

AUG 26 2022

CLERK DISTRICT COURT

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SECOND JUDICIAL DISTRICT COURT
COUNTY OF BERNALILLO
STATE OF NEW MEXICO

D 0202 CR 2022 01920
Case No. D-202-CR-2022
NMRLD #: 21-10-27

STATE OF NEW MEXICO,

Plaintiff,

vs.

ALEX HERNANDEZ,
A.K.A. CRUZ HERNANDEZ,
A.K.A. ALEX CRUZ HERNANDEZ,
A.K.A. ALEX C. HERNANDEZ

DAVID A. MURPHY

Defendant.

CRIMES CHARGED:

COUNT 1: SECURITIES FRAUD (5797); COUNT 2: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 3: FRAUD (OVER \$2,500) (0558); OR IN THE ALTERNATIVE TO COUNT 3: COUNT 3: EMBEZZLEMENT (OVER \$2,500)(0607); COUNT 4: FRAUD (EXCEEDS \$20,000)(0556); OR IN THE ALTERNATIVE TO COUNT 4: COUNT 4: EMBEZZLEMENT (OVER \$20,000)(0605); COUNT 5: SECURITIES FRAUD (5797); COUNT 6: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 7: FRAUD (OVER \$500 BUT NOT MORE THAN \$2,500)(4530); COUNT 8: SECURITIES FRAUD (5797); COUNT 9: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 10: FRAUD (OVER \$2,500)(0558); COUNT 11: SECURITIES FRAUD (5797); COUNT 12: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 13: FRAUD (OVER \$2,500)(0558); COUNT 14: SECURITIES FRAUD (5797); COUNT 15: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 16: FRAUD (OVER \$2,500)(0558); OR IN THE ALTERNATIVE TO COUNT 16: COUNT 16: EMBEZZLEMENT (OVER \$2,500)(0607); COUNT 17: SECURITIES FRAUD (5797); COUNT 18: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 19: FRAUD (OVER \$2,500)(0558); COUNT 20: SECURITIES FRAUD (5797); COUNT 21: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 22: FRAUD (OVER \$500 BUT NOT MORE THAN \$2,500)(4530); OR IN THE ALTERNATIVE TO COUNT 22: COUNT 22: EMBEZZLEMENT (OVER \$500 BUT NOT MORE THAN \$2,500)(4552); COUNT 23: SECURITIES FRAUD (5797); COUNT 24: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 25: FRAUD (OVER \$2,500) (0558); OR IN THE ALTERNATIVE TO COUNT 25: COUNT 25: EMBEZZLEMENT (OVER \$2,500)(0607).

GRAND JURY INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1: SECURITIES FRAUD (5797), in that on, or about or between the 4th day of January, 2021 and the 9th day of February, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978. T

The defendant did sell and/or offer to sell a security and/or securities to Steven Michael Willen. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Monies invested in New Age Wall Street ("NAWS") would only be used to conduct day trading in the stock market with the intent to grow Steven Michael Willen's investments over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) At the time the defendant sold and/or offered to sell securities to Steven Michael Willen the defendant was not licensed to offer and/or sell securities by any state or federal entity;
- 2) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900.

COUNT 2: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 4th day of January, 2021 and the 9th day of February, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in NAWS to Steven Michael Willen that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 3: FRAUD (OVER \$2,500) (0558), in that on, or about the 9th day of February, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a T

promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Steven Michael Willen and because of Steven Michael Willen's reliance on the promise and/or misrepresentation, the defendant obtained over two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(E), NMSA 1978.

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Steven Michael Willen's investments over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market.

OR IN THE ALTERNATIVE TO COUNT 3:

COUNT 3: EMBEZZLEMENT (OVER \$2,500)(0607), in that on, or about or between the 9th day of February, 2021 and the 2nd day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did convert to his own use money over two thousand five hundred dollars (\$2,500), that the defendant had been entrusted, with intent at the time of the said conversion to fraudulently deprive the owner of his property, contrary to § 30-16-08 (A)(E), NMSA 1978. T

The defendant did convert to his own use money over \$2,500, that the defendant had been entrusted by Steven Michael Willen to fund an investment in the stock market and to do day trades on behalf of Steven Michael Willen with the intent at the time of the said conversion to fraudulently deprive Steven Michael Willen of his money.

COUNT 4: FRAUD (EXCEEDS \$20,000)(0556), in that on, or about or between the 16th day of March, 2021 and the 8th day of May, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Michael Clement and because of Michael Clement's reliance on the promise and/or misrepresentation, the defendant obtained over twenty thousand dollars (\$20,000), contrary to § 30-16-06 (A)(F), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 2) The defendant would invest \$100,000 equaling Michael Clement's \$100,000 investment for a 50/50 partnership to jointly own NAWS;
- 3) Both the defendant and Michael Clement's names were to be placed on NAWS' bank accounts and business licenses;
- 4) The money invested by Michael Clement totaling \$100,000 would only be used to fund the growth and expansion of NAWS as well as to fund NAWS' business operations.

OR IN THE ALTERNATIVE TO COUNT 4: T

COUNT 4: EMBEZZLEMENT (OVER \$20,000)(0605), in that on, or about or between the 16th day of March, 2021 and the 31st day of May, 2021, in Bernalillo County, New Mexico, the above-named defendant did convert to his own use money exceeding twenty thousand dollars (\$20,000), in which the defendant had been entrusted, with intent at the time of the said conversion to fraudulently deprive the owner of his property, contrary to § 30-16-08 (A)(F), NMSA 1978. T

The defendant did convert to his own use money exceeding \$20,000, that the defendant had been entrusted by Michael Clement to fund the growth and expansion of NAWS with the intent at the time of the said conversion to fraudulently deprive Michael Clement of this money.

COUNT 5: SECURITIES FRAUD (5797), in that on, or about or between the 16th day of March, 2021 and the 8th day of May, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security, and in connection with the sale and/or offer to sell the security the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978. T

The defendant did sell and/or offer to sell a security to Michael Clement. In connection with the sale and/or offer to sell the said security, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 2) The defendant would invest \$100,000 equaling Michael Clement's \$100,000 investment for a 50/50 partnership to jointly own NAWS;
- 3) Both the defendant and Michael Clement's names were to be placed on NAWS' bank accounts and business licenses;
- 4) The money invested by Michael Clement would only be used to fund the growth and expansion of NAWS as well as to fund NAWS' business operations;
- 5) Michael Clement would receive 20% of the total gross month over month revenue generated by NAWS over the course of 12 months.

In connection with the offer and/or sale of the said security, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) Money invested by Michael Clement would be used to purchase personal expenditures;
- 2) Money invested by Michael Clement would be transferred to the defendant's personal bank account;
- 3) Day trading was conducted only in the defendant's personal trading account;

- 4) At the time the defendant sold and/or offered to sell a security to Michael Clement the defendant was not licensed to offer and/or sell a security by any state or federal entity;
- 5) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900.

COUNT 6: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 16th day of March, 2021 and the 8th day of May, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract and/or a profit sharing agreement in NAWS to Michael Clement that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 7: FRAUD (\$500 BUT NOT MORE THAN \$2,500)(4530), in that on, or about or between the 9th day of March, 2021 and the 31st day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Elias Marquez and because of Elias Marquez' reliance on the promise and/or misrepresentation, the defendant obtained over five hundred dollars (\$500) but not more than twenty five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(D), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Elias Marquez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market.

COUNT 8: SECURITIES FRAUD (5797), in that on, or about or between the 9th day of March, 2021 and the 31st day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978. T

The defendant did sell and/or offer to sell a security and/or securities to Elias Marquez. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Elias Marquez' investment over time;

- 2) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 3) Monthly statements were to be provided detailing the trades made on behalf of Elias Marquez;
- 4) NAWS will receive a 20% commission debited bi-weekly from all gross profits earned from Elias Marquez' stock investments.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) Part of the money invested by Elias Marquez would be used by the defendant to purchase personal expenditures;
- 2) Part of the money invested by Elias Marquez would be transferred to the defendant's personal bank account;
- 3) At the time the defendant sold and/or offered to sell securities to Elias Marquez the defendant was not licensed to offer and/or sell a securities by any state or federal entity;
- 4) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900.

COUNT 9: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 9th day of March, 2021 and the 31st day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in NAWS to Elias Marquez that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 10: FRAUD (OVER \$2,500)(0558), in that on, or about or between the 9th day of March, 2021 and the 31st day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Gregory Marquez and because of Gregory Marquez' reliance on the promise and/or misrepresentation, the defendant obtained over two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(E), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Gregory Marquez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market.

COUNT 11: SECURITIES FRAUD (5797), in that on, or about or between the 9th day of March, 2021 and the 31st day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale T

and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978.

The defendant did sell and/or offer to sell a security and/or securities to Gregory Marquez. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Gregory Marquez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 3) Monthly statements were to be provided detailing the trades made on behalf of Gregory Marquez;
- 4) NAWS will receive a 20% commission debited bi-weekly from all gross profits earned from Gregory Marquez' stock investments.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) Part of the money invested by Gregory Marquez would be used by the defendant to purchase personal expenditures;
- 2) Part of the money invested by Gregory Marquez would be transferred to the defendant's personal bank account;
- 3) At the time the defendant sold and/or offered to sell a security to Gregory Marquez the defendant was not licensed to offer and/or sell securities by any state or federal entity;
- 4) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900.

COUNT 12: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 9th day of March, 2021 and the 31st day of March, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in NAWS to Gregory Marquez that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 13: FRAUD (OVER \$2,500)(0558), in that on, or about or between the 1st day of March, 2021 and the 1st day of April, 2021, in Bernalillo County, New Mexico, the above-named T

defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Jorge Hernandez and because of Jorge Hernandez' reliance on the promise and/or misrepresentation, the defendant obtained over two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(E), NMSA 1978.

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Jorge Hernandez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 3) The defendant would provide a return on investment of 20 times or \$100,000 of Jorge Hernandez' initial investment in the stock market.

COUNT 14: SECURITIES FRAUD (5797), in that on, or about or between the 1st day of March, 2021 and the 1st day of April, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978. T

The defendant did sell and/or offer to sell a security and/or securities to Jorge Hernandez. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Jorge Hernandez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 3) Monthly statements were to be provided detailing the trades made on behalf of Jorge Hernandez;
- 4) The defendant would provide a return on investment of 20 times or \$100,000 of Jorge Hernandez' initial investment in the stock market.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) At the time the defendant sold and/or offered to sell securities to Jorge Hernandez the defendant was not licensed to offer and/or sell securities by any state or federal entity;
- 2) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900.

COUNT 15: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between 1st day of March, 2021 and the 1st day of April, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in NAWS to Jorge Hernandez that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 16: FRAUD (OVER \$2,500)(0558), in that on or about or between the 1st day of March, 2021 and the 29th day of June, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Luis Hernandez and because of Luis Hernandez' reliance on the promise and/or misrepresentation, the defendant obtained over two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(E), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Luis Hernandez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market.

OR IN THE ALTERNATIVE TO COUNT 16:

COUNT 16: EMBEZZLEMENT (OVER \$2,500)(0607), in that on, or about or between the 29th day of June, 2021 and the 9th day of July, 2021, in Bernalillo County, New Mexico, the above-named defendant did convert to his own use money over two thousand five hundred dollars (\$2,500), that the defendant had been entrusted, with intent at the time of the said conversion to fraudulently deprive the owner of his property, contrary to § 30-16-08 (A)(E), NMSA 1978. T

The defendant did convert to his own use money over \$2,500, that the defendant had been entrusted by Luis Hernandez to fund an investment in the stock market and to do day trades on behalf of Luis Hernandez with the intent at the time of the said conversion to fraudulently deprive Luis Hernandez of his money.

COUNT 17: SECURITIES FRAUD (5797), in that on, or about or between the 1st day of March, 2021 and the 29th day of June, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to T

make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978.

The defendant did sell and/or offer to sell a security and/or securities to Luis Hernandez. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Luis Hernandez' investment over time;
- 2) The defendant was a millionaire as a result of conducting day trades in the stock market;
- 3) Monthly statements were to be provided detailing the trades made on behalf of Luis Hernandez.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) At the time the defendant sold and/or offered to sell securities to Luis Hernandez the defendant was not licensed to offer and/or sell securities by any state or federal entity;
- 2) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900.

COUNT 18: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 1st day of March, 2021 and the 29th day of June, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in NAWS to Luis Hernandez that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 19: FRAUD (OVER \$2,500)(0558), in that on or about or between the 6th day of September, 2021, and the 21st day of September, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Aram Sahagian and because of Aram Sahagian's reliance on the promise and/or misrepresentation, the defendant obtained over two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(E), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Aram Sahagian's investment over time;

- 2) The defendant was a millionaire as a result of conducting day trades in the stock market.

COUNT 20: SECURITIES FRAUD (5797), in that on, or about or between the 6th day of September, 2021 and the 21st day of September, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978. 1

The defendant did sell and/or offer to sell a security and/or securities to Aram Sahagian. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Money invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Aram Sahagian's investment over time;
- 2) The defendant became a millionaire from his successes as a day trader in the stock market;
- 3) Monthly statements were to be provided detailing the trades made on behalf of Aram Sahagian;
- 4) NAWS would receive a 20% commission from all gross profits earned by Aram Sahagian's stock investments.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) A portion of the monies invested by Aram Sahagian would be used by the defendant for personal expenditures;
- 2) Monies taken by the defendant from other investors to conduct day trades were not used as represented;
- 3) At the time the defendant sold and/or offered securities to Aram Sahagian the defendant was not licensed to offer and/or sell securities by any state or federal entity;
- 4) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900;
- 5) On July 22, 2021, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$3,000.

COUNT 21: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 6th day of September, 2021 and the 21st day of September, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in NAWS to Aram Sahagian that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 22: FRAUD (OVER \$500 BUT NOT MORE THAN \$2,500)(4530), in that on or about the 22nd day of October, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Aram Sahagian and because of Aram Sahagian's reliance on the promise and/or misrepresentation, the defendant obtained over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(D), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) A loan was needed to purchase computers for the NAWS office;
- 2) The defendant did not have any capital to purchase computers for NAWS' office because he had to loan family members money to purchase a house;
- 3) The loan would be repaid no later than January 1, 2022.

OR IN THE ALTERNATIVE TO COUNT 22:

COUNT 22: EMBEZZLEMENT (OVER \$500 BUT NOT MORE THAN \$2,500)(4552), in that on, or about or between the 16th day October, 2021 and the 9th day of November, 2021, in Bernalillo County, New Mexico, the above-named defendant did convert to his own use money over two thousand five hundred dollars (\$2,500), that the defendant had been entrusted, with intent at the time of the said conversion to fraudulently deprive the owner of his property, contrary to § 30-16-08 (A)(D), NMSA 1978. T

The defendant did convert to his own use money over \$2,500, that the defendant had been entrusted by Aram Sahagian for a loan to purchase computers for NAWS with the intent at the time of the said conversion to fraudulently deprive Aram Sahagian of his money.

COUNT 23: SECURITIES FRAUD (5797), in that on, or about or between the 22nd day of October, 2021 and the 16th day of November, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and/or offer to sell a security and/or securities, and in connection with the sale and/or offer to sell the security and/or securities the defendant purposely and directly or indirectly made an untrue statement of fact that under the circumstances would have been important or significant to the investment decision of a reasonable person and/or omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person, contrary to § 58-13C-501, NMSA 1978. T

The defendant did sell and/or offer to sell a security and/or securities to Jesus Quezada and/or Gabriella Vargas. In connection with the sale and/or offer to sell the said security and/or securities, the defendant purposely made an untrue statement and/or statements of fact that under the circumstances would have been misleading to the investment decision of a reasonable person. The untrue statement and/or statements include, but are not limited to the following:

- 1) Monies invested in NAWS would only be used to conduct day trading in the stock market with the intent to grow Jesus Quezada's and/or Gabriella Vargas' investments over time.

In connection with the offer and/or sale of the said security and/or securities, the defendant omitted a fact necessary to make a statement made, in light of the circumstances pursuant to which it was made, not misleading to the investment decision of a reasonable person. The misleading omissions include, but are not limited to the following:

- 1) Monies invested by Jesus Quezada and/or Gabriella Vargas would be used by the defendant to purchase personal expenditures;
- 2) Monies invested by Jesus Quezada and/or Gabriella Vargas would be transferred to the defendant's personal bank account;
- 3) At the time the defendant sold and/or offered to sell securities to Jesus Quezada and/or Gabriella Vargas the defendant was not licensed to offer and/or sell securities by any state or federal entity;
- 4) On March 27, 2018, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$900;
- 5) On July 22, 2021, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$3,000;
- 6) On September 27, 2021, in Bernalillo County, New Mexico the defendant was the subject of a civil action for non-payment of his personal rent exceeding \$2,100.

COUNT 24: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 22nd day of October, 2021 and the 16th day of November, 2021, in Bernalillo County, New Mexico, the above-named defendant did sell and or/offer to sell a security to wit: an investment contract in "NAWS" to Jesus Quezada and/or Gabriella Vargas that was required by state securities law to be registered and that was not registered pursuant to the New Mexico Uniform Securities Act, contrary to § 58-13C-301(C), NMSA 1978. T

COUNT 25: FRAUD (OVER \$2,500) (0558), in that on, or about or between the 22nd day of October, 2021 and the 16th day of November, 2021, in Bernalillo County, New Mexico, the above-named defendant did by words or conduct make a promise he had no intention of keeping and/or misrepresented a fact intending to deceive or cheat Jesus Quezada and/or Gabriella Vargas and because of Jesus Quezada's and/or Gabriella Vargas' reliance on the promise and/or misrepresentation, the defendant obtained over two thousand five hundred dollars (\$2,500), contrary to § 30-16-06 (A)(E), NMSA 1978. T

The said promises and/or misrepresentations include, but are not limited to the following:

- 1) Monies invested in NAWs would only be used to conduct day trading in the stock market with the intent to grow Jesus Quezada's and/or Gabriella Vargas' investments over time.

OR IN THE ALTERNATIVE TO COUNT 25:

COUNT 25: EMBEZZLEMENT (OVER \$2,500)(0607), in that on, or about or between the 22nd day of October, 2021 and the 26th day of November, 2021, in Bernalillo County, New Mexico, the above-named defendant did convert to his own use money over two thousand five hundred dollars (\$2,500), that the defendant had been entrusted, with intent at the time of the said conversion to fraudulently deprive the owner of his property, contrary to § 30-16-08 (A)(E), NMSA 1978.

The defendant did convert to his own use money over \$2,500, that the defendant had been entrusted by Jesus Quezada and/or Gabriella Vargas to fund an investment in the stock market and to do day trades on behalf of Jesus Quezada and/or Gabriella Vargas with the intent at the time of the said conversion to fraudulently deprive Jesus Quezada and/or Gabriella Vargas of their money.

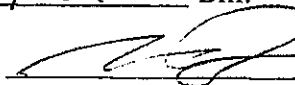
The names of the witnesses upon whose testimony this Indictment is based are as follows:

Gregory Stover
Special Agent

Christopher Young
Special Agent

Michael Clement

I hereby certify that the foregoing Indictment is a True Bill.


Foreman

Date: August 26, 2022

APPROVED BY:

/s/ Alissa Berger

Alissa Berger

Prosecuting Attorney

Regulation and Licensing Department – Securities Division

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State v. Alex Hernandez; A.K.A. Cruz Hernandez; A.K.A. Alex Cruz Hernandez; A.K.A. Alex C. Hernandez