavy soil to tough stripping jobs. The formula eradicates rust, oil, and grease, yet contains no damaging solvents. Not for use on vinyl-type flooring or where E.P.A. prohibits. SKU: Purple127

This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this account of this offer unless you accept this offer.

ALL YOUR PPE NEEDS

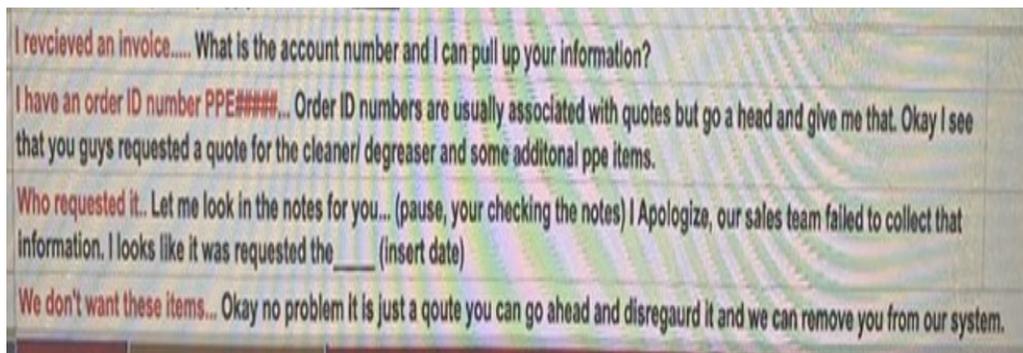
**LEVEL 2
50 COUNT BOX
\$66⁵⁰**

**NITRILE
100 COUNT BOX
\$10⁹⁹**

**SPRAY & PAPER
32oz BOTTLE ROLL
\$5⁹⁹ \$2⁹⁹**



25. When a Victim Company or a government agency inquired about the legitimacy of an invoice received by a Victim Company, the defendants used fictitious employee names from the Sham Companies to provide false statements and explanations to respond to such inquiries. For example, the defendants would falsely state to the Victim Companies who inquired about the fraudulent invoice that some unknown employee from the Victim Companies had requested that the Sham Companies provide a quote (or solicitation) for cleaner/degreaser products, when in fact, the defendants knew that the Victim Companies had never requested a quote. Below is an example of a script used by the defendants or their employees when the Victim Companies contacted the Sham Companies to inquire about the document they believed was an invoice:



26. As depicted in the first line of the script, the defendants were anticipating that the Victim Companies would think what they received was an “*invoice*”. As depicted later in the script, even though the defendants knew that the Victim Companies had never requested any products or quotes for such products, the defendants and their employees would respond to the question “Who requested it” by falsely stating that their “*sales team failed to collect that information*” and it “*looks like it was requested ____ (insert date)*”.

27. When the Victim Companies requested that the Sham Companies provide an IRS Form W-9 before a payment could be made, the defendants used fictitious employee names when communicating with the Victim Companies and when signing the Form W-9s.

28. As a result of the conspiracy and scheme, from the several thousands of Victim Companies that received a fraudulent invoice, approximately 4,640 of such Victim Companies were tricked into believing that they had received a legitimate invoice for cleaner/degreaser products that they had previously ordered and received from the sham companies.

29. The Victim Companies that were tricked into believing that they had received a legitimate invoice then mailed checks to the Sham Companies in Florida or Rochester, New York to pay the amounts owing on the fraudulent invoices. In a few cases, the Victim Companies paid the fraudulent invoices by electronic payment.

30. Checks from the Victim Companies that were mailed to Rochester, New York were picked up by **DIERNA**, who then deposited the checks in Rochester into a bank account controlled by **COBURN**. **DIERNA** had a debit card to access the account.

31. The total amount that the Victim Companies paid the Sham Companies was approximately \$3,721,229.31. From this amount of fraudulent proceeds, approximately \$2,213,709.86 was then transferred to coconspirators A.D. and J.E, or to companies owned by A.D. and J.E., including, Prince Venture Capital LLC, D. Enterprise LLC, and E. Holdings LLC.

32. After receiving payment from the Victim Companies, the defendants attempted to cover up their fraud by having delivered to the Victim Companies inexpensive cleaner/degreaser products consisting primarily of a basic soap solution which was worth substantially less than what the Victim Companies had been charged. For example, the defendants delivered to the Victim Companies a box containing four 1-gallon jugs of basic cleaning solution worth approximately \$20 for which they charged the Victim Companies more than \$560.

33. Although the defendants attempted to cover up their fraud by having cheap cleaner/degreaser products delivered to the Victim Companies, the defendants made it impossible for the Victim Companies to connect and link the cheap cleaner/degreaser products that they received to the prior payment they had previously been tricked into making to the Sham Companies. For example, the defendants did, among other things, the following:

a. The products were not delivered to the Victim Companies until several weeks or months after the Victim Companies had been tricked into paying the fraudulent invoices. For example, one of the Victim Companies made its payment to Hi-Tech Industrial Chemical on or about December 17, 2020, but the company did not receive the cheap cleaner/degreaser products until on or about March 12, 2021.

b. The products when delivered did not include a copy of the document appearing to be a legitimate invoice nor any other shipping document that would have connected the products to the fraudulent invoices which the Victim Companies had paid, as is normal business practice.

c. The products when delivered did not include any information identifying that the products had been purchased from the Sham Companies.

d. Oftentimes, the only paperwork included with the shipment of cleaner/degreaser products was a sheet of paper indicating the contents were a “sample”, which would cause the Victim Companies to believe that what they received was an unsolicited sample of products that they could purchase in the future and which would result in such Victim Companies not connecting the “sample” products to the fraudulent invoices which the Victim Companies had been defrauded into paying. Below is an example of a Pick Ticket included with a shipment of cleaner/degreaser products received by a Victim Company which indicates the shipment contains merely “sample product”:

Date: 05/18/21 Pick Ticket

SIMPLE PRO Order Number 159805 - 304

REF: DE-1831-2285

Ship To: Brighton Cabinetry

Contact Simple Pro at (877) 871-7628 to get more information regarding this sample product.

PACKING LIST

Ship Via: FedEx Ground

Item Number	Description	U/M	Location Bin	Quantity Req.	Quantity Filled
Non-stock	SIMPLE PRO S100 - 5 GAL.		G011	1 PAIL	1

Sample

e. The company name on the return address labels when the cleaner/degreaser products were delivered contained the name of companies other than the Sham Companies', that is, either Simple Pro Solutions or Wholesale Chem Supplies.

34. Despite the defendants' contention that the documents they sent to the Victim Companies were not invoices but were merely "solicitations" or "quotes" to find new customers, the defendants, after receiving payments from the Victim Companies, who thus would have responded favorably to the documents if in fact such documents were merely "solicitations" or "quotes", never again attempted to contact the Victim Companies to sell additional products or to develop customer relationships, both of which would have been expected as normal business practices if in fact the Victim Companies had responded to legitimate "solicitations" or "quotes".

35. The defendants never again contacted the Victim Companies to sell additional products or to develop customer relationships because any contact whatsoever would have caused the Victim Companies to discover that they had been previously tricked and defrauded into paying what they believed were legitimate invoices and not mere "solicitations" or "quotes".

**MEANS BY WHICH THE OBJECT OF THE
CONSPIRACY WAS TO BE ACCOMPLISHED**

The object of the conspiracy was accomplished through the following means and methods:

Victim Companies Nationwide

36. Between in or about October 2020, and in or about November 2021, the defendants had mailed from Florida and Rochester, New York to several thousands of Victim

Companies throughout the United States a document that the defendants intended to trick the Victim Companies into believing was a legitimate invoice from the Sham Companies for products that the Victim Companies had previously ordered and received.

37. The fraudulent invoices that were mailed from Rochester, New York to the Victim Companies were first mailed in bulk from Florida to DIERNA in Rochester, New York.

38. Between in or about November 2020, and in or about April 2021, approximately 425 of the Victim Companies who received a document by mail in the name of Hi-Tech Industrial were tricked into believing that such document was a legitimate invoice which caused such Victim Companies to subsequently mail a check to Hi-Tech Industrial in Florida to pay the fraudulent invoice. The approximately 425 Victim Companies paid Hi-Tech Industrial a total of approximately \$255,822.78.

39. Between in or about March 2021, and in or about September 2021, approximately 1,805 of the Victim Companies who received a document by mail from North Atlantic Supply were tricked into believing that such document was a legitimate invoice which caused (a) 1,792 of such Victim Companies to subsequently mail a check to North Atlantic Supply in Rochester, New York to pay the fraudulent invoice, and (b) 13 of such Victim Companies to make an electronic payment to North Atlantic Supply to pay the fraudulent invoice. The approximately 1,805 Victim Companies paid North Atlantic Supply a total of approximately \$1,385,442.67.

40. Between in or about February 2021, and in or about September 2021, approximately 1,145 of the Victim Companies who received a document by mail from

Nationwide Chemical were tricked into believing that such document was a legitimate invoice which caused such Victim Companies to subsequently mail a check to Nationwide Chemical in Florida to pay the fraudulent invoice. The approximately 1,145 Victim Companies paid Nationwide Chemical a total of approximately \$822,583.46.

41. Between in or about July 2021, and in or about November 2021, approximately 1,265 of the Victim Companies who received a document by mail from Top Tier Chemicals were tricked into believing that such document was a legitimate invoice which caused (a) 1,259 of such Victim Companies to subsequently mail a check to Top Tier Chemicals in Rochester, New York to pay the fraudulent invoice, and (b) six of such Victim Companies to make an electronic payment to Top Tier Chemicals to pay the fraudulent invoice. The approximately 1,265 Victim Companies paid Top Tier Chemicals a total of approximately \$1,257,380.40.

42. The checks received from the Victim Companies totaling approximately \$3,721,229.31 were deposited into bank accounts in the names of the Sham Companies and controlled by the defendants. From the fraudulent proceeds, approximately \$2,213,709.86 was then transferred to bank accounts belonging to A.D. and J.E, or to their companies, Prince Venture Capital LLC, D. Enterprise LLC, and E. Holdings LLC.

43. Between in or about March 2021, and in or about January 2022, sometimes several weeks after receiving a check from the Victim Companies, the defendants caused inexpensive cleaner/degreaser products consisting primarily of a basic soap solution which was worth substantially less than what the Victim Companies had been charged to be delivered and shipped by private commercial carrier to the Victim Companies with no

identifying information or documentation connecting such deliveries to the Sham Companies.

44. The deliveries and shipments of the inexpensive and basic cleaner/degreaser products to the Victim Companies also contained misleading return address information on the shipping labels which included the company name Simple Pro Solutions or Wholesale Chem Supplies. Examples of such shipping labels are as follows:



Victim

Companies in Western District of New York

45. On or about the dates set forth below, the Victim Companies set forth below, received from the Sham Companies identified below, from Florida or Rochester, New York by United States Postal Service, to the town or city set forth below in the Western District of New York, what the Victim Companies believed were legitimate invoices for products that

they had previously ordered and received, which caused the Victim Companies to mail checks in the amounts set forth below from the Western District of New York to the Sham Companies on or about the dates set forth below:

VICTIM COMPANY	SHAM COMPANY	DATE OF MAILING OF INVOICE	CHECK AMOUNT TO PAY INVOICE	TOWN/CITY INVOICE MAILED TO	DATE CHECK MAILED FROM WDNY
VC 1	NASC	04/02/2021	\$585.78	Henrietta, NY	04/13/2021
VC 2	NASC	04/02/2021	\$585.78	Lakewood, NY	05/10/2021
VC 3	NASC	04/02/2021	\$585.78	Brockport, NY	05/12/2021
VC 4	TTC	08/16/2021	\$993.31	Andover, NY	08/25/2021
VC 5	NWC	04/22/2021	\$588.69	Rochester, NY	05/05/2021
VC 6	NWC	06/10/2021	\$994.66	Avon, NY	07/15/2021
VC 7	NWC	06/10/2021	\$994.66	Tonawanda, NY	07/12/2021
VC 8	NWC	06/24/2021	\$3,970.24	Rochester, NY	07/25/2021
VC 9	NWC	06/03/2021	\$993.76	Niagara Falls, NY	07/15/2021
VC 10	NWC	06/24/2021	\$984.69	Henrietta, NY	08/20/2021

46. On or about the dates set forth below, the Victim Companies set forth below, received by private commercial carrier in the town or city set forth below in the Western District of New York, inexpensive cleaner/degreaser products:

VICTIM COMPANY	DATE PRODUCTS MAILED/SHIPPED TO VICTIM COMPANIES	PLACE PRODUCTS MAILED/SHIPPED TO IN WDNY
VC 2	07/09/2021	Lakewood, NY
VC 3	07/27/2021	Brockport, NY
VC 5	03/01/2022	Henrietta, NY
VC 6	08/13/2021	Avon, NY
VC 7	09/02/2021	Tonawanda, NY
VC 10	10/26/2021	Henrietta, NY

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

COUNT 2
COSTANZA, COBURN and DIERNA
(Mail Fraud)

The Grand Jury Further Charges That:

1. The allegations in the Introduction and in Counts 1 and 17 are incorporated herein by reference.

2. Between in or about February 2021, and in or about November 2021, in the Western District of New York, and elsewhere, the defendants, **DYLAN PAUL COSTANZA, TOMMY LEE COBURN** and **HEATHER DIERNA**, did devise, and intend to devise, a scheme and artifice to defraud Victim Companies, and to obtain money and property from Victim Companies by means of false and fraudulent pretenses, representations, and promises.

3. Between in or about February 2021, and in or about November 2021, the defendants, for the purpose of executing, and attempting to execute, the scheme and artifice, placed in any post office and authorized depository fraudulent invoices, which were mail matter to be sent and delivered by the Postal Service, to be sent and delivered by private and commercial interstate carrier; and knowingly caused the fraudulent invoices to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed.

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

COUNT 3
COSTANZA, COBURN and DIERNA
(Mail Fraud)

The Grand Jury Further Charges That:

1. The allegations in the Introduction and in Counts 1 and 17 are incorporated herein by reference.

2. Between in or about March 2021, and in or about November 2021, in the Western District of New York, and elsewhere, the defendants, **DYLAN PAUL COSTANZA, TOMMY LEE COBURN** and **HEATHER DIERNA**, did devise, and intend to devise, a scheme and artifice to defraud the Victim Companies, and to obtain money and property from the Victim Companies by means of false and fraudulent pretenses, representations, and promises.

3. Between in or about March 2021, and in or about November 2021, the defendants, for the purpose of executing, and attempting to execute, the scheme and artifice, deposited and caused to be deposited, checks to pay the fraudulent invoices, to be sent and delivered by private and commercial interstate carrier; and knowingly caused the checks to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed.

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

COUNTS 4 and 5
COSTANZA and COBURN
(Mail Fraud)

The Grand Jury Further Charges That:

1. The allegations in the Introduction and in Counts 1 through 3 and Count 17 are incorporated herein by reference.

2. Between in or about October 2020, and in or about January 2022, in the Western District of New York, and elsewhere, the defendants, **DYLAN PAUL COSTANZA** and **TOMMY LEE COBURN**, did devise, and intend to devise, a scheme and artifice to defraud Victim Companies, and to obtain money and property from Victim Companies by means of false and fraudulent pretenses, representations, and promises.

3. On or about the dates set forth below, the defendants, for the purpose of executing, and attempting to execute, the scheme and artifice, placed in any post office and authorized depository mail matter to be sent and delivered by the Postal Service; deposited and caused to be deposited, to be sent and delivered by private and commercial interstate carrier; and knowingly caused to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed, inexpensive cleaner/degreaser products:

COUNT	VICTIM COMPANY	DATE PRODUCTS MAILED/SHIPPED TO VICTIM COMPANIES	PLACE PRODUCTS MAILED/SHIPPED TO IN WDNY
4	VC 2	07/09/2021	Lakewood, NY
5	VC 3	07/27/2021	Brockport, NY

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

COUNTS 6 through 12
COSTANZA and GIBSON
(Mail Fraud)

The Grand Jury Further Charges That:

1. The allegations in the Introduction and in Counts 1 and 17 are incorporated herein by reference.

2. Between in or about April 2021, and in or about January 2022, in the Western District of New York, and elsewhere, the defendants, **DYLAN PAUL COSTANZA** and **KYLE PAUL EDWARD GIBSON**, did devise, and intend to devise, a scheme and artifice to defraud Victim Companies, and to obtain money and property from Victim Companies by means of false and fraudulent pretenses, representations, and promises.

3. On or about the dates set forth below, the defendants, for the purpose of executing, and attempting to execute, the scheme and artifice, placed in any post office and authorized depository fraudulent invoices in the amounts set forth below, which were mail matter to be sent and delivered by the Postal Service; deposited and caused to be deposited, checks to pay the fraudulent invoices, to be sent and delivered by private and commercial interstate carrier; and knowingly caused the fraudulent invoices and checks to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed, the matters set forth below:

COUNT	VICTIM COMPANY	DATE OF INVOICE	AMOUNT INVOICE/CHECK	TOWN/CITY INVOICE MAILED TO	DATE CHECK MAILED FROM WDNY
6	VC 5	04/22/2021	\$588.69	Rochester, NY	05/05/2021
7	VC 6	06/10/2021	\$994.66	Avon, NY	07/15/2021
8	VC 7	06/10/2021	\$994.66	Tonawanda, NY	07/12/2021
9	VC 8	06/24/2021	\$1,985.24	Rochester, NY	07/25/2021
10	VC 8	06/24/2021	\$1,985.24	Rochester, NY	NA
11	VC 9	06/03/2021	\$993.76	Niagara Falls, NY	07/15/2021
12	VC 10	06/24/2021	\$984.69	Henrietta, NY	08/20/2021

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

COUNTS 13 through 16
COSTANZA and GIBSON
(Mail Fraud)

The Grand Jury Further Charges That:

1. The allegations in the Introduction and in Count 1, Counts 6 through 12, and Count 17 are incorporated herein by reference.
2. Between in or about October 2020, and in or about March 2022, in the Western District of New York, and elsewhere, the defendant, **DYLAN PAUL COSTANZA** and **KYLE PAUL EDWARD GIBSON**, did devise, and intend to devise, a scheme and artifice to defraud the Victim Companies, and to obtain money and property from the Victim Companies by means of false and fraudulent pretenses, representations, and promises.
3. On or about the dates set forth below, the defendants, for the purpose of executing, and attempting to execute, the scheme and artifice, placed in any post office and authorized depository mail matter to be sent and delivered by the Postal Service; deposited

and caused to be deposited, to be sent and delivered by private and commercial interstate carrier; and knowingly caused to be delivered by mail and private and commercial interstate carrier according to the direction thereon and at the place at which it was directed to be delivered by the person to whom it was addressed, inexpensive cleaner/degreaser products:

COUNT	VICTIM COMPANY	DATE PRODUCTS MAILED/SHIPPED TO VICTIM COMPANIES	PLACE PRODUCTS MAILED/SHIPPED TO IN WDNY
13	VC 5	03/01/2022	Henrietta, NY
14	VC 6	08/13/2021	Avon, NY
15	VC 7	09/02/2021	Tonawanda, NY
16	VC 10	10/26/2021	Henrietta, NY

COUNT 17
COSTANZA, COBURN and GIBSON
(Conspiracy to Engage in Money Laundering)

The Grand Jury Further Charges That:

1. The allegations in the Introduction and Counts 1 through 16 are incorporated herein by reference.

THE OBJECT OF THE CONSPIRACY

2. Between in or about October 2020, and in or about January 2022, in the Western District of New York, and elsewhere, the defendants, **DYLAN PAUL COSTANZA, TOMMY LEE COBURN and KYLE PAUL EDWARD GIBSON**, did knowingly, willfully and unlawfully combine, conspire and agree together and with each other, and with other persons both known and unknown to the Grand Jury:

(a) to knowingly engage in monetary transactions, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is, the deposit, withdrawal, transfer and exchange of funds and monetary instruments by, through and to financial institutions engaged in and the activities of which affected interstate and foreign commerce, such property having been derived from specified unlawful activity, that is, mail fraud, in violation of Title 18, United States Code, Section 1341, and knowing that the funds and monetary instruments involved in the transactions constituted, and were derived from, proceeds obtained from a criminal offense, in violation of Title 18, United States Code, Sections 1957 and 2; and

(b) to knowingly conduct financial transactions affecting interstate commerce, that is, the deposit, withdrawal, transfer and exchange of funds and monetary instruments by, through and to financial institutions engaged in and the activities of which affected interstate and foreign commerce, which represented the proceeds of a specified unlawful activity, that is, mail fraud, in violation of Title 18, United States Code, Section 1341, with (i) the intent to promote the carrying on of specified unlawful activity, and (ii) knowing that the transactions were designed in whole or in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of specified unlawful activity, and that while conducting such financial transactions knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i), 1956(a)(1)(B)(i) and 2.

**MEANS BY WHICH THE OBJECT OF THE
CONSPIRACY WAS TO BE ACCOMPLISHED**

The object of the conspiracy was accomplished through the following means and methods:

3. Between in or about November 2020, and in or about April 2021, Hi-Tech Industrial received from approximately 425 Victim Companies a total of approximately \$255,822.78, which funds were deposited into bank accounts belonging to Hi-Tech Industrial, and which represented criminally derived property and proceeds of specified unlawful activity.

4. Between in or about March 2021, and in or about September 2021, North Atlantic Supply received from approximately 1,805 Victim Companies a total of approximately \$1,385,442.67, which funds were deposited into bank accounts belonging to North Atlantic Supply, and which represented criminally derived property and proceeds of specified unlawful activity.

5. Between in or about February 2021, and in or about September 2021, Nationwide Chemical received from approximately 1,145 Victim Companies a total of approximately \$822,583.46, which funds were deposited into bank accounts belonging to Nationwide Chemical, and which represented criminally derived property and proceeds of specified unlawful activity.

6. Between in or about July 2021, and in or about November 2021, Top Tier Chemicals received from approximately 1,265 Victim Companies a total of approximately \$1,257,380.40, which funds were deposited into bank accounts belonging to Top Tier Chemicals, and which represented criminally derived property and proceeds of specified unlawful activity.

7. Between in or about November 2020, and in or about November 2021, the funds that had been deposited into bank accounts in the names of the Sham Companies, which represented criminally derived property and proceeds of specified unlawful activity, were withdrawn and transferred from such bank accounts in amounts greater than \$10,000.

8. Between in or about November 2020, and in or about November 2021 funds that had been deposited into bank accounts in the names of the Sham Companies, which represented proceeds from specified unlawful activity, were withdrawn to promote the

carrying on of mail fraud, and to disguise the nature, the location, the source, the ownership and the control of the proceeds of the mail fraud.

ACTS IN FURTHERANCE OF THE CONSPIRACY

9. On or about the dates set forth below, the defendants and their coconspirators caused monetary transactions involving criminally derived property with a value greater than \$10,000, that is, the withdrawal of funds in the approximate amounts set forth below from bank accounts in the names of Hi-Tech Industrial (“HTI”); North Atlantic Supply (“NASC”); Nationwide Chemical (“NWC”); Top Tier Chemicals (“TTC”); Simple Pro Solutions (“SPS”), and the deposit of such funds into bank accounts in the names of **COSTANZA**; **COBURN**, Simple Pro Solutions (“SPS”); D. Enterprise LLC (“DE”); E. Holdings LLC (“EH”); Prince Venture Capital LLC (“PVC”); Direct Cost Marketing (“DCM”); and Wholesale Chem Supplies LLC (“WCS”):

DATE	COMPANY FUNDS FROM	COMPANY FUNDS TO	AMOUNT
03/17/2021	NASC	SPS	\$ 17,500
03/17/2021	NWC	SPS	\$32,500
03/18/2021	SPS	D.E.	\$25,000
03/18/2021	SPS	E.H.	\$25,000
03/25/2021	NASC	SPS	\$25,000
03/25/2021	NWC	SPS	\$25,000
03/25/2021	SPS	D.E.	\$15,000
03/25/2021	SPS	E.H.	\$15,000
03/25/2021	SPS	Costanza	\$15,000

04/05/2021	NASC	SPS	\$13,000
04/05/2021	NWC	SPS	\$30,000
04/05/2021	SPS	D.E.	\$16,000
04/05/2021	SPS	E.H.	\$16,000
04/09/2021	NASC	SPS	\$25,000
04/09/2021	NWC	SPS	\$25,000
04/09/2021	SPS	D.E.	\$15,000
04/09/2021	SPS	E.H.	\$15,000
04/16/2021	NASC	SPS	\$25,000
04/16/2021	NWC	SPS	\$40,000
04/16/2021	SPS	D.E.	\$22,000
04/16/2021	SPS	E.H.	\$22,000
04/16/2021	SPS	Costanza	\$11,000
04/21/2021	NASC	SPS	\$35,000
04/22/2021	NWC	SPS	\$28,500
04/22/2021	SPS	D.E.	\$24,000
04/22/2021	SPS	E.H.	\$22,000
04/22/2021	SPS	Costanza	\$12,000
04/30/2021	NASC	SPS	\$40,000
04/30/2021	NWC	SPS	\$40,000
04/30/2021	SPS	D.E.	\$36,800
04/30/2021	SPS	E.H.	\$36,800
04/30/2021	SPS	Costanza	\$18,400
05/06/2021	NASC	SPS	\$60,000

05/07/2021	NWC	SPS	\$23,000
05/07/2021	SPS	D.E.	\$30,000
05/07/2021	SPS	E.H.	\$30,000
05/07/2021	SPS	Costanza	\$15,000
05/13/2021	NASC	SPS	\$50,000
05/13/2021	NWC	SPS	\$22,000
05/13/2021	SPS	D.E.	\$25,000
05/13/2021	SPS	E.H.	\$25,000
05/13/2021	SPS	Costanza	\$12,500
05/21/2021	NASC	SPS	\$50,000
05/21/2021	NWC	SPS	\$25,000
05/21/2021	SPS	D.E.	\$26,280
05/21/2021	SPS	E.H.	\$26,280
05/21/2021	SPS	Costanza	\$13,140
05/26/2021	NASC	SPS	\$55,000
05/26/2021	SPS	PVC	\$47,200
05/26/2021	SPS	Costanza	\$13,500
05/27/2021	NWC	SPS	\$11,500
06/02/2021	NASC	SPS	\$35,000
06/02/2021	SPS	D.E.	\$31,000
06/10/2021	NASC	SPS	\$25,000
06/10/2021	SPS	PVC	\$22,500
06/18/2021	NWC	SPS	\$20,000

06/18/2021	NASC	SPS	\$30,000
06/18/2021	SPS	PVC	\$46,000
06/25/2021	NWC	SPS	\$64,000
06/25/2021	NASC	SPS	\$20,000
06/25/2021	SPS	PVC	\$56,800
06/25/2021	SPS	Costanza	\$14,200
07/02/2021	NASC	SPS	\$20,000
07/02/2021	NASC	SPS	\$20,000
07/02/2021	SPS	PVC	\$46,000
07/09/2021	NASC	SPS	\$20,000
07/09/2021	NASC	SPS	\$12,000
07/09/2021	NASC	SPS	\$20,000
07/09/2021	NWC	SPS	\$40,000
07/09/2021	SPS	PVC	\$93,000
07/23/2021	NASC	SPS	\$65,000
07/23/2021	NWC	SPS	\$25,000
07/23/2021	SPS	PVC	\$80,000
07/30/2021	NASC	SPS	\$57,800
07/30/2021	SPS	PVC	\$50,000
08/06/2021	TTC	SPS	\$11,500
08/06/2021	SPS	PVC	\$45,000
08/13/2021	NWC	SPS	\$11,500

08/13/2021	TTC	SPS	\$12,500
08/13/2021	SPS	PVC	\$39,000
08/25/2021	TTC	PVC	\$45,000
08/25/2021	NASC	PVC	\$20,000
09/02/2021	TTC	SPS	\$32,684.85
09/02/2021	SPS	DCM	\$14,000
09/17/2021	TTC	SPS	\$60,280.15
09/17/2021	SPS	PVC	\$33,804
09/17/2021	SPS	DCM	\$12,000
09/24/2021	TTC	SPS	\$21,436.65
09/27/2021	SPS	DCM	\$12,000
09/30/2021	SPS	DCM	\$12,000
09/28/2021	TTC	WCS	\$81,224.64
10/04/2021	TTC	SPS	\$17,187.30
10/08/2021	SPS	DCM	\$11,800
10/08/2021	TTC	WCS	\$133,219.71
10/15/2021	TTC	WCS	\$80,250.99
10/22/2021	TTC	WCS	\$73,600.73
10/27/2021	TTC	WCS	\$74,167.84
11/04/2021	TTC	WCS	\$80,255.43
11/05/2021	TTC	Coburn	\$11,000
11/12/2021	TTC	WCS	\$72,361.89

10. Between in or about May 2021, and in or about July 2022, for purposes of promoting the carrying on of the specified unlawful activity, that is, mail fraud, the defendants caused financial transactions with proceeds from the mail fraud, that is, the withdrawal of approximately \$147,786.35 from bank accounts belonging to the Sham Companies to pay the United States Postal Service for stamps required to mail out fraudulent documents appearing to be legitimate invoices to the Victim Companies.

11. Between in or about May 2021, and in or about July 2022, for purposes of promoting the carrying on of specified unlawful activity, that is, mail fraud, the defendants caused financial transactions with proceeds from the mail fraud, that is, the withdrawal and transfer of approximately \$220,275.28 from bank accounts belonging to Simple Pro Solutions to pay Federal Express to ship the cheap cleaner/degreaser products to the Victim Companies.

12. Between in or about May 2021, and in or about July 2022, for purposes of disguising the nature, the location, the source, the ownership and the control of the proceeds of the mail fraud, the defendants caused financial transactions with proceeds from the mail fraud, that is, the withdrawal and transfer of approximately \$2,213,709.86 from bank accounts belonging to the Simple Pro Solutions and Wholesale Chem Supplies to bank accounts belonging to Prince Venture Capital LLC, D. Enterprise LLC, and E. Holdings LLC, which were owned by coconspirators A.D. and J.E.

All in violation of Title 18, United States Code, Section 1956(h).

FIRST FORFEITURE ALLEGATION
(Proceeds Forfeiture)

Upon conviction of any and all of the offenses set forth in Counts 1 through 16 of this Indictment, the defendant, **DYLAN PAUL COSTANZA**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of such violation. The property to be forfeited includes, but is not limited to, the following:

A. MONETARY SUM

The approximate sum of \$297,936.22 United States currency, which sum of money is equal to the total amount of proceeds obtained as a result of the offenses for which the defendant, **DYLAN PAUL COSTANZA**, is charged in Counts 1 through 16. In the event that the above sum is not available, then a money judgment for the same amount will be entered against the defendant.

If any of the property described above, as a result of any act or omission of the defendant:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third person;
- iii. has been placed beyond the jurisdiction of the Court;
- iv. has been substantially diminished in value; or
- v. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c) and Title 21, United States Code, Section 853(p).

SECOND FORFEITURE ALLEGATION
(Proceeds Forfeiture)

The Grand Jury Further Alleges That:

Upon conviction of any and all of the offenses set forth in Counts 1 through 5 of this Indictment, the defendant, **TOMMY LEE COBURN**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of such violation. The property to be forfeited includes, but is not limited to, the following:

B. MONETARY SUM

The approximate sum of \$221,270.20 United States currency, which sum of money is equal to the total amount of proceeds obtained as a result of the offenses for which the defendant, **TOMMY LEE COBURN**, is charged in Counts 1 through 5. In the event that the above sum is not available, then a money judgment for the same amount will be entered against the defendant.

If any of the property described above, as a result of any act or omission of the defendant:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third person;
- iii. has been placed beyond the jurisdiction of the Court;
- iv. has been substantially diminished in value; or
- v. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c) and Title 21, United States Code, Section 853(p).

THIRD FORFEITURE ALLEGATION
(Proceeds Forfeiture)

The Grand Jury Further Alleges That:

Upon conviction of any and all of the offenses set forth in Counts 1, and 6 through 16 of this Indictment, the defendant, **KYLE PAUL EDWARD GIBSON**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of such violation. The property to be forfeited includes, but is not limited to, the following:

B. MONETARY SUM

The approximate sum of \$79,496.20 United States currency, which sum of money is equal to the total amount of proceeds obtained as a result of the offenses for which the defendant, **KYLE PAUL EDWARD GIBSON**, is charged in Counts 1, and 6 through 16. In the event that the above sum is not available, then a money judgment for the same amount will be entered against the defendant.

If any of the property described above, as a result of any act or omission of the defendant:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third person;
- iii. has been placed beyond the jurisdiction of the Court;
- iv. has been substantially diminished in value; or
- v. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c) and Title 21, United States Code, Section 853(p).

FOURTH FORFEITURE ALLEGATION
(Proceeds Forfeiture)

The Grand Jury Further Alleges That:

Upon conviction of any and all of the offenses set forth in Counts 1 through 3 of this Indictment, the defendant, **HEATHER DIERNA**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of such violation. The property to be forfeited includes, but is not limited to, the following:

B. MONETARY SUM

The approximate sum of \$40,685.83 United States currency, which sum of money is equal to the total amount of proceeds obtained as a result of the offenses for which the defendant, **HEATHER DIERNA** is charged in Counts 1 through 3. In the event that the above sum is not available, then a money judgment for the same amount will be entered against the defendant.

If any of the property described above, as a result of any act or omission of the defendant:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third person;
- iii. has been placed beyond the jurisdiction of the Court;
- iv. has been substantially diminished in value; or
- v. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c) and Title 21, United States Code, Section 853(p).

DATED: Rochester, New York, March 19, 2024

TRINI E. ROSS
United States Attorney

By: s/RICHARD A. RESNICK
Assistant United States Attorney
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A TRUE BILL:

s/FOREPERSON