

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
THE PEOPLE OF THE STATE OF COLORADO v. JAMES JOSEPH DURAN, (D.O.B. 4/1/1966) TRI STATE ENVIRONMENTAL GROUP AFTERMATH CLEANUP & REMEDIATION SERVICES, LLC ALTITUDE ENVIRONMENTAL SERVICES, LLC Defendants	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
JOHN W. SUTHERS, Attorney General MICHAEL W. MELITO* Senior Assistant Attorney General 1525 Sherman Street, 7 th Floor Denver, CO 80203 303-866-5738 Registration Number: 36059 *Counsel of Record	Grand Jury Case No.: 12CR01 Ctrm: 209
COLORADO STATE GRAND JURY INDICTMENT	

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 1: CAUSING OR CONTRIBUTING TO A HAZARDOUS SUBSTANCE INCIDENT, §29-22-108(1), C.R.S. (F4){53EAA}**
- COUNT 2: HEALTH-AIR POLLUTION-GENERAL PROVISION, §25-7-122.1(1), C.R.S. (M){53071}**
- COUNT 3: ATTEMPT TO INFLUENCE A PUBLIC SERVANT, §18-8-306, C.R.S. (F4) {24051}**
- COUNT 4: THEFT - \$1,000 to \$20,000, §18-4-401(1),(2)(c), C.R.S. (F4) {0801U}**
- COUNT 5: THEFT - \$20,000 OR MORE, §18-4-401(1),(2)(d), C.R.S. (F3) {0801V}**
- COUNT 6: THEFT - \$20,000 OR MORE, §18-4-401(1),(2)(d), C.R.S. (F3) {0801V}**

INDEX OF COUNTS

Defendant	Charges
JAMES JOSEPH DURAN	1, 2, 3, 4, 5, 6
TRI STATE ENVIRONMENTAL GROUP	1, 2, 5
AFTERMATH CLEANUP & REMEDIATION SERVICES, LLC	1, 2, 4
ALTITUDE ENVIRONMENTAL, LLC	6

COUNT ONE:

CAUSING AND CONTRIBUTING TO A HAZARDOUS SUBSTANCE INCIDENT - § 29-22-108,
C.R.S. (F4)

On or about and between January 5, 2009 and October 1, 2012, **James Joseph Duran, Aftermath Cleanup & Remediation Services, LLC and Tri State Environmental Group**, in the State of Colorado did unlawfully and intentionally cause or substantially contribute to the occurrence of a hazardous substance incident in violation of §29-22-108(1), C.R.S. (F4) and against the peace and dignity of the People of the State of Colorado.

COUNT TWO:

VIOLATION OF THE COLORADO AIR QUALITY CONTROL ACT - § 25-7-122.1(1)(b), C.R.S.
(UM)

On or about and between January 5, 2009 and October 1, 2012, **James Joseph Duran, Aftermath Cleanup & Remediation Services, LLC and Tri State Environmental Group**, in the State of Colorado, did unlawfully and knowingly violate a requirement or prohibition of an applicable emission regulation of the Colorado Air Quality Control Commission, state implementation plan, or regulation, and/or permit in violation of §25-7-122.1(1)(b), C.R.S. (UM) and knowingly concealed the violation until on or about July 1, 2012; and against the peace and dignity of the People of the State of Colorado.

COUNT THREE

ATTEMPT TO INFLUENCE A PUBLIC SERVANT, §18-8-306, C.R.S. (F4)

On or about and between February 1, 2013 and February 15, 2013, **James Joseph Duran**, unlawfully and feloniously attempted to influence Investigator Troy Arnold, a peace officer with the Office of the Colorado Attorney General who is a public servant, by means of deceit, with the intent thereby to alter or affect the public servant's decision, vote, opinion, or action concerning a matter which was to be considered or performed by the public servant or the agency or body of which the public servant was 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

THEFT - \$1000 to \$20,000 §18-4-401(1),(2)(c), C.R.S. (F4)

On or about and between February 20, 2009 and September 31, 2009 in the State of Colorado, and discovered on or about July 26, 2013, **James Joseph Duran and Aftermath Cleanup & Remediation Services, LLC**, unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: money of Wendy Rauh, with a value of more than one thousand dollars but less than twenty thousand dollars, without authorization, or by threat or deception, and intended to deprive Wendy Rauh, permanently of its use or benefit; in violation of §18-4-401(1)(a),(2)(c), C.R.S. (F4), and against the peace and dignity of the People of the State of Colorado.

COUNT FIVE

THEFT - \$20,000 OR MORE, §18-4-401(1),(2)(d), C.R.S. (F3)

On or about and between March 31, 2011 and July 31, 2012, in the State of Colorado, **James Joseph Duran and Tri State Environmental Group**, unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: money and or services of American Demolition, Inc., ACC Construction and or Dennis Olivas, with a value of more than twenty thousand dollars, without authorization, or by threat or deception, and intended to deprive the American Demolition, Inc., ACC Construction and or Dennis Olivas, permanently of its use or benefit; in violation of §18-4-401(1)(a),(2)(d), C.R.S. (F3), and against the peace and dignity of the People of the State of Colorado.

COUNT SIX

THEFT - \$20,000 OR MORE, §18-4-401(1),(2)(d), C.R.S. (F3)

On or about and between September 1, 2012 and January 31, 2013, in the State of Colorado, **James Joseph Duran and Altitude Environmental, LLC**, unlawfully, feloniously, and knowingly obtained or exercised control over a thing of value, namely: money and or services of American Demolition, Inc., Dennis Olivas, Herron Enterprises, Christy Herron and or Lenny Herron, with a value of more than twenty thousand dollars, without authorization, or by threat or deception, and intended to deprive American Demolition, Inc., Dennis Olivas, Herron Enterprises, Christy Herron and or Lenny Herron, permanently of its use or benefit; in violation of §18-4-401(1)(a),(2)(d), C.R.S. (F3), 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 State of Colorado in the following manner and include all lesser included and inchoate offenses:

1. From January of 2009 until December of 2012 James Joseph Duran, owner of Aftermath Cleanup & Remediation Services, LLC, Tri State Environmental Group and Altitude Environmental, LLC, and the aforementioned business entities engaged in asbestos abatement projects throughout the Front Range of Colorado. Mr. Duran and his companies illegally deposited asbestos containing waste material (“ACWM”) in both Arapahoe County and Weld County, Colorado. ACWM is a hazardous substance.
2. Throughout the course of his crimes, Mr. Duran, acted in a capacity of owner and high managerial agent for Aftermath Cleanup & Remediation Services, LLC (“Aftermath”), Tri State Environmental Group (“Tri State”) and Altitude Environmental, LLC, (“Altitude”). By dumping and abandoning the below described ACWM wastes from January of 2009 until October of 2012 without proper safety procedures being employed, Mr. Duran and his companies, Aftermath and Tri State, intentionally caused or substantially contributed to the occurrences of hazardous substance incidents. Moreover, Mr. Duran, Aftermath and Tri State, all unlawfully and knowingly violated requirements or prohibitions of an applicable emission regulation of the Colorado Air Quality Control Commission, state implementation plan, or regulation, and/or permit. Furthermore, by obtaining money and services through acts of deceit Mr. Duran and his three business entities committed acts of theft against fellow contractors and at least one customer.
3. Starting in January of 2009, Mr. Duran and his company, Aftermath Cleanup & Remediation Services, LLC, repeatedly and illegally disposed of ACWM in Arapahoe County, Colorado. Mr.

Duran and Aftermath Cleanup & Remediation Services, LLC, engaged in behaviors that violated Colorado Department of Public Health and Environment (“CDPHE”) Regulation 8 Part B. These violations included, but were not limited to, the illegal storage of ACWM for over 6 months at a property that was neither a General Abatement Contractor’s property nor the property site where the project took place. Additionally, at the Arapahoe County site, a number of bags containing the ACWM waste were in a damaged condition because improper disposal methods had been employed by Mr. Duran. Moreover, Mr. Duran failed to affix “generator labels” to each bag of ACWM waste at the Arapahoe County site and also failed to maintain and or properly complete the manifests necessary for proper disposal of that same ACWM. Further, the roll off container used by Mr. Duran to dispose of the ACWM remained unlocked and in an area accessible to the public. In fact, conventional trash, including but not limited to tires and other waste unrelated to construction had been found thrown on top of the ACWM waste within the container. Lastly, James Duran and Aftermath knowingly concealed the above described violations until law enforcement and Colorado Department of Public Health and Environment officials discovered them on or about July 1, 2012. The roll off dumpsters containing ACWM and abandoned by Mr. Duran and Aftermath, were eventually recovered by Waste Management. Waste Management has yet to receive payment for their roll off container’s use or the disposal of the ACWM.

4. In April of 2011, Mr. Duran and his corporation Tri State Environmental Group engaged in an asbestos abatement project in Weld County, Colorado. The project involved the removal of asbestos containing material from old dormitories (also known as “the Villa”) prior to a final demolition phase. Mr. Duran and Tri State Environmental unlawfully and knowingly violated requirements or prohibitions of Regulation 8 part B of the Colorado Air Quality Control Commission. Following the abatement project, Mr. Duran acting as owner and high managerial agent of Tri State Environmental Group, Inc. stored the ACWM for over 6 months. The violations by Mr. Duran and Tri State Environmental Group also include, but were not limited to, failing to maintain or properly complete manifests necessary for proper disposal of the ACWM. Further, a roll off container used by Mr. Duran and Tri State Environmental Group to dispose of the ACWM remained unlocked and in an area accessible to the public. Lastly, James Duran and Tri State Environmental Group knowingly concealed the above described violations until law enforcement and CDPHE officials discovered them on or about July 1, 2012. The roll off dumpsters containing ACWM and abandoned by Mr. Duran and Tri State, were eventually recovered by Waste Management. Waste Management has yet to receive payment for their roll off container’s use or the disposal of the ACWM.

5. During February of 2009, Mr. Duran acting as owner and high managerial agent of Aftermath Cleanup & Remediation Services, LLC, contracted with Wendy Rauh to perform an abatement of asbestos containing material surrounding the boiler in her house. Ms. Rauh’s house is located in Windsor, Colorado. Ms. Rauh paid Mr. Duran and Aftermath approximately \$2500 for both the abatement and proper disposal of the ACWM. Mr. Duran employed deceit when contracting with Ms. Rauh, as he did not actually plan to properly dispose of the ACWM. Instead, Mr. Duran acting through Aftermath, removed the ACWM and placed it in a roll off garbage dumpster, later abandoning it. The improper disposal and theft perpetrated against Ms. Rauh were discovered July 26, 2013.

6. On February 11, 2013 Investigator Troy Arnold, a public servant working in the Environmental Crimes Unit of the Office of the Colorado Attorney General interviewed Mr. Duran (via phone from Denver) about the above mentioned roll off containers that had been abandoned in Weld County and Arapahoe County. When questioned about the roll off dumpsters containing ACWM, Mr. Duran made deceitful statements to Investigator Arnold including but not limited to:

1) The demolition contractor, American Demolition, Inc. (also known as ACC Construction which was doing business as ADI Services), used Mr. Duran's Waste Management profile number, fraudulently and without Mr. Duran's knowledge, for the disposal of demolition waste for "the Villa" at a Waste Management disposal facility;

2) That as a result of the fraudulent profile number use by ACC, Mr. Duran had been billed by Waste Management for the disposal of the demolition waste which should have been paid by ACC;

3) and: That Waste Management was civilly pursuing American Demolition, Inc. (also known as ACC Construction which was doing business as ADI Services) because of the fraudulent use of Mr. Duran's Waste Management profile number.

7. From March of 2011 until July of 2011, Mr. Duran received nearly \$335,000.00 in payments from Greeley Realty Investors, LLC (also known as Capital Street Investments) for a contract for asbestos abatement, demolition and disposal of all buildings and contents of "the Villa." Mr. Duran and his company Tri State hired American Demolition, Inc., (owned by Dennis Olivas) as a subcontractor for the demolition and disposal of waste material from "the Villa" for \$230,000.00. At all relevant times, Mr. Duran, acting as owner and high managerial agent of Tri State, failed to hold this money in trust for the payment of his subcontractor, labor supplier, or laborers who furnished services or labor. Mr. Duran intentionally chose not to pay American Demolition, Inc., ACC Construction and their owner Dennis Olivas over \$50,000.00 of the money Duran and his company owed. American Demolition, Inc. and its owner Dennis Olivas then placed a lien against the property known as "Villas" for their demolition services.

8. Between September and October of 2012, Lenny Herron and his company Herron Enterprises worked on an asbestos abatement and demolition contract with the City of Littleton. The contract, in part, called for the demolition and disposal of ACWM from certain structures located in Littleton, Colorado. Mr. Herron through his company Herron Enterprises subcontracted the asbestos abatement and demolition to James Duran and his company Altitude, paying both Mr. Duran and Altitude in full for both the abatement and demolition services. Mr. Duran, acting as owner and high managerial agent of Altitude, in turn, hired Dennis Olivas and American Demolition, Inc., to perform the abatement and demolition labor/services. At all relevant times, Mr. Duran, acting as owner and high managerial agent of Altitude, failed to hold this money in trust for the payment of his subcontractor, labor supplier, or laborers who furnished services or labor including Dennis Olivas and American Demolition. Despite having received full payment from Mr. Herron and Herron Enterprises, Mr. Duran intentionally chose not to pay American Demolition, Inc., and its owner Dennis Olivas approximately \$22,000.00 of the money he owed for the completed demolition and ACWM disposal services. After Mr. Herron and his wife Christy confronted Mr. Duran over the failure to pay Mr. Olivas and American Demolition, Mr. Duran agreed to sign two promissory notes and borrow over \$20,000 from Christy Herron to cover the payment due to Mr. Olivas and American Demolition. After Mr. Duran personally, and on behalf of Altitude, signed the notes, he failed to make any payments to Mrs. Herron.