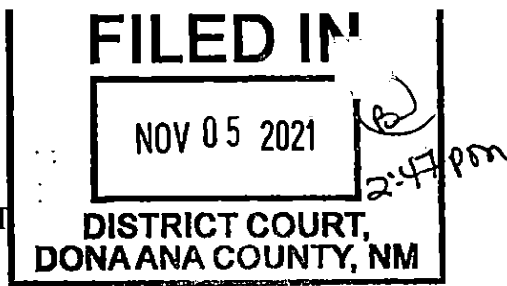


THIRD JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF DOÑA ANA



No. D-307 CR-20210

Judge: **Richard M. Jacquez** 919

STATE OF NEW MEXICO,
Plaintiff.

vs.

GREGORY TOLVER, SR.

Defendant.

GRAND JURY INDICTMENT

COUNT 1: FRAUD (EXCEEDS \$20,000)(0556); OR IN THE ALTERNATIVE TO COUNT 1: COUNT 1: EMBEZZLEMENT (OVER \$20,000)(0605); COUNT 2: SECURITIES FRAUD (5797); COUNT 3: SALE OF AN UNREGISTERED SECURITY (6681); COUNT 4: ISSUING WORTHLESS CHECKS (0805)

THE GRAND JURY CHARGES:

T.B. **COUNT 1: FRAUD (EXCEEDS \$20,000)(0556)**, in that on, or about or between the 19th day of March, 2019 and the 26th day of April, 2019, in Doña Ana County, State of 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 Donald Wenzl and because of Donald Wenzl'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.

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

1. Monies invested by Donald Wenzl totaling \$25,000 would only be used to fund a cannabis/CBD investment venture involving the growing and marketing of legal cannabis with the specific purpose of extracting and selling CBD oil;
2. The defendant was to invest Donald Wenzl's monies totaling \$25,000 in addition to \$25,000 of the defendant's own money, which was comprised of \$12,500 from the defendant and \$12,500 from the defendant's son to purchase a \$50,000 share in a cannabis/CBD investment growing opportunity.

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OR IN THE ALTERNATIVE TO COUNT 1:

T.B. **COUNT 1: EMBEZZLEMENT (OVER \$20,000)(0605)**, in that on, or about or between the 19th day of March 2019 and the 25th day of May, 2019, in Doña Ana County, State of 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.

The defendant did convert to his own use money exceeding \$20,000, that the defendant had been entrusted by Donald Wenzl to fund a cannabis/CBD investment venture involving the growing and marketing of legal cannabis with the specific purpose of extracting and selling CBD oil with intent at the time of the said conversion to fraudulently deprive Donald Wenzl of this money.

T.B. **COUNT 2: SECURITIES FRAUD (5797)**, in that on, or about or between the 12th day of March 2019 and the 2nd day April, 2019 in Doña Ana County, State of 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.

The defendant did sell and/or offer to sell a security to Donald Wenzl. 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 assured Donald Wenzl that the Promissory Note was reviewed by an attorney who approved of the note's efficacy as well as the legitimacy of the investment;
- 2) Monies invested by Donald Wenzl totaling \$25,000 would only be used to fund a cannabis/CBD investment venture involving the growing and marketing of legal cannabis with the specific purpose of extracting and selling CBD oil;
- 3) The defendant was to invest Donald Wenzl's monies totaling \$25,000 in addition to \$25,000 of the defendant's own money, which was comprised of \$12,500 from the defendant and \$12,500 from the defendant's son to purchase a \$50,000 share in a cannabis/CBD investment growing opportunity;
- 4) By the end of the 2019 calendar year Donald Wenzl and the defendant were to gain a 100% return on their \$25,000 investments totaling \$50,000 each once the cannabis was harvested and the CBD oil was extracted and sold.

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) On March 3, 1992, the defendant filed a voluntary bankruptcy petition under Chapter 13 in the Western District of Louisiana;
- 2) On November 17, 2006, the Franchise Tax Board of the State of California filed a Notice of State Tax Lien against the defendant for the years 2003 and 2004;
- 3) On January 9, 2009, the Internal Revenue Service filed a Notice of a Federal Tax Lien against the defendant for failure to pay his federal income taxes for the years 1997 through 2006;
- 4) On November 13, 2009, the defendant filed a voluntary bankruptcy petition under Chapter 7 in the Southern District of California;
- 5) On November 5, 2010, the Franchise Tax Board of the State of California filed a Notice of State Tax Lien against the defendant for the years 2007 and 2008;
- 6) Prior to Donald Wenzl's first installment of his \$25,000 investment the defendant had minimal funds available in his personal checking and savings accounts;
- 7) Monies invested by Donald Wenzl would be used to cover insufficient funds in the defendant's personal checking account to pay for personal expenditures including but not limited to dining, retail, and personal credit card expenses;
- 8) Monies invested by Donald Wenzl would be used to make cash withdrawals from the defendant's personal checking and savings accounts.

T.B. COUNT 3: SALE OF AN UNREGISTERED SECURITY (6681), in that on, or about or between the 12th day of March, 2019 and the 2nd day of April, 2019 in Doña Ana County, State of New Mexico, the above-named defendant did sell and/or offer to sell a security to Donald Wenzl 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.B. COUNT 4: ISSUING WORTHLESS CHECKS (0805), in that, on, or about or between the 21st day of February, 2020 and the 3rd day of March, 2020, in Doña Ana County, State of New Mexico, the above-named defendant did issue in exchange for something for value, with intent to defraud, a check payable to Donald Wenzl, in the amount of \$17,000, upon a bank or other depository, knowing at the time of issuing that he had insufficient funds in or credit with the bank or depository for the payment of such check in full upon its presentation, contrary to, §30-36-4 NMSA 1978 and §30-36-5 (B).

The name of the witness upon whose testimony this indictment is based is as follows:

Robert F. Barr
Senior Special Agent

Francisca Delgado
Financial Analyst

Donald Wenzl

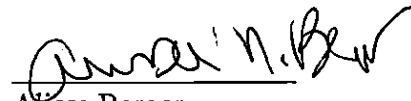
I hereby certify that the foregoing Indictment is a True Bill.


FOREPERSON

11-5-21

DATE

APPROVED BY:


A handwritten signature in black ink, appearing to read "Alissa Berger", is written over a horizontal line.

Alissa Berger

Prosecuting Attorney

Regulation and Licensing Department – Securities Division

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Santa Fe, NM 87504

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State v. Gregory Tolver