

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>THE PEOPLE OF THE STATE OF COLORADO,</p> <p>v.</p> <p>CHRISTOPHER HOUTCHENS, (D.O.B. 10-16-75)</p> <p>COLORADO TIRE SOLUTIONS, INC.</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General MICHAEL W. MELITO* Senior Assistant Attorney General 1525 Sherman Street, 7th Floor Denver, CO 80203 303-866-5738 Registration Number: 36059 *Counsel of Record</p>	<p>Grand Jury Case No.: 12CR01</p> <p>Ctrm: 209</p>
<p>COLORADO STATE GRAND JURY INDICTMENT</p>	

Of the 2012-2013 term of the Denver District Court in the year 2013; the 2012-2013 Colorado State Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following:

- COUNT ONE: Theft - \$1,000 - \$20,000, §18-4-401(1),(2)(c), C.R.S. (F4) **0801U**
- COUNT TWO: Attempted Theft - \$20,000 Or More, §18-4-401(1),(2)(d); §18-2-101
C.R.S. (F-4) **ATT**
- COUNT THREE: Attempt To Influence a Public Servant, §18-8-306, C.R.S. (F4) **24051**
- COUNT FOUR: Forgery of a Public Record, §18-5-102(1)(d), C.R.S. (F5) **1001D**
- COUNT FIVE: Computer Crime – Scheme /Defraud - \$1,000 to \$20,000,
§18-5.5-102(1)(b), C.R.S. (F4) **1502T**
- COUNT SIX: Attempt To Influence a Public Servant, §18-8-306, C.R.S. (F4) **24051**

INDEX OF COUNTS

Defendant	Charges
CHRISTOPHER HOUTCHENS	1, 2, 3, 4, 5 & 6
COLORADO TIRE SOLUTIONS, LLC	1, 2, 3, 4 & 5

COUNT ONE

Theft - \$1,000 - \$20,000, §18-4-401(1),(2)(c), C.R.S. (F4) **0801U**

On or about and between May 1, 2012 and October 31, 2012, in the State of Colorado, **CHRISTOPHER HOUTCHENS and COLORADO TIRE SOLUTIONS, INC.**, unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: money, of the Colorado Department of Public Health and Environment, with the value of one thousand dollars or more but less than twenty thousand dollars, without authorization, or by threat or deception, and intended to deprive the Colorado Department of Public Health and Environment, permanently of its use or benefit; in violation of §18-4-401(1)(a),(2)(c), C.R.S. and against the peace and dignity of the People of the State of Colorado.

COUNT TWO

Attempted Theft - \$20,000 Or More, §18-4-401(1),(2)(d); §18-2-101, C.R.S. (F-4) **ATT**

On or about and between July 1, 2012 and March 31, 2013, in the State of Colorado, **CHRISTOPHER HOUTCHENS and COLORADO TIRE SOLUTIONS, INC.**, by engaging in conduct constituting a substantial step toward the commission of Theft - \$20,000 or more, unlawfully, feloniously, and knowingly attempted to obtain or exercise control over a thing of value, to wit: money of the Colorado Department of Public Health and Environment with the value of twenty thousand dollars or more, without authorization, or by threat or deception, and intended to deprive the Colorado Department of Public Health and Environment permanently of its use or benefit; in violation of §§18-4-401(1)(a),(2)(d), C.R.S.; and 18-2-101, C.R.S.

COUNT THREE

Attempt To Influence A Public Servant, §18-8-306, C.R.S. (F4) **24051**

On or about and between May 1, 2012 and March 31, 2013, in the State of Colorado, **CHRISTOPHER HOUTCHENS and COLORADO TIRE SOLUTIONS, INC.**, unlawfully and feloniously attempted to influence Brian Gaboriau, Patricia Theriot, and or their colleagues at the Colorado Department of Public Health and Environment who are public servants, by means of deceit, with the intent thereby to alter or affect the public servants' decisions, votes, opinions, or actions concerning any matters which were to be considered or performed by the public servants or the agency or body of which the public servants were a member; in violation of §18-8-306, C.R.S. (F4), and against the peace and dignity of the People of the State of Colorado.

COUNT FOUR

Forgery of a Public Record, C.R.S. §18-5-102(1)(d) (F5) **1001D**

On or about and between May 1, 2012 and March 31, 2013, in the State of Colorado, **CHRISTOPHER HOUTCHENS and COLORADO TIRE SOLUTIONS, INC.**, with the intent to defraud, Employees of the Waste Tire Division of the Colorado Department of Public Health and Environment unlawfully, feloniously, and falsely made, completed, altered, or uttered a written instrument which was or which purported to be, or which was calculated to become or to represent if completed, a public record or an instrument, namely: emails, invoices, and or certifications, filed, required by law to be filed, or legally fileable in or with, the Colorado Department of Public Health and Environment, a public office or public servant; in violation of §18-5-102(1)(d), C.R.S.

COUNT FIVE

Computer Crime – Scheme /Defraud - \$1,000 to \$20,000, C.R.S. §18-5.5-102(1)(b) (F4) **1502T**

On or about and between May 1, 2012 and March 31, 2013, in the State of Colorado, **CHRISTOPHER HOUTCHENS and COLORADO TIRE SOLUTIONS, INC.**, unlawfully, feloniously, and knowingly accessed a computer, computer network, or computer system, or any part thereof, for the purpose of devising or executing a scheme or artifice to defraud, and the loss, damage, value of services, or thing of value taken, or cost of restoration or repair was more than one thousand dollars but less than twenty thousand dollars; in violation of §18-5.5-102(1)(b), C.R.S., and against the peace and dignity of the People of the State of Colorado.

COUNT SIX

Attempt To Influence A Public Servant, §18-8-306, C.R.S. (F4) **24051**

On or about and between March 1, 2013 and March 31, 2013, in the State of Colorado, **CHRISTOPHER HOUTCHENS**, unlawfully and feloniously attempted to influence Investigator Troy Arnold and or Special Agent Lance Ehrig, who are public servants, by means of deceit, with the intent thereby to alter or affect the public servants' decisions, votes, opinions, or actions concerning any matters which were to be considered or performed by the public servants or the agency or body of which the public servants were a member; in violation of §18-8-306, C.R.S. (F4), and against the peace and dignity of the People of the State of Colorado.

The offenses alleged in Counts One through Six incorporate the above mentioned facts and were committed in the following manner in the State of Colorado:

In 2010 legislation called "The Colorado Waste Tire Management Act" ("CWTM Act") consolidated all waste tire programs under the Colorado Department of Public Health and Environment ("CDPHE"). Subsequently, a "Waste Tire Advisory Committee" was created to assist in accomplishing the goals of the CWTM Act.

The Waste Tire Advisory Committee consists of nine members, with one coming from the CDPHE and the other eight members appointed by the Governor. The remaining eight members are drawn from each of the following categories: law enforcement from jurisdictions that have a waste tire facility; local fire authorities that have a waste tire facility within their jurisdiction; tire retailers; tire end users; tire manufacturers; waste tire haulers; waste tire processors; and waste tire monofills. The Colorado Waste Tire Advisory Committee's duties include providing technical advice to the CDPHE regarding specific waste tire issues such as waste tire disposal, storage, and transportation and waste tire related funding. The Committee is specifically required to:

- (a) Develop sound enforcement practices and risk mitigation practices to prevent the loss of life, and harm to property and the environment caused by waste tires;
- (b) Prevent the illegal transportation and disposal of waste tires;
- (c) Develop markets for tire-derived products; and
- (d) Provide a long-term plan to reduce waste tire stockpiles and a waste tire market development plan.

Fees attached to the sale of every tire in the state are used for the disposal, recycling and reuse programs, thus, among other things, helping meet the requirements of reducing waste tire stockpiles and by also encouraging a market development plan. In May of 2012, the "Waste Tire Processor and End User Program" was enacted requiring waste tire recycling product be sold to an end user. The Colorado Department of Public Health and Environment utilized this "Waste Tire Processor and End User Reimbursement Program" to incentivize the reuse and recycling of waste tires. This "Waste Tire Processor and End User Reimbursement Program" provides weight based financial reimbursements that vary with the market, to companies who process and provide an end use for recycled or waste tires.

Throughout 2012, Christopher Houtchens, the owner of Colorado Tire Solutions, Inc., served as a member as the representative for waste tire haulers on this very same Governor appointed Waste Tire Advisory Committee.

Between May of 2012 and December of 2012, Mr. Houtchens individually, and acting as a high managerial agent of Colorado Tire Solutions, Inc., engaged in a scheme or artifice to steal money and defraud public servants in the CDPHE by falsely claiming and or inflating waste tire tonnage on reimbursement related documents that were legally fileable with CDPHE. Through the use of forged documents, phone calls, computers, fake email accounts and fraudulent emails, Mr. Houtchens committed these acts of theft and deceived public servants of CDPHE into issuing reimbursements under the Waste Tire Processor and End User Reimbursement Program in an amount of money totaling \$17,107.82.

Furthermore, from July of 2012 until March of 2013, Mr. Houtchens individually, and acting as a high managerial agent of Colorado Tire Solutions, Inc., engaged in similar acts of forgery, computer crime, attempted theft and deceit in attempts to influence the public servants of CDPHE in hopes of receiving more reimbursement funds. Mr. Houtchens individually and acting through his

corporation attempted to commit this theft by supplying false documentation to acquire a reimbursement in an amount exceeding \$20,000. Due to discrepancies in documentation, emails and phone correspondence, the representatives of CDPHE participating in the reimbursement program refused to issue any payment and requested to speak to Mr. Houtchens to clear up the oddities in his submissions.

Upon communicating with CDPHE officials, Mr. Houtchens, as owner of Colorado Tire Solutions, Inc., explained that his falsely claimed shipments of waste tire material were transported by Reyes Trucking to Arizona and sold to Sunrise Barricade and Safety, a Phoenix based company, who in turn sold their supply to a company in Mexico. When CDPHE asked Mr. Houtchens to supply information related to the previously described business transactions, Mr. Houtchens changed his story multiple times, and in the end, falsely claimed all transactions were done in cash, by money order or by cashier's check. Shortly thereafter, officials from CDPHE again confronted Mr. Houtchens on his reimbursement claim and asked him to provide additional information including his banking documents and sale invoices from Sunrise Barricade. Mr. Houtchens then falsely stated that he lacked a bank account and therefore could not provide the requested banking information. Further, in responding to yet another CDPHE request for payment documents Mr. Houtchens also explained that he shredded the money orders for "tax reasons".

In March of 2013, Investigator Troy Arnold, of the Colorado Attorney General's Office and Special Agent Lance Ehrig, of the United States Environmental Protection Agency, Criminal Investigation Division, interviewed Mr. Houtchens about the above mentioned fraudulent activity. At first Mr. Houtchens repeated his deceitful story he told to CDPHE officials. However, after being confronted with documents and evidence which conflicted with his deceitful version of events, Mr. Houtchens eventually confessed to his fraudulent schemes. During these admissions, Mr. Houtchens complained that he had to commit the recycling reimbursement fraud as other waste tire recyclers were cheating CDPHE as well. In fact, Mr. Houtchens justified his crimes with an excuse using words to the effect of, "It's ok to break the rules because everybody else is breaking the rules."