

DEC 17 2008

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

U.S. DISTRICT COURT  
W. DIST. OF N.C.

UNITED STATES OF AMERICA )  
)  
)  
v. )  
)  
(1) BRYAN S. KOS )  
(2) DAVID A. HAGEN )  
a/k/a "David DeFusco" )  
a/k/a "David DuFusco" )  
a/k/a "David Allen Hagen DuFusco" )  
a/k/a "Antonio Diez" )  
)  
\_\_\_\_\_ )

DOCKET NO. 3:08CR93-Britt

SUPERSEDING BILL OF INDICTMENT

Violations:

- 15 U.S.C. § 78j(b)
- 15 U.S.C. § 78ff
- 17 C.F.R. § 240.10b-5
- 18 U.S.C. § 371
- 18 U.S.C. § 1341
- 18 U.S.C. § 1343
- 18 U.S.C. § 1349
- 18 U.S.C. § 1956
- 18 U.S.C. § 1957

THE GRAND JURY CHARGES:

At the specified times and at all relevant times:

**I. Relevant People and Entities**

**A. Individuals**

1. Defendant BRYAN S. KOS was a resident of St. Sauveur, Quebec, Canada and a long-time stock promoter.

2. Jeremy D. Jaynes a/k/a "Lyle Andrews", a co-conspirator unindicted herein, was a resident of Raleigh, North Carolina who was in the business of distributing unsolicited bulk e-mail (a/k/a "spam"). In or about December 2003, Jaynes was indicted by a Virginia grand jury on charges that he unlawfully concealed his identity in order to send spam e-mail regarding, among other things, penny stocks. In or about November 2004, Jaynes was convicted of those charges in a Virginia state court. As a result of that conviction, Jaynes was placed on house arrest in northern Virginia.

3. Donald E. Oehmke, a co-conspirator unindicted herein, was a resident of Kalamazoo, Michigan and the president of Ventana Consultants, LLC (hereafter, "Ventana").

4. Defendant DAVID A. HAGEN a/k/a "David DeFusco" a/k/a "David DuFusco" a/k/a "David Allen Hagen DuFusco" a/k/a "Antonio Deiz" was the President and Chief Executive Officer of GTX Global Corp. (and its predecessor entities) through on or about September 30, 2005.

Thereafter, HAGEN served as a “consultant” to GTX Global Corp. In or about 1990, HAGEN was convicted of mail fraud, money laundering, and bankruptcy fraud.

5. Mark E. Brecher, a co-conspirator unindicted herein, was a resident of Naples, Florida and the Secretary/Treasurer of GTX Global Corp.

6. Mr. R was an attorney licensed to practice law in the State of Florida. Mr. R’s law firm maintained a client trust account at SunTrust Bank in Tampa, Florida. Mr. R purportedly served as counsel to entities controlled by KOS, Jaynes, and Oehmke.

7. Mr. H, a co-conspirator unindicted herein, was a resident of Denver, North Carolina and a consultant to Sterling Bank Ltd. Mr. H was also an officer of First Vietnamese American Bank.

8. Howell W. Woltz (hereafter, “H. Woltz”), a co-conspirator unindicted herein, was the president, a director, and a shareholder of Sterling Trust Ltd. In addition, H. Woltz was the president and a director of Sterling ACS Ltd. and a director of Sterling Bank Ltd.

9. Vernice C. Woltz (hereafter, “V. Woltz”), a co-conspirator unindicted herein, was the wife of H. Woltz, a certified public accountant, a director of Sterling Trust Ltd., and a director and chief financial officer of Sterling ACS Ltd.

10. Samuel T. Currin, a co-conspirator unindicted herein, was an attorney licensed to practice law in the State of North Carolina who represented Jaynes in various capacities and represented GTX Global Corp. In addition, Currin was a shareholder and director of Sterling Bank Ltd. Currin’s law firm maintained client trust accounts at First Citizens Bank in Raleigh, North Carolina and Coastal Federal Bank in Wilmington, North Carolina.

11. Michael D. Spadaccini, a co-conspirator unindicted herein, was an attorney licensed to practice law in the State of California. Spadaccini’s law firm maintained a client trust account at Wells Fargo Bank in San Diego, California. Spadaccini served as counsel to Oehmke and Ventana.

## **B. Financial Institutions**

12. SunTrust Bank (hereafter, “SunTrust”) was a financial institution, to wit a bank the deposits of which were insured by the Federal Deposit Insurance Company (hereafter, “FDIC”), which was engaged in and the activities of which affected interstate and foreign commerce.

13. Bank of America, N.A. (hereafter, “BoA”) was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

14. Wachovia Bank, N.A. (hereafter, “Wachovia”) was a financial institution, to wit a

bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

15. The Branch Banking and Trust Company (hereafter, "BB&T") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

16. RBC Centura Bank (hereafter, "RBC Centura") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

17. First Citizens Bank (hereafter, "First Citizens") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

18. Coastal Federal Bank (hereafter, "Coastal Bank") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

19. South Trust Bank (hereafter, "South Trust") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

20. Comerica Inc. (hereafter, "Comerica") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

21. Wells Fargo Bank, N.A. (hereafter, "Wells Fargo") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

22. First Vietnamese American Bank (hereafter, "First Vietnamese") was a financial institution, to wit a bank the deposits of which were insured by the FDIC, which was engaged in and the activities of which affected interstate and foreign commerce.

23. World Trade Financial Corp. (hereafter, "World Trade Financial") was a broker-dealer headquartered in San Diego, California. Advantage Trading Group, Inc. (hereafter, "Advantage Trading") was World Trade Financial's clearing agent in Longwood, Florida.

24. Sunstate Equity Trading, Inc. (hereafter, "Sunstate") was a broker-dealer headquartered in Tampa, Florida. Penson Financial Services, Inc. (hereafter, "Penson") provided securities custody, execution, clearing, and settlement services to Sunstate.

25. Electronic Access Direct, Inc. (hereafter, "Electronic Access") was a broker-dealer headquartered in Sarasota, Florida.
26. Newbridge Securities Corp. (hereafter, "Newbridge") was a broker-dealer headquartered in Fort Lauderdale, Florida.
27. Securities & Investment Planning Company (hereafter, "SIPC") was a broker-dealer headquartered in Boca Raton, Florida.
28. National Financial Services LLC (hereafter, "National Financial") was a broker-dealer headquartered in New York City, New York.
29. Global Securities Corp. (hereafter, "Global Securities") was a broker-dealer headquartered in Vancouver, British Columbia.
30. Union Securities Ltd. (hereafter, "Union Securities") was a broker-dealer headquartered in Vancouver, British Columbia.
31. Blackmont Capital Inc. (hereafter, "Blackmont Capital") was a broker-dealer headquartered in Toronto, Ontario.
32. Montaque Securities International, Ltd. (hereafter, "Montaque Securities") was an investment and financial services advisory firm located in Nassau, Bahamas.
33. First Curacao International Bank N.V. (hereafter, "First Curacao") was a licensed bank engaged in the business of banking under the rules and regulations of the Central Bank of the Netherlands Antilles.
34. First Caribbean International Bank Ltd. (hereafter, "First Caribbean") was a financial services organization with offices in Nassau, Bahamas.
35. Butterfield Bank Ltd. (hereafter, "Butterfield Bank") was a financial services organization headquartered with offices in Nassau, Bahamas.
36. The National Bank of Anguilla Ltd. (hereafter, "National Bank of Anguilla") was a financial services organization headquartered in The Valley, Anguilla.
37. Bank of Cyprus Public Company Ltd. (hereafter, "Bank of Cyprus") was a financial services organization headquartered in Nicosia, Cyprus.
38. Hellenic Bank Ltd. (hereafter, "Hellenic Bank") was a financial services organization headquartered in Nicosia, Cyprus.

39. Caja de Ahorros (hereafter, "Caja") was a financial services organization headquartered in Panama.

### **C. Sterling Entities**

40. Sterling Trust Ltd. (hereafter, "Sterling Trust") was an Anguillan corporation that maintained offices in Anguilla, British West Indies and Nassau, Bahamas.

41. Sterling ACS Ltd. (hereafter, "Sterling ACS") was a Bahamian corporation formed on or about August 16, 2000, and in the business of incorporating off-shore entities and providing related financial services.

42. Sterling Bank Ltd. (hereafter, "Sterling Bank") was a St. Lucian corporation operating as a bank.

### **D. Publicly-Traded Companies**

43. Twister Networks, Inc. (hereafter, "Twister") was a publicly-traded Nevada shell company quoted on Over-the-Counter Pink Sheets (hereafter, "Pink Sheets") under the symbol "TWTN."

44. BodyScan Corp. (hereafter, "BodyScan") was a publicly-traded Nevada company quoted on the Pink Sheets under the stock symbol "BDYS."

45. Ornate Holdings, Inc. (hereafter, "Ornate Holdings") was a publicly-traded Nevada shell company quoted on the Pink Sheets. On or about May 6, 2004, the name of Ornate Holdings was changed to Absolute Health and Fitness, Inc. (hereafter, "Absolute Health"), and its stock symbol was thereafter changed to "AHFI."

46. MBC Food Corporation (hereafter, "MBC Food") was a publicly-traded Nevada shell company quoted on the Pink Sheets. On or about June 10, 2004, the name of MBC Food was changed to Concorde America, Inc. (hereafter, "Concorde"), and its stock symbol was thereafter changed to "CNDD."

47. Nexar Technologies, Inc. (hereafter, "Nexar") was a publicly-traded Delaware shell company quoted on the Pink Sheets. On or about December 31, 2004, Nexar merged with Bio-Heal Laboratories, Inc. (hereafter, "Bio-Heal"), a Nevada company formed on or about November 16, 2004, and the resulting company's stock symbol was thereafter changed to "BHLL."

48. AutoleaseCheck.com, Inc. (hereafter, "Autolease") was a publicly-traded Florida shell company. On or about January 26, 2005, a North Carolina company controlled by HAGEN and known as Gatelinx Corp. was merged into Autolease. On or about March 8, 2005, the name of Autolease was changed to Gatelinx Global Corp. (hereafter, "Gatelinx"). On or about September

30, 2005, Gatelinx merged with GTX Global Corp. (hereafter, "GTX Global"), a Nevada company formed on or about September 23, 2005, and the resulting company's stock was quoted on the Pink Sheets and traded under the symbol "GTXC." GTX Global maintained business offices in Southern Pines, North Carolina. GTX Global maintained a company website at [www.gtxglobal.net](http://www.gtxglobal.net), which website was housed on a server in Charlotte, North Carolina.

#### **E. Off-Shore Entities**

49. Bovee Enterprises LLC (hereafter, "Bovee") was a company incorporated on or about July 9, 2002 under the laws of Anguilla by Sterling ACS and controlled by Jaynes.

50. Pacific Trust was a Bahamian trust formed by Sterling ACS in or about August 2002, at the request of Jaynes and Currin, and controlled by Jaynes. Pacific Trust held all of the shares of stock in Bovee. Pacific Testamentary Trust was also a Bahamian trust formed by Sterling ACS, at the request of Jaynes and Currin, and controlled by Jaynes. Pacific Testamentary Trust was the beneficiary of Pacific Trust. Jaynes was a beneficiary of Pacific Testamentary Trust. Currin was the "trust protector" for this trust arrangement. On or about September 30, 2005, Mr. H replaced Sterling Trust as the trustee of Pacific Trust.

51. Jasmine Takamine Sdn Bhd (hereafter, "Jasmine") was a company incorporated on or about November 11, 2003 under the laws of Anguilla by Sterling ACS and controlled by KOS.

52. St. Lawrence Trust was a Bahamian trust formed by Sterling ACS in or about November 2003. St. Lawrence Testamentary Trust was also a Bahamian trust formed by Sterling ACS and was the beneficiary of St. Lawrence Trust. St. Lawrence Trust owned the shares of Jasmine. KOS was a beneficiary of St. Lawrence Testamentary Trust. KOS controlled this trust arrangement and was the "trust protector."

53. Barranquilla Holdings, SA (hereafter, "Barranquilla") was a company incorporated on or about November 11, 2003 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. The shares of Barranquilla were owned by Amazon Trust, a Bahamian trust formed by Sterling ACS and the beneficiaries of which were Bovee and Jasmine. Barranquilla maintained an account at First Curacao.

54. Chiang Ze Capital, AVV (hereafter, "Chiang Ze") was a company incorporated on or about November 11, 2003 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. The shares of Chiang Ze were owned by Yellow River Trust, a Bahamian trust formed by Sterling ACS and the beneficiaries of which were Bovee and Jasmine. Chiang Ze maintained an account at First Curacao.

55. Ryzcek Investments, GmbH (hereafter, "Ryzcek") was a company incorporated on or about November 11, 2003 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. The shares of Ryzcek were owned by Danube Trust, a Bahamian trust formed by Sterling

ACS and the beneficiaries of which were Bovee and Jasmine. Ryzcek maintained an account at First Curacao.

56. Keel Enterprises, LLC (hereafter, "Keel") was a company incorporated on or about November 11, 2003 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. The shares of Keel were owned by Cape Fear Trust, a Bahamian trust formed by Sterling ACS and the beneficiaries of which were Bovee and Jasmine. Keel maintained an account at First Curacao.

57. DaSilva, SA (hereafter, "DaSilva") was a company incorporated on or about June 15, 2004 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. DaSilva maintained an account at First Curacao.

58. Vanderlip Holdings, NV (hereafter, "Vanderlip") was a company incorporated on or about June 15, 2004 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. Vanderlip maintained an account at First Curacao.

59. Jonti Warburg Ltd. (hereafter, "Jonti") was a company incorporated on or about June 15, 2004 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. Jonti maintained an account at First Curacao.

60. Stromberti Esse, Gmbh (hereafter, "Stromberti") was a company incorporated on or about June 15, 2004 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS. Stromberti maintained an account at First Curacao.

61. Gibson Island Enterprises, LLC (hereafter, "Gibson") was a company incorporated on or about December 28, 2001 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS.

62. Bela Enterprise, Ltd (hereafter, "Bela") was a company incorporated on or about March 20, 2003 under the laws of Anguilla by Sterling ACS and controlled by Jaynes and KOS.

63. Walcott Indies Ltd. (hereafter, "Walcott Indies") was a company incorporated in or about March 2005 under the laws of Anguilla by Sterling ACS and controlled by Jaynes, HAGEN, and others. In addition, a company with the same name was incorporated on or about September 26, 2005 under the laws of the Bahamas by Montaque Securities and controlled by Jaynes and others known and unknown to the grand jury.

64. Laureate's Way, Inc. (hereafter, "Laureate's Way") was a company incorporated in or about March 2005 under the laws of Anguilla by Sterling ACS and controlled by Jaynes, HAGEN, and others. In addition, a company with the same name was incorporated on or about September 26, 2005 under the laws of the Bahamas by Montaque Securities and controlled by HAGEN and others known and unknown to the grand jury.

65. Toubetskoy & Co. Limited (hereafter, "Toubetskoy") was a company incorporated in or about March 2005 under the laws of Anguilla by Sterling ACS and controlled by Jaynes, HAGEN, and others. In addition, a company with the same name was incorporated on or about September 26, 2005 under the laws of the Bahamas by Montaque Securities and controlled by Jaynes and others known and unknown to the grand jury.

66. Toussaint Liberte, SA (hereafter, "Toussaint") was a company incorporated in or about March 2005 under the laws of Anguilla by Sterling ACS and controlled by Jaynes, HAGEN, and others. In addition, a company with the same name was incorporated on or about September 26, 2005 under the laws of the Bahamas by Montaque Securities and controlled by HAGEN, Brecher, and others known and unknown to the grand jury.

67. Valcien S.A. (hereafter, "Valcien") was a company incorporated in or about March 2005 under the laws of Anguilla by Sterling ACS and controlled by Jaynes, HAGEN, and others. In addition, a company with the same name was incorporated on or about September 26, 2005 under the laws of the Bahamas by Montaque Securities and controlled by Brecher and others known and unknown to the grand jury.

68. Gousef Limited (hereafter, "Gousef") was a company incorporated on or about April 6, 2005 under the laws of the Republic of Seychelles and controlled by Jaynes and others. Gousef maintained an account at Bank of Cyprus.

69. Veronta Enterprises Ltd. (hereafter, "Veronta") was a company incorporated on or about April 6, 2005 under the laws of the British Virgin Islands and controlled by Jaynes and others. Veronta maintained an account at Bank of Cyprus.

70. Fine Line Corp. (hereafter, "Fine Line") was a company incorporated on or about October 1, 2004 under the laws of the Republic of Panama and controlled by Jaynes and others. Fine Line maintained accounts at Hellenic Bank and Bank of Cyprus.

71. Intelligy Corp. (hereafter, "Intelligy") was a company incorporated on or about May 18, 2004 under the laws of Anguilla by Sterling ACS and controlled by HAGEN and others.

72. Opusware Corp. was a company incorporated in or about October 17, 2005 under the laws of the Bahamas by Butterfield Bank and controlled by HAGEN.

73. Este Oste Mineralos, S.A. was an offshore company controlled by Brecher.

74. Lynska Co., Inc. (hereafter, "Lynska") was an offshore company controlled by Brecher.

75. Leadco Ltd. (hereafter, "Leadco") was a company incorporated on or about July 15, 2004 under the laws of Anguilla by Sterling ACS and controlled by HAGEN and others.



## **F. Miscellaneous Entities**

76. Corporate Financial Consultants, LLC (hereafter, "Corporate Financial Consultants") was a company organized on or about November 12, 2003 under the laws of State of Nevada and controlled by KOS and Jaynes.

77. BK Ventures, Inc. (hereafter, "BK Ventures") was a company incorporated on or about August 16, 1996 under the laws of the State of Nevada. KOS was the president, secretary, treasurer, and director of BK Ventures.

78. Lucky 123, Inc. (hereafter, "Lucky 123") was a company incorporated on or about October 13, 2003 under the laws of the State of Nevada and controlled by KOS.

79. FBJ Consulting, LLC (hereafter, "FBJ Consulting") was a company incorporated on or about February 9, 2004 under the laws of the State of Nevada and controlled by KOS and Jaynes.

80. Investment Profiles, LLC (hereafter, "Investment Profiles") was a company incorporated on or about July 30, 2003 under the laws of the State of Nevada and controlled by KOS and Jaynes.

81. Streamline Capital Group, Inc. (hereafter, "Streamline Capital") was a company incorporated on or about September 23, 2005 under the laws of the State of Nevada. Jaynes was the president, secretary, treasurer, and director of Streamline Capital.

## **II. The Securities Fraud Schemes**

82. Beginning in or about April 2003 and continuing through in or about October 2006, KOS, Jaynes, Oehmke, Spadaccini, H. Woltz, Mr. R, HAGEN, Brecher, and others known and unknown to the grand jury conspired to fraudulently manipulate the stock prices of various publicly-traded companies, including but not limited to BodyScan, Twister, Absolute Health, Concorde, Bio-Heal, and GTX Global.

83. KOS, Jaynes, Oehmke, HAGEN, Brecher, and others known and unknown to the grand jury gained control of large blocks of shares in various publicly-traded companies through fraudulent means and otherwise, including but not limited to the use of forged corporate documents, fictitious attorney opinion letters, and attorney opinion letters premised on false information. In order to conceal the ownership of these shares, KOS, Jaynes, Oehmke, HAGEN, Brecher, Spadaccini, and others known and unknown to the grand jury caused the shares to be issued in the names of the off-shore entities identified above, which were provided by H. Woltz, V. Woltz, and others known and unknown to the grand jury, and deposited the shares in domestic and foreign brokerage accounts in the names of those entities and others.

84. KOS, Jaynes, Oehmke, HAGEN, Brecher, and others known and unknown to the

grand jury then orchestrated fraudulent campaigns to promote the publicly-traded companies through various means, including but not limited to internet search engine advertising, spam e-mail, websites, unsolicited mass faxes, voice mail broadcasting, corporate press releases, and issuer disclosure statements. The promotional materials contained material factual misrepresentations and omissions, including but not limited to the following:

A. The promotional materials omitted the fact that the co-conspirators had obtained control of large quantities of the securities being promoted in anticipation of their intended plan to conduct a promotional campaign regarding those securities and profit on the sale of those securities once the promotional campaign caused the prices of the securities to rise;

B. The promotional materials contained earnings projections known to the co-conspirators to be unrealistic and unjustifiable;

C. The promotional materials contained materially false factual statements regarding the operations of the companies being promoted;

D. The promotional materials contained materially false factual statements regarding the ownership of the companies being promoted; and

E. The promotional materials omitted to mention the prior criminal histories of both HAGEN and Jaynes, as well as their involvement with the companies in question.

85. When the stock prices and trading volumes of the publicly-traded companies being promoted rose as a result of this fraudulent activity, KOS, Jaynes, Oehmke, HAGEN, Brecher, and others known and unknown to the grand jury caused the shares of stock held in the names of the off-shore entities to be sold for tens of millions of dollars in proceeds. At times, these stock sales were conducted when certain co-conspirators were in possession of material non-public information.

86. Thereafter, KOS, Jaynes, Oehmke, Mr. R, Mr. H, H. Woltz, V. Woltz, HAGEN, Brecher, Currin, Spadaccini, and others known and unknown to the grand jury further conspired to launder the proceeds of the securities fraud schemes described above. The proceeds of this fraudulent scheme were wired and otherwise transferred from the brokerage accounts to:

- A. Off-shore bank accounts at First Curacao in the names of off-shore entities;
- B. Mr. R's law firm's client trust account at SunTrust; and
- C. Off-shore accounts controlled by Montague Securities at First Caribbean.

Proceeds of the fraudulent scheme were then further wired to and laundered through various foreign and domestic financial institutions, including accounts at Comerica, First Curacao, First Caribbean,

Butterfield Bank, BoA, BB&T, First Citizens, Coastal Bank, Wells Fargo, RBC Centura, Bank of Cyprus, Hellenic Bank, National Bank of Anguilla, Caja, and First Vietnamese. In addition, certain of the funds were withdrawn in the form of cash and distributed to one or more co-conspirators.

#### **A. BodyScan Corp.**

87. In or about November 2003, KOS and others known and unknown to the grand jury caused brokerage accounts to be opened at World Trade Financial in the names of Barranquilla and Chiang Ze. On or about January 15, 2004, KOS caused approximately 1.5 million unrestricted shares of BodyScan stock to be deposited into each of those brokerage accounts.

88. In or about February 2004, KOS and Jaynes and others caused fraudulent promotional materials regarding BodyScan to be distributed by means of mass unsolicited facsimiles.

89. In or about February 2004, when BodyScan's stock price and trading volume rose in response to the co-conspirators' fraudulent promotional campaign, KOS and others known and unknown to the grand jury caused approximately 1.5 million shares of BodyScan stock held in Barranquilla's account at World Trade to be sold for a total of approximately \$2.6 million. Another approximately 184,500 shares of BodyScan stock were sold from Chiang Ze's account at World Trade Financial for a total of approximately \$409,166.

90. On or about February 26, 2004, KOS caused Advantage Trading to issue a check to Mr. R's law firm in the amount of approximately \$2.6 million from the funds in Barranquilla's account at World Trade. That check was deposited into Mr. R's law firm's client trust account at SunTrust. Thereafter, Mr. R caused an approximately \$2.6 million wire transfer from his law firm's client trust account at SunTrust to Sterling Bank's account at BoA in Denver, NC.

#### **B. Twister Networks, Inc.**

91. On or about April 1, 2004, KOS, Jaynes, and others known and unknown to the grand jury caused approximately 33.6 million unrestricted shares of Twister stock to be issued to a "Robert Zimmerman" of Pennsylvania. On or about April 1, 2004, Spadaccini wrote a letter to Twister's stock transfer agent opining that these shares could be issued without registration and without restrictive legend. On or about April 6, 2004, approximately 24 million of those shares were transferred to Barranquilla, Chiang Ze, Ryzcek, Keel, FBJ Consulting, and others. Thereafter, millions of these shares were deposited into brokerage accounts at Sunstate, Newbridge, and National Financial in the names of Chiang Ze and Barranquilla.

92. In or about May 2004, a website known as [www.winningstockpicks.net](http://www.winningstockpicks.net), which was controlled by KOS, Jaynes, and others known and unknown to the grand jury posted false and fraudulent promotional materials regarding the Twister stock.

93. In or about May through August 2004, KOS, Jaynes, and others known and unknown

to the grand jury caused fraudulent promotional materials regarding Twister to be distributed by means of mass unsolicited facsimiles and spam e-mail.

94. When Twister's stock price and trading volume rose in response to the fraudulent promotional campaign, Oehmke and others known and unknown to the grand jury caused the shares of Twister stock held in brokerage accounts in the names of Barranquilla and Chiang Ze to be sold and the proceeds wired to, among other places, Mr. R's law firm's trust account.

### **C. Absolute Health and Fitness, Inc.**

95. In or about April 2004, documents were created purporting to "reverse merge" a North Carolina health club company known as Double R Enterprise, Inc. into a publicly-traded shell company known as Ornate Holdings, Inc., which was provided by Oehmke and another person. The resulting entity was ultimately known as Absolute Health & Fitness, Inc.

96. In or about April 2004, approximately 23.5 million unrestricted shares of Absolute Health stock were issued to various individuals and entities based on forged corporate resolutions purporting to authorize the issuance of those shares. On or about April 13, 2004, Spadaccini wrote a letter to Absolute Health's stock transfer agent opining that these shares could be issued without registration and without restrictive legend. Thereafter, approximately 14.5 million of these shares were transferred to brokerage accounts at Sunstate, Newbridge, and Electronic Access in the names of Barranquilla, Chiang Ze, and Ryzcek.

97. In or about June 2004 and again in or about November 2004, websites known as [www.winningstockpicks.net](http://www.winningstockpicks.net), [www.hotstockfinder.com](http://www.hotstockfinder.com), [www.pennystockpro.com](http://www.pennystockpro.com), and [www.uspennystocks.com](http://www.uspennystocks.com), which were controlled by KOS, Jaynes, and others known and unknown to the grand jury posted false and fraudulent promotional materials regarding Absolute Health. Potential investors were directed to these websites though, among other means, internet search engine advertising.

98. In or about June through August 2004, KOS, Jaynes, and others known and unknown to the grand jury caused fraudulent promotional materials regarding Absolute Health to be distributed by means of mass unsolicited facsimiles and voice mail broadcasting.

99. When Absolute Health's stock price and trading volume rose in response to the fraudulent promotional campaign, Oehmke and others known and unknown to the grand jury caused the shares of Absolute Health stock held in brokerage accounts in the names of Barranquilla, Chiang Ze, and Ryzcek to be sold and the proceeds wired to Mr. R's law firm's client trust account and to First Curacao accounts in the names of Barranquilla, Chiang Ze, and Ryzcek.

### **D. Concorde America, Inc.**

100. In or about June 2004, Jaynes, KOS, Oehmke, and others known and unknown to

the grand jury caused a Florida company to engage in a “reverse merger” with a publicly-traded shell company provided by Oehmke and another person. The resulting entity was known as Concorde America, Inc.

101. In or about June 2004, Oehmke, Mr. R, Spadaccini, and others known and unknown to the grand jury caused approximately 10 million unrestricted shares of Concorde stock to be issued to Ventana Consultants of Pennsylvania, LLC (hereafter, “Ventana-PA”). On or about June 29, 2004, Spadaccini wrote a letter to Concorde’s stock transfer agent opining that these shares could be issued without registration and without restrictive legend. These shares were issued and subsequently transferred to brokerage accounts at Sunstate and Newbridge in the names of Barranquilla, Chiang Ze, DaSilva, and Vanderlip.

102. In or about July 2004, websites known as [www.winningstockpicks.net](http://www.winningstockpicks.net) and [www.uspennystocks.com](http://www.uspennystocks.com), which were controlled by KOS, Jaynes, and others known and unknown to the grand jury, posted false and fraudulent promotional materials regarding Concorde. Potential investors were directed to these websites though, among other means, internet search engine advertising.

103. In or about July and August 2004, KOS, Jaynes and others known and unknown to the grand jury caused fraudulent promotional materials regarding Concorde to be distributed by means of mass unsolicited facsimiles.

104. When Concorde’s stock price and trading volume rose in response to the fraudulent promotional campaign, Oehmke and others known and unknown to the grand jury caused the shares of Concorde stock held in brokerage accounts in the names of Barranquilla, Chiang Ze, DaSilva, and Vanderlip to be sold and the proceeds wired to Mr. R’s law firm’s client trust account and to First Curacao accounts in the names of Barranquilla, Chiang Ze, and Vanderlip.

#### **E. Bio-Heal Laboratories, Inc.**

105. In or about December 2004, KOS, Jaynes, Oehmke, and others known and unknown to the grand jury caused a Nevada company to engage in a “reverse merger” with a publicly-traded shell company provided by Oehmke and another person. The resulting entity was known as Bio-Heal Laboratories, Inc.

106. In or about February 2005, Oehmke introduced KOS and Jaynes to another person, who caused approximately 12 million unrestricted shares of Bio-Heal stock to be issued to defunct, non-existent, and recently incorporated companies based on a fictitious attorney opinion letter. At least 8 million of these shares were subsequently transferred to brokerage accounts at Newbridge and SIPC in the names of Gibson and Bela.

107. In or about March 2005, a website known as [www.primepennystock.com](http://www.primepennystock.com), which was controlled by Jaynes and others known and unknown to the grand jury, posted false and fraudulent

promotional materials regarding Bio-Heal. Potential investors were directed to this website though, among other means, internet search engine advertising.

108. In or about March 2005, when Bio-Heal's stock price and trading volume rose in response to the fraudulent promotional campaign, Jaynes and others known and unknown to the grand jury caused approximately 2.3 million shares of Bio-Heal stock held in brokerage accounts in the names of Gibson and Bela to be sold and proceeds wired to a First Curacao account in the name of Gibson.

#### **F. GTX Global Corp.**

109. On or about December 15, 2004, Brecher and HAGEN, on behalf of a Bahamian consulting firm and Gatelinx Global Corp., respectively, signed an "Investor Relations Agreement" for a term of three (3) years in which Brecher agreed that he would "have access to confidential information consisting of the following categories of information (collectively, the 'trade secrets' or inside knowledge of the Company)" and that the parties "consider[ed] their relationship as one of mutual trust and confidence with respect to Trade Secrets and or Company knowledge."

110. In or about April 2005, Jaynes, HAGEN, Brecher, and others known and unknown to the grand jury caused approximately 12 million unrestricted shares of Gatelinx stock to be issued to Walcott Indies, Laureate's Way, Toubetskoy, Touissant, and Valcien based on a fictitious attorney opinion letter and fictitious corporate resolution. Millions of these shares were subsequently transferred to brokerage accounts at Global Securities, Union Securities, and Blackmont Capital in the names of Laureate's Way, Walcott Indies, Toussaint, and Montaque Securities.

111. On or about September 28, 2005, Jaynes, HAGEN, Brecher, and others known and unknown to the grand jury caused a Nevada corporation known as GTX Global Corp. to engage in a "reverse merger" with the publicly-traded shell company known as Gatelinx, which had been provided by Oehmke. The resulting entity was known as GTX Global Corp.

112. On or about September 30, 2005, HAGEN purported to resign as President and Chief Executive Officer of GTX Global. On or about that same day, HAGEN signed a "Consulting Agreement" with GTX Global for a term of three (3) years in which HAGEN agreed that "[a]ll knowledge and information that [HAGEN] may receive from [GTX Global] . . . by virtue of the performance of the Services under and pursuant to this Agreement, relating to . . . business affairs . . . shall for all time and for all purposes be regarded by [HAGEN] as strictly confidential and held by [HAGEN] in confidence, and solely for [GTX Global's] benefit and use, and shall not be used by [HAGEN] . . . without [GTX Global's] prior written permission."

113. As of on or about October 20, 2005, Jaynes, HAGEN, and Brecher controlled at least approximately 90% of the approximately 31 million then outstanding shares of GTX Global. On or about October 26, 2005, Jaynes, HAGEN, and Brecher signed an agreement regarding the sale of those shares and the distribution of the proceeds therefrom among the three of them.

114. In or about October and December 2005, HAGEN and others known and unknown to the grand jury caused GTX Global to publish 15c2-11 Issuer Disclosure Statements on the Pink Sheets website, which documents contained materially false and fraudulent statements and omissions. Specifically, the Issuer Disclosure Documents misrepresented the number of shares of GTX Global stock outstanding, the ownership of those shares, the existence of agreements among shareholders, and the managerial control of the company.

115. In or about December 2005 and January 2006, HAGEN, Brecher, and others known and unknown to the grand jury caused GTX Global to issue press releases which contained materially false and fraudulent statements and omissions. Specifically, the press releases misrepresented, among other things, the existence and closing of a merger of GTX Global and Yadio, Inc., HAGEN's control relationship with GTX Global, and Jaynes' involvement with both the promotion of GTX Global and the prior promotion of Absolute Health and Bio-Heal.

116. From in or about October 2005 through in or about June 2006, websites known as [www.ironinvesting.com](http://www.ironinvesting.com), [www.urgentstockpicks.com](http://www.urgentstockpicks.com), [www.risingpennystocks.com](http://www.risingpennystocks.com), [www.amazingpennystocks.com](http://www.amazingpennystocks.com), and [www.leadingstockpicks.com](http://www.leadingstockpicks.com), [www.insidepennystocks.com](http://www.insidepennystocks.com), and [www.rapidpennystocks.com](http://www.rapidpennystocks.com), which were controlled by Jaynes and others known and unknown to the grand jury, posted false and fraudulent promotional materials regarding GTX Global. Potential investors were directed to these websites through, among other means, internet search engine advertising.

117. When GTX Global's stock and trading volume rose in response to the fraudulent promotional campaign, Jaynes, Brecher, HAGEN, and others known and unknown to the grand jury caused the shares of GTX Global stock held in brokerage accounts in the names of Laureate's Way, Walcott Indies, Toussaint, and Montaque Securities to be sold and the proceeds wired to Montaque Securities' accounts at First Caribbean. Specifically, approximately 6 million shares were sold from the brokerage accounts at Global Securities, Union Securities, and Blackmont Capital for proceeds of approximately \$32 million. Proceeds of the fraudulent scheme were then further wired to and laundered through various foreign and domestic financial institutions, including but not limited to accounts at First Caribbean, Bank of Cyprus, Hellenic Bank, Butterfield Bank, First Curacao, RBC Centura, Wachovia, and BoA. Specifically, approximately \$27.1 million in proceeds were wired from the Canadian brokerage accounts via Wachovia to an account at First Caribbean in the name of Montaque Securities. Approximately \$4.2 million of those funds were wired to an account at Butterfield Bank in the name of Opusware Corp. Another approximately \$11.4 million of the funds at First Caribbean were wired to an account at the Bank of Cyprus in the name of Gousef. From there, approximately \$3.6 million in funds were wired to an account at First Curacao in the name of Intelligy, and then further transferred to an account at BoA in the name of Streamline Capital.

**COUNT ONE**  
**18 U.S.C. § 371**  
**(Securities Fraud Conspiracy)**

118. The Grand Jury realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 117 of the Indictment, and further alleges that:

119. From in or about April 2003 through in or about October 2006, in Mecklenburg, Union, and Lincoln Counties, within the Western District of North Carolina, and elsewhere, the defendants,

- (1) BRYAN S. KOS  
(2) DAVID A. HAGEN

did knowingly, willfully and unlawfully combine, conspire, and agree together and with Jaynes, Oehmke, Brecher, H. Woltz, Mr. R, Mr. H, Spadaccini, and other persons known and unknown to the grand jury, to commit fraud in connection with the purchase and sale of securities, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

**Object of the Conspiracy**

120. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, willfully, directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, would and did use and employ manipulative and deceptive devices and contrivances in connection with the sale of securities by (a) employing devices, schemes, and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in acts, practices, and courses of business which operated and would and did operate as a fraud and deceit upon investors and others, in connection with the sales of securities, in violation Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

**Overt Acts**

121. In furtherance of the conspiracy, and to accomplish the objects thereof, the defendants and co-conspirators committed the following overt acts, among others, in the Western District of North Carolina and elsewhere:

- A. On or about June 25, 2003, KOS sent an instant message to a stock broker stating that he was "still pumping emails now," to which the stock broker responded, "[D]on't use that word 'pumping' . . . but I know what you mean".



B. On or about November 6, 2003, KOS sent an e-mail stating that “we are going to need a lot of media because we need to get big volume (big volume means 10 million shares of buying for each stock) into these 5 stocks. There are more to follow . . . . Jeremy and I are also looking for a media assistant who can manage all of the media buying . . . as well as the other marketing we are doing and anything else we try. If you know anyone please let me know, this is a full time job working from home and online.”

C. On or about November 11, 2003, KOS and Jaynes caused Sterling ACS to form Barranquilla and Chiang Ze.

D. On or about November 12, 2003, H. Woltz and Mr. H opened an account at BB&T in the name of Sterling Bank.

E. On or about November 14, 2003, KOS and V. Woltz caused brokerage accounts to be opened at World Trade Financial in the names of Barranquilla and Chiang Ze.

F. On or about December 16, 2003, H. Woltz met with Currin and Jaynes in Raleigh, North Carolina to discuss moving Jaynes’ spamming operation to the Bahamas.

G. On or about January 7, 2004, Oehmke received an e-mail stating that KOS and Jaynes “are back in the saddle and they would like to use you to continue the trading”.

H. On or about January 8, 2004, H. Woltz sent an e-mail to Currin regarding the need to finalize “proper contracts with each of the entities involved in the ‘investor awareness’ campaign”.

I. On or about January 13, 2004, Jaynes chartered a corporate jet on which he, KOS, Currin, H. Woltz, Mr. H, and others flew from Winston-Salem, North Carolina to Nassau, Bahamas to, among other things, prepare an off-shore office from which Jaynes could distribute spam e-mail promoting penny stocks.

J. On or about January 15, 2004, KOS caused approximately 1.5 million shares of BodyScan stock to be deposited into a brokerage account at World Trade Financial in the name of Barranquilla.

K. On or about January 15, 2004, KOS caused approximately 1.5 million shares of BodyScan stock to be deposited into a brokerage account at World Trade Financial in the name of Chiang Ze.

L. On or about January 21, 2004, Mr. H sent an e-mail to Currin stating, “Kos emailed that funds flow is imminent for the stock promotion activity. Vernice says accounts have already been established at Newbridge and World Advantage.”

M. On or about January 23, 2004, H. Woltz, Mr. H, and Currin opened an account at BoA in Denver, North Carolina in the name of Sterling Bank.

N. On or about January 30, 2004, KOS sent an e-mail to Mr. H attaching an "Advisor Recommendation Form" signed by KOS as "advisor" for Chiang Ze, Ryzcek, and Keel and requesting accounts be created for these entities at Sterling Bank.

O. On or about February 6, 2004, Mr. H caused an approximately \$60,000 wire transmission to be made Sterling Bank's account at BB&T to Xpedite Systems, Inc.

P. From on or about February 6, 2004, through on or about February 20, 2004, KOS, Jaynes, and others caused approximately 1.5 million shares of BodyScan stock to be sold from the brokerage account at World Trade Financial in the name of Barranquilla for a total of approximately \$2.6 million.

Q. On or about February 11, 2004, Mr. H sent an e-mail to KOS, Jaynes, H. Woltz and others regarding the transfer of funds from World Trade to Sterling Bank's account at BB&T.

R. On or about February 12, 2004, Barranquilla sent a facsimile to Mr. H regarding the wiring of funds "on sales of BDYS" to Sterling Bank's account at BB&T.

S. On or about February 19, 2004, KOS spoke with Mr. R regarding the BodyScan scheme.

T. On or about February 20, 2004, KOS sent an e-mail to Mr. R and copying Currin stating, that Currin "oversees Sterling Bank which is the bank we are trying to send money too [sic]."

U. From on or about February 23, 2004, through on or about February 24, 2004, KOS and others caused approximately 184,500 shares of BodyScan stock to be sold from the brokerage account at World Trade Financial in the name of Chiang Ze for a total of approximately \$409,167.

V. On or about February 26, 2004, KOS caused Advantage Trading to issue a check to Mr. R's law firm (f/b/o Barranquilla) in the amount of approximately \$2.6 million.

W. On or about February 27, 2004, Mr. R caused the check from Advantage Trading in the amount of approximately \$2.6 million to be deposited into Bush Mr. R's law firm's client trust account at SunTrust in Tampa, FL.

X. On or about March 1, 2004, Mr. H wrote a check to himself from Sterling Bank's account at BB&T in the amount of approximately \$5,000 as a consulting fee for the

month of March 2004.

Y. On or about March 3, 2004, Jaynes chartered a private jet from Charlotte, NC to Raleigh, NC to Nassau, Bahamas to relocate his spamming operation to Sterling's offices in Nassau, Bahamas.

Z. On or about March 3, 2004, Mr. R caused an approximately \$60,000 wire transmission to be made from funds held for Barranquilla in Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Oncall Telecomm for "2 Million Faxes BDYS".

Aa. On or about March 3, 2004, Mr. R caused an approximately \$2.6 million wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Sterling Bank's account at BoA in Denver, NC.

Bb. On or about March 3, 2004, KOS prepared a memo to Mr. H directing that \$1.885 million in "funds on sales of BDYS" be wired from Sterling Bank to Mr. R's law firm's client trust account at SunTrust in Tampa, FL.

Cc. On or about March 4, 2004, Mr. H caused an approximately \$1.885 million wire transfer from Sterling Bank's account at BoA in Denver, NC to Mr. R's law firm's client trust account at SunTrust in Tampa, FL.

Dd. On or about March 8, 2004, KOS sent an e-mail to Mr. R attaching a "script" that would be used by a "telemarketing group in India" to sell shares of BodyScan stock.

Ee. On or about March 11, 2004, Mr. H caused an approximately \$102,190 wire transfer related to "Barranquilla/Bovee" from Sterling Bank's account at BoA in Denver, NC to Sterling Bank's account at BB&T.

Ff. On or about March 12, 2004, Mr. H caused an approximately \$150,000 wire transfer relating to "Bovee Enterprises, LLC" from Sterling Bank's account at BoA in Denver, NC to Sterling Bank's account at BB&T.

Gg. On or about March 22, 2004, Mr. R caused an approximately \$150,000 wire transfer from funds held for Chiang Ze in Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Xpedite Systems, Inc. for "5 Million Faxes BDYS".

Hh. On or about March 22, 2004, KOS wrote a memo to Mr. R detailing the securities fraud scheme that KOS, Jaynes, and Oehmke were perpetrating.

Ii. On or about March 25, 2004, KOS e-mailed the above-referenced memo to Mr. R and Oehmke.

Jj. On or about March 31, 2004, Mr. R, at the direction of Oehmke, caused an approximately \$45,000 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA in Kalamazoo, MI.

Kk. On or about April 16, 2004, Mr. H caused an approximately \$188,959 wire transfer from Sterling Bank's account at BoA in Denver, NC to Sterling Bank's account at BB&T.

Ll. On or about April 21, 2004, Mr. R, at the direction of Oehmke, caused an approximately \$31,000 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA.

Mm. On or about April 26, 2004, KOS, Jaynes, and Oehmke met with Mr. R at his law office in Tampa, FL to discuss the reverse merger of Ornate Holdings.

Nn. On or about April 26, 2004, Oehmke sent an e-mail to ROSS thanking him for "assistance in baby-sitting the 'twins'."

Oo. On or about April 27, 2004, Mr. H caused an approximately \$293,000 wire transfer from Sterling Bank's account at BoA in Denver, NC to Sterling Bank's account at BB&T.

Pp. On or about April 29, 2004, KOS and Jaynes caused Mr. H to send two wires for "Chiang/Bovee" totaling approximately \$457,839 from Sterling Bank's account at BB&T to Mr. R's law firm's client trust account at SunTrust in Tampa, FL.

Qq. On or about May 4, 2004, Mr. R, at the direction of Oehmke, caused an approximately \$24,000 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA.

Rr. On or about May 11, 2004, Mr. R caused an approximately \$41,016 wire transfer from funds held for Barranquilla in Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA for "Consulting Fees on TWTN".

Ss. On or about May 18, 2004, Mr. R caused an approximately \$105,000 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA.

Tt. On or about May 19, 2004, H. Woltz sent an e-mail to KOS, Jaynes and another person stating, "I really need to talk to the 'awareness' department of the 'investor awareness' operation as soon as he has a chance."

Uu. On or about June 7, 2004, Mr. R, at the direction of Oehmke, caused an

approximately \$54,747 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA for "Consulting Fees on TWTN".

Vv. On or about June 9, 2004, Spadaccini sent an e-mail to Oehmke stating that "sometimes [transfer agents] get nervous if the shares . . . are sent offshore."

Ww. On or about June 11, 2004, KOS, Jaynes, and others met at a hotel in Raleigh, NC to film a video to be used in promoting Absolute Health securities. During that meeting, KOS expressed concern to a co-conspirator about the SEC "getting him on stuff" and "going to jail" as a result.

Xx. On or about June 15, 2004, KOS sent an e-mail to a co-conspirator in which he explained that their off-shore activities could not be moved into the United States because, "as I said, regulators are going to want to eat this for lunch."

Yy. On or about June 18, 2004, Mr. R caused an approximately \$60,574 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA.

Zz. On or about June 22, 2004, Oehmke sent an e-mail to Spadaccini attaching a draft promotional document recommending Concorde stock as a "Strong Buy".

Aaa. On or about June 28, 2004, KOS received an e-mail stating, "There still 890,155 faxes prepaid. These is enough to cover tomorrow Tuesday let says 500,000 and Wednesday 390,000. There are not funds for Thursday and Friday of this week . . . I would recommend sent a wire for \$75,000 assuming an average of 500,000 per day."

Bbb. On or about June 29, 2004, Spadaccini, at the request of Oehmke, wrote a letter to a stock transfer agent opining that it was lawful to issue 10 million unrestricted shares of Concorde stock to Ventana-PA.

Ccc. On or about June 30, 2004, Mr. R caused an approximately \$115,317 wire transfer from Mr. R's law firm's client trust account at SunTrust in Tampa, FL to Ventana's account at BoA for "Consulting Fees on TWTN".

Ddd. On or about July 4, 2004, a co-conspirator sent an e-mail to KOS stating, "I even have a plan about the processing of the newsletter subscriptions that gives USPennystocks a 'US' face and presence, totally removes and protects you and [Jaynes] from any direct exposure, etc."

Eee. On or about July 6, 2004, Oehmke sent an e-mail to Spadaccini directing that the Concorde stock certificate for 10 million shares that was to be issued to Ventana-PA be re-issued to Vanderlip, DaSilva, Jonti, Stromberti, Chiang Ze, and Barranquilla, and

delivered to Sterling ACS in Nassau, Bahamas.

Fff. On or about July 8, 2004, Spadaccini sent an e-mail to Interwest Transfer Agent regarding the "breakup and transfer of [Ventana-PA's] certificate of 10m shares" of Concorde stock.

Ggg. On or about July 8, 2004, Mr. R sent an e-mail to KOS stating that "the difficulties of joint representation are, unfortunately, presenting themselves in regard to Concorde."

Hhh. On or about July 13, 2004, Oehmke sent an e-mail to Sterling ACS arranging for the transfer of Concorde share certificates to the off-shore companies for trading.

Iii. On or about July 13, 2004, KOS sent an e-mail to Oehmke and Jaynes requesting that they "review" a Concorde press release that was to be distributed to the public "as soon as the stock clears."

Jjj. On or about July 13, 2004, Mr. R sent an e-mail to a Sterling employee regarding the balances in Mr. R's law firm's client trust account for Jaynes, BK Ventures, Chiang Ze, Ryzcek, Ventana, and others.

Kkk. On or about July 14, 2004, KOS sent an e-mail to H. Woltz and others attaching Concorde research reports and advising that the "weekly updates can be viewed online @ <<http://www.winningstockpicks.net>>".

Lll. On or about July 16, 2004, Mr. R sent an e-mail to Oehmke stating that "the middle is getting deeper."

Mmm. On or about July 16, 2004, Mr. R sent an e-mail to a Sterling employee regarding the receipt of a wire into Mr. R's law firm's client trust account for Ryzcek in the amount of approximately \$104,780.

Nnn. On or about July 31, 2004, KOS sent an e-mail to Oehmke and Jaynes regarding an effort to create a website for Concorde so that the company would "look legit."

Ooo. On or about August 2, 2004, Mr. R, at the request of KOS, caused an approximately \$136,793 wire transfer of funds held for Chiang Ze in Mr. R's law firm's client trust account at SunTrust to Spadaccini's law firm's trust account at Wells Fargo.

Ppp. On or about August 2, 2004, Mr. R sent an e-mail to Oehmke and a Sterling employee regarding the wire transfer to Spadaccini in the amount of approximately \$136,793.

Qqq. On or about August 3, 2004, Spadaccini caused an approximately \$88,715 wire transfer of funds held in his law firm's client trust account at Wells Fargo to an account at First Caribbean in the name of Montaque Securities.

Rrr. On or about August 3, 2004, Spadaccini caused an approximately \$45,000 wire transfer of funds held in his law firm's client trust account at Wells Fargo to an account at BoA in the name of Twister Networks, Inc.

Sss. On or about August 3, 2004, Mr. R sent an e-mail to Oehmke and a Sterling employee regarding wire transfers from funds held for Chiang Ze in Mr. R's law firm's client trust account to "Red Rock Hosting LLC", Jaynes' sister, "Camelot Promotions", "Xpedite Systems, Inc.", and others.

Ttt. On or about August 15, 2004, Mr. R sent an e-mail stating that "market manipulators have attempted to pull off a classic 'pump and dump'" and advising Concorde to "stay away from Mr. Kos and any associates."

Uuu. On or about October 17, 2004, KOS, Jaynes, Oehmke and others known and unknown to the grand jury met in Cancun, Mexico in an effort to discuss taking Bio-Heal public through a "reverse merger."

Vvv. On or about November 12, 2004, Oehmke sent an e-mail to Spadaccini, stating that, with regard to Bio-Heal, he "need[s] the 504 done ASAP so we can fund them the rest of the money."

Www. In or about December 2004, Brecher, H. Woltz, and HAGEN met at a hotel in Charlotte, North Carolina to discuss taking Gatelinx public through a "reverse merger" with a publicly-traded shell company then known as Autoleasecheck.com, Inc.

Xxx. On or about December 15, 2004, HAGEN and Brecher signed an "Investor Relations Agreement" between GTX Global Corp. and MMG, a Bahamian company controlled by Brecher. Pursuant to that agreement, Brecher was to "assist [GTX Global] in listing and enhancing the Company's shares on other exchanges such as the OTC," "[e]nhanc[e] the Company's general investor base," "[p]rovide general public relation services," and "enhanc[e] the liquidity of the shares in the Company".

Yyy. On or about December 17, 2004, Brecher, H. Woltz, and HAGEN signed a Memorandum of Understanding in Charlotte, North Carolina regarding the sale of Autoleascheck.com, Inc. from Brecher to HAGEN.

Zzz. On or about January 5, 2005, H. Woltz caused a facsimile to be sent to Electronic Access regarding Chiang Ze's brokerage account.

Aaaa. On or about February 11, 2005, a fictitious opinion letter from attorney "Michael Smith" of Houston, Texas was sent to Bio-Heal's stock transfer agent in support of the issuance of approximately 12 million shares of Bio-Heal stock to various entities.

Bbbb. On or about February 21, 2005, Mr. H sent an e-mail to Currin stating, "I'd like to set up a level of security in ou[r] communications, specifically encryption/decryption of all internet activities," and attaching a document regarding trading on the Philippines Stock Exchange.

Cccc. In or about April 2005, Brecher prepared a fictitious opinion letter from a law firm regarding the issuance of stock of Autoleasecheck.com, Inc. to Laureate's Way, Walcott Indies, Toussaint, Valcien, and Toubetskoy.

Dddd. On or about April 6, 2005, Brecher and others caused approximately 5 million shares of Gatelinx stock to be transferred to Laureate's Way, Walcott Indies, Toussaint, Valcien, and Toubetskoy.

Eeee. On or about April 29, 2005, Montague Securities caused approximately 7 million shares of Gatelinx stock to be transferred to Laureate's Way, Walcott Indies, Toussaint, Valcien, and Toubetskoy.

Ffff. On or about September 26, 2005, HAGEN corresponded with both Currin and H. Woltz via e-mail regarding the dissolution of the Anguillan entities known as Walcott Indies, Laureate's Way, Toubetskoy, Toussaint, and Valcien.

Gggg. On or about October 18, 2005, Currin sent a facsimile to Mr. H providing instructions for the wiring of approximately \$35,000 from the First Vietnamese account controlled by Mr. H to an account at the Bank of Cyprus in the name of Gousef.

Hhhh. On or about October 18, 2005, HAGEN sent an e-mail to GTX Global's General Counsel attaching a completed copy of the company's 15c2-11 Issuer Disclosure Document, which document failed to disclose HAGEN's consulting position with the company, failed to disclose HAGEN's prior criminal record, falsely stated that there was no one known to the company to "own beneficially more than 5% of the outstanding shares as of th[at] date," and stated that there were no "relationships existing among the company's officers, directors and shareholders."

Iiii. On or about October 19, 2005, Currin sent an e-mail to Mr. H directing that a wire in the amount of approximately \$35,000 be sent to Gousef "as a priority" and advising that Currin was wiring approximately \$41,980 from his law firm's trust account to the First Vietnamese account controlled by Mr. H.

Jjjj. On or about October 19, 2005, Currin caused approximately \$41,980 to be



wired from funds held for Bovee in Currin's law firm's client trust account to an account at First Vietnamese controlled by Mr. H.

Kkkk. On or about October 20, 2005, Montaque Securities caused a brokerage account to be opened at Global Securities in the name of Laureate's Way.

Llll. On or about October 20, 2005, Montaque Securities caused a brokerage account to be opened at Global Securities in the name of Walcott Indies.

Mmmm. On or about October 25, 2005, Currin sent an e-mail to Mr. H inquiring as to why the wire transfer in the amount of approximately \$35,000 had not yet been sent to Gousef.

Nnnn. On or about October 25, 2005, HAGEN faxed to Currin a typed agreement regarding the division of proceeds from the sale of GTX Global stock held in the names of Laureate's Way, Walcott Indies, Toubetskoy, Toussaint, and Valcien.

Oooo. On or about October 25, 2005, Mr. H caused approximately \$34,956 to be wired to an account in the name of Gousef and controlled by Jaynes and others at Bank of Cyprus from funds held in an account controlled by Mr. H at First Vietnamese.

Pppp. On or about October 26, 2005, Jaynes, HAGEN, and Brecher signed a handwritten agreement regarding the division of proceeds from the sale of GTX Global stock held in the names of Laureate's Way, Walcott Indies, Toubetskoy, Toussaint, and Valcien.

Qqqq. On or about October 27, 2005, GTX Global published a 15c2-11 Issuer Disclosure Document with Pink Sheets, which document failed to disclose HAGEN's consulting position with the company, failed to disclose HAGEN's prior criminal record, falsely stated that there was no one known to the company to "own beneficially more than 5% of the outstanding shares as of th[at] date," and falsely stated that there were no "relationships existing among the company's officers, directors and shareholders."

Rrrr. On or about October 27, 2005, HAGEN, Jaynes, Brecher, and others caused approximately 2,400 shares of GTX stock to be sold from a brokerage account at Global Securities in the name of Laureate's Way for a total of approximately \$10,569.

Ssss. On or about October 28, 2005, HAGEN, Jaynes, Brecher, and others caused approximately \$10,404 to be wired from a brokerage account at Global Securities in the name of Laureate's Way through Wachovia to an account at First Caribbean in the name of Montaque Securities.

Tttt. On or about October 31, 2005, Jaynes and others caused an approximately \$34,081 wire to pay for internet search engine advertising to be sent from funds held in an

account in the name of Gousef at Bank of Cyprus.

Uuuu. On or about November 4, 2005, Montaque Securities caused a brokerage account to be opened at Union Securities in the name of Toussaint.

Vvvv. On or about November 4, 2005, Montaque Securities caused a brokerage account to be opened at Union Securities in the name of Valcien.

Xxxx. On or about November 15, 2005, HAGEN, Jaynes, Brecher, and others caused approximately 10,000 shares of GTX stock to be sold from a brokerage account at Union Securities in the name of Toussaint for a total of approximately \$70,366.

Yyyy. On or about November 21, 2005, HAGEN, Jaynes, Brecher, and others caused approximately \$70,100.00 to be wired from a brokerage account at Union Securities in the name of Toussaint through Wachovia to an account at First Caribbean in the name of Montaque Securities.

Zzzz. On or about November 22, 2005, Mr. H sent an e-mail to Currin stating that “[t]wo wires resulting from sale of trust assets (stock) were reported wired by the stock brokerage firm in the amounts of \$132,084.50 and \$163,833.41”.

Aaaaa. On or about November 23, 2005, Mr. H sent another e-mail to Currin regarding the wiring of funds from “Montaque” to an account controlled by Mr. H at Caja in Panama.

Bbbbb. From on or about November 4, 2005, through on or about December 1, 2005, HAGEN, Jaynes, and others caused approximately 391,332 shares of GTX stock to be sold from a brokerage account at Global Securities in the name of Walcott Indies for a total of approximately \$3,053,302.

Ccccc. On or about November 15, 2005, HAGEN, Brecher, and others known and unknown to the grand jury caused the publication of a GTX Global corporate press release which falsely and fraudulently implied that HAGEN had no continuing relationship with GTX Global.

Ddddd. On or about November 23, 2005, HAGEN, Jaynes, Brecher, and others caused approximately \$185,289.25 to be wired from a brokerage account at Global Securities in the name of Walcott Indies through Wachovia to an account at First Caribbean in the name of Montaque Securities.

Eeeee. On or about November 24, 2005, HAGEN, Jaynes, Brecher, and others caused approximately \$75,204.78 to be wired from an account at First Caribbean in the name of Montaque Securities to an account at Butterfield Bank in the name of Opusware Corp.

Fffff. On or about November 24, 2005, HAGEN, Jaynes, Brecher, and others caused approximately \$75,151 to be wired from an account at First Caribbean in the name of Montaque Securities to an account at Bank of Cyprus in the name of Gousef.

Ggggg. On or about November 26, 2005, HAGEN and others known and unknown to the grand jury caused check #220045 in the amount of approximately \$1,913.85 to be delivered to Charlotte Co-Location Center in Monroe, NC.

Hhhhh. On or about December 2, 2005, HAGEN, Jaynes, Brecher, and others caused approximately \$1,217,659.77 to be wired from a brokerage account at Global Securities in the name of Walcott Indies through Wachovia to an account at First Caribbean in the name of Montaque Securities.

Iiiii. On or about December 20, 2005, Brecher and others known and unknown to the grand jury would and did publish and cause to be published a GTX Global corporate press release falsely stating that "GTX Global and Yadio have entered an agreement, dated as of December 16, 2005, providing that Yadio will merge with GTX Global Corporation."

Jjjjj. On or about December 28, 2005, a GTX officer, after discussing the matter with Brecher and HAGEN, caused GTX Global to publish a 15c2-11 Issuer Disclosure Document with Pink Sheets, which document failed to disclose HAGEN's consulting position with the company, failed to disclose HAGEN's prior criminal record, falsely stated that there was no one known to the company to "own beneficially more than 5% of the outstanding shares as of th[at] date," and falsely stated that there were no "relationships existing among the company's officers, directors and shareholders."

Kkkkk. On or about December 29, 2005, GTX Global published a 15c2-11 Issuer Disclosure Document with Pink Sheets, which document failed to disclose HAGEN's consulting position with the company, failed to disclose HAGEN's prior criminal record, falsely stated that there was no one known to the company to "own beneficially more than 5% of the outstanding shares as of th[at] date," and falsely stated that there were no "relationships existing among the company's officers, directors and shareholders."

Lllll. On or about January 9, 2006, GTX Global caused check #220116 in the amount of approximately \$1,913.85 to be delivered to Charlotte Co-Location Center in Monroe, NC.

Mmmmm. From on or about January 2, 2006, through on or about January 17, 2006, HAGEN, Jaynes, and others caused approximately 58,953 shares of GTX stock to be sold from a brokerage account at Global Securities in the name of Laureate's Way for a total of approximately \$488,278.

Nnnnn. On or about January 18, 2006, HAGEN, Jaynes, Brecher, and others caused

approximately \$133,560 to be wired from a brokerage account at Global Securities in the name of Laureate's Way through Wachovia to an account at First Caribbean in the name of Montaque Securities.

Ooooo. On or about January 19, 2006, Jaynes, Brecher, and others caused approximately \$26,505 to be wired from an account at First Caribbean in the name of Montaque Securities to an account at Bank of Cyprus in the name of Gousef.

Ppppp. On or about January 19, 2006, Jaynes, Brecher, and others caused approximately \$26,505 to be wired from an account at First Caribbean in the name of Montaque Securities to an account at Bank of Cyprus in the name of Gousef.

Qqqqq. On or about January 19, 2006, Jaynes, Brecher, and others caused approximately \$28,195 to be wired from an account at First Caribbean in the name of Montaque Securities to an account at Bank of Cyprus in the name of Gousef.

Rrrrr. On or about January 25, 2006, a GTX officer published a GTX Global corporate press release falsely stating that "GTX Global . . . and Yadio Inc. are pleased to announce the completion of their merger."

Sssss. From on or about February 2, 2006, through on or about February 3, 2006, HAGEN, Jaynes, Brecher, and others caused approximately 134,907 shares of GTX stock to be sold from a brokerage account at Global Securities in the name of Walcott Indies for a total of approximately \$915,736.

Ttttt. On or about February 6, 2006, HAGEN, Jaynes, Brecher, and others caused approximately \$905,193 to be wired from a brokerage account at Global Securities in the name of Walcott Indies through Wachovia to an account at First Caribbean in the name of Montaque Securities.

Uuuuu. On or about February 16, 2006, GTX Global caused check #220169 in the amount of approximately \$1,913.85 to be delivered to Charlotte Co-Location Center in Monroe, NC.

Vvvvv. From in or about February 2006 through in or about June 2006, Jaynes, HAGEN, Brecher, and others caused shares of GTX Global stock to be sold from a brokerage account at Global Securities in the name of Laureate's Way.

Wwwww. From in or about February 2006 through in or about June 2006, Jaynes, HAGEN, Brecher, and others caused millions of dollars to be wired from a brokerage account at Global Securities in the name of Laureate's Way through Wachovia to an account at First Caribbean in the name of Montaque Securities.

All in violation of 18 U.S.C. § 371.

**COUNT TWO**  
**18 U.S.C. § 1349**  
**(Mail and Wire Fraud Conspiracy)**

127. The Grand Jury realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 117 of the Indictment, and further alleges that:

128. From in or about April 2003 through in or about October 2006, in Mecklenburg, Union, and Lincoln Counties, within the Western District of North Carolina, and elsewhere, the defendants,

- (1) BRYAN S. KOS  
(2) DAVID A. HAGEN

did knowingly, willfully and unlawfully combine, conspire, and agree together and with Jaynes, Oehmke, Currin, Mr. R, Mr. H, Spadaccini, and other persons known and unknown to the grand jury, to commit the following offenses:

- A. Mail fraud, in violation of Title 18, United States Code, Section 1341; and
- B. Wire fraud, in violation of Title 18, United States Code, Section 1343.

**Objects of the Conspiracy**

129. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, having devised the above-described schemes and artifices to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did cause things to be deposited with and delivered by the U.S. Postal Service and private and commercial interstate carriers for the purposes of executing said scheme and artifice, in violation of Title 18, United States Code, Section 1341.

130. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, having devised the above-described schemes and artifices to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purposes of executing said scheme and artifice, in violation of Title 18, United States Code, Section 1343.

All in violation of 18 U.S.C. § 1349.

**COUNT THREE**  
**18 U.S.C. § 1956(h)**  
**(Money Laundering Conspiracy)**

131. The Grand Jury realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 117 of the Indictment, and further alleges that:

132. From in or about November 2003 through in or about June 2006, in Mecklenburg, Union, and Lincoln Counties, within the Western District of North Carolina, and elsewhere, the defendants,

- (1) BRYAN S. KOS  
(2) DAVID A. HAGEN

did knowingly, willfully and unlawfully combine, conspire, and agree together and with Jaynes, Oehmke, Brecher, Currin, H. Woltz, V. Woltz, Mr. R, Mr. H, Spadaccini, and other persons known and unknown to the grand jury, to commit the following offenses against the United States:

- A. Money laundering, in violation of Title 18, United States Code, Section 1956;  
and
- B. Money laundering, in violation of Title 18, United States Code, Section 1957.

**Objects of the Conspiracy**

133. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, knowing that the property involved in financial transactions represented the proceeds of some form of unlawful activity, would and did conduct and attempt to conduct financial transactions involving the proceeds of specified unlawful activity with the intent to promote the carrying on of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(A)(i).

134. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, knowing that the property involved in the financial transactions described below represented the proceeds of unlawful activity, would and did conduct financial transactions involving the proceeds of specified unlawful activity knowing that the transaction was designed to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i).

135. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, would and did transport, transmit and transfer funds from a place in the United States to and through a place outside the United States and to a place in the United States from and through a place outside the United States with the intent to promote the carrying on of specified unlawful activity, in violation of Title 18, United States Code, Sections 1956(a)(2)(A).

136. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, would and did transport, transmit and transfer funds from a place in the United States to and through a place outside the United States and to a place in the United States from and through a place outside the United States knowing that the funds involved in the transportation, transmission and transfer represented the proceeds of some form of unlawful activity and knowing that such transportation, transmission and transfer was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Sections 1956(a)(2)(B)(i).

137. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, would and did knowingly engage and attempt to engage in monetary transactions in and affecting interstate and foreign commerce by, through, and to financial institutions, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

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



**NOTICE OF FORFEITURE AND FINDING OF PROBABLE CAUSE**

138. The Grand Jury realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 137 of the Indictment, and further alleges that:

139. Notice is hereby given, pursuant to Federal Rule of Criminal Procedure 32.2(a), of the provisions of 18 U.S.C. § 982, 21 U.S.C. § 853, and 28 U.S.C. § 2461(c). Under Section 2461(c), criminal forfeiture is applicable to any offenses for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981, and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by 18 U.S.C. § 981(a)(1)(C). The defendant has or had possessory or legal interests in the following property that is subject to forfeiture in accordance with Section 982 and/or Section 2461(c):

- A. All property involved in the violations alleged in this Bill of Indictment, or traceable to such property;
- B. All property which is proceeds of such violations, or traceable to such property; and,
- C. In the event that any property described in (A) or (B) cannot be located or recovered or has been substantially diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendants, to the extent of the value of the property described in (A) and (B).

140. The Grand Jury alleges that there is probable cause to believe that the following property is subject to forfeiture on one or more of the grounds stated above:

- A. Any and all currency and monetary instruments that were received during, involved in, or used or intended to be used to facilitate the crimes alleged in this Bill of Information, including but not limited to the sum of approximately \$31.95 million;
- B. Any and all shares of GTX Global or Vision Technology Corp. stock; and
- C. Any and all interest in Walcott Indies, Laureate's Way, Toubetskoy, Toussaint, and Valcien, Intelligy, Gatelinx, GTX Global, Opusware, LLC, and Opusware Corp.

A TRUE BILL ^



GRETCHEN C.F. SHAPPERT  
UNITED STATES ATTORNEY

  
MATTHEW T. MARTENS  
ASSISTANT UNITED STATES ATTORNEY