

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Criminal Case 1:11-cr-00283-PAB

UNITED STATES OF AMERICA,

Plaintiff,

vs.

1. ROBERT T. McALLISTER,
2. RICHARD C. NEISWONGER,
3. SHANNON NEISWONGER, and
4. ELIZABETH WHITNEY

Defendants.

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**FIRST SUPERSEDING INDICTMENT**

Cts. 1 & 20: Conspiracy, 18 U.S.C. §§ 371 & 1349

Cts. 2-4 & 21-26: 18 U.S.C. §§ 2 & 1343

Cts. 5-7 & 27: 18 U.S.C. §§ 2 & 2314

Cts. 8-19: 18 U.S.C. §§ 2 & 1957

Ct. 28: 18 U.S.C. §§ 2 & 157

Ct. 29: 18 U.S.C. §§ 2 & 152(1)

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THE GRAND JURY CHARGES:

At all times material to this indictment:

**Introduction**

- 1) Defendant ROBERT T. McALLISTER was an attorney licensed

to practice law by the State of Colorado.

2) Defendant RICHARD C. NEISWONGER was a resident of Las Vegas, Nevada who marketed and sold business training courses and affiliations to consumers throughout the United States, including Missouri.

3) Defendant SHANNON NEISWONGER was the wife of RICHARD C. NEISWONGER and was signatory over and controlled certain financial accounts including, the Rishne Limited Partnership account, and Admark, Inc., account. Prior to her marriage to RICHARD C. NEISWONGER, she went by the name Shannon Schaffer.

4) Defendant ELIZABETH WHITNEY was a business associate of ROBERT T. McALLISTER, in McCallister Properties, LLC, and assisted him in acquiring and flipping real estate and holding and transferring money as directed by McALLISTER.

5) The Federal Trade Commission ("FTC") is an agency of the United States created in 1914, initially to prevent unfair methods of competition in commerce. Over the years, Congress has extended the jurisdiction of the FTC to police anti-competitive and unfair and deceptive acts or practices, to protect consumers.

6) In 1996 the FTC brought an action against RICHARD C.

NEISWONGER in the United States District Court for the Eastern District of Missouri, Eastern Division, St. Louis, to obtain preliminary and permanent injunctive and other relief for the injury resulting from NEISWONGER's deceptive business acts and practices. NEISWONGER entered into a Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief in the FTC Action.

7) On July 17, 2006, the FTC filed a civil contempt action against NEISWONGER alleging, among other things, that NEISWONGER had violated the Permanent Injunction by marketing training and business opportunities through misrepresentations. The same day, Judge Limbaugh, United States District Court Judge for the Eastern District of Missouri, entered a Temporary Restraining Order ("TRO"). The TRO included an "ASSET FREEZE" provision which prohibited RICHARD C. NEISWONGER "from directly or indirectly" transferring, concealing or "otherwise disposing" of any assets.

8) On July 25, 2006, Defendant ROBERT T. McALLISTER entered into a Stipulation with the FTC on behalf of RICHARD C. NEISWONGER, that the TRO of July 17, 2006, would remain in full force and effect. Thereafter McALLISTER represented both RICHARD and

SHANNON NEISWONGER.

***THE SCHEME & CONSPIRACY***

9) Within ten days of the entry of the TRO freezing the assets of RICHARD C. NEISWONGER, the defendants ROBERT T. McALLISTER, RICHARD C. NEISWONGER and SHANNON NEISWONGER began to circumvent the TRO by surreptitiously transferring money to defendant ROBERT T. McALLISTER, from accounts over which SHANNON NEISWONGER had control, to conceal from the FTC and the court of the Eastern District of Missouri that the TRO was intentionally being violated.

10) In furtherance and execution of this conspiracy, the defendants and others at their direction, committed overt acts to affect the object of said conspiracy including, but not limited to, SHANNON NEISWONGER wire transferring moneys using accounts under her control, including the Rishne Limited Partnership account, and Admark, Inc., account. These transfers were made to ROBERT T. McALLISTER's COLTAF account, (Colorado Lawyer Trust Account Foundation).

**COUNT 1**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS**  
**371& 1349**  
**THE CONSPIRACY:**

11) Paragraphs 1 through 10 are incorporated herein by reference.

12) Beginning in at least 2006, the precise date being unknown to the grand jury, and continuing into 2011, the defendants herein,

**ROBERT T. McALLISTER**  
**RICHARD C. NEISWONGER**  
**SHANNON NEISWONGER, and**  
**ELIZABETH WHITNEY**

combined, conspired, confederated and agreed to commit offenses against the United States of America, and to defraud the United States, and any agency thereof, in any manner and for any purpose, in the District of Colorado and elsewhere, that is:

A) to interfere with and obstruct one of the lawful government functions of the FTC to enforce orders and judgments and protect the public and preserve assets through TRO's, which the defendants accomplished by dishonesty, deceit, craft and trickery;

B) to commit wire fraud, in violation of Title 18, United States Code, Sections 2 & 1343.

C) to transport in interstate commerce money that had been stolen converted and taken by fraud, in violation of Title 18, United States Code, Sections 2 & 2314.

D) to engage in monetary transactions in property derived from

specific unlawful activity, in violation of Title 18, United States Code, Sections 2 & 1957.

13) In furtherance and execution of the objects of said conspiracy and scheme to defraud, the defendants and conspirators committed overt acts, including, but not limited to, those specified in paragraph 10 above and the substantive offenses listed hereinafter.

**COUNTS 2-4**  
**WIRE FRAUD, IN VIOLATION OF TITLE 18, UNITED STATES CODE,**  
**SECTIONS 2 & 1343**

14) Paragraphs 1 through 13 are incorporated herein by reference.

15) Having devised the aforesaid scheme and artifice to defraud, in the District of Colorado and elsewhere, the defendants,

**ROBERT T. McALLISTER**  
**RICHARD C. NEISWONGER**  
**and**  
**SHANNON NEISWONGER**

for the purpose of executing the aforesaid scheme and artifice, and attempting so to do, knowingly caused to be transmitted by means of wire, radio and television communication in interstate commerce into Colorado, certain signs, signals, pictures and sounds, to wit: wire bank transmissions

as follows:

Count	Date	Amount
2	July 27, 2006	\$200,000
3	August 1, 2006	\$714,137.65
4	September 18, 2006	\$173,698.34

**COUNTS 5 - 7**  
**INTERSTATE TRANSPORTATION OF MONEY STOLEN CONVERTED**  
**AND TAKEN BY FRAUD**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS**  
**2 & 2314**

16) Paragraphs 1 through 15 are incorporated herein by reference.

17) On or about the dates set forth below, in the District of Colorado and elsewhere, the defendants,

**ROBERT T. McALLISTER**  
**RICHARD C. NEISWONGER**  
**and**  
**SHANNON NEISWONGER**

did unlawfully transport, transmit and transfer in interstate commerce, into the State of Colorado, money of the value of \$5,000 or more, knowing the same to have been stolen, converted and taken by fraud:

Count	Date	Amount
5	July 27, 2006	\$200,000
6	August 1, 2006	\$714,137.65
7	September 18, 2006	\$173,698.34

### **Money Laundering Transactions In Proceeds**

18) Defendant ROBERT T. McALLISTER maintained a number of bank accounts at Citywide, Denver Colorado, the accounts of which are insured by the Federal Deposit Insurance Corporation, including a client trust account COLTAF, ending in 0410; a Robert T. McAllister P.C. account ending in 7353; a Steamboat Skyglass account ending in 1237; an Elizabeth Whitney - Robert T. McAllister account ending in 7136; an RJ McDady account ending in 0226; and a McAllister Properties account ending in 0399.

19) By September of 2006, Defendants RICHARD C. and SHANNON NEISWONGER had transmitted \$1,087,835.99 to Defendant ROBERT T. McALLISTER'S COLTAF account in Colorado (Colorado Lawyer Trust Account Foundation) .

20) Through a series of monetary transactions as more specifically set forth below in Paragraph 22, defendant ROBERT T. McALLISTER provided defendant ELIZABETH WHITNEY with \$572,502.38 from the



\$1,087,835.99, which WHITNEY used as down payment for a residence purchased from defendant ROBERT T. McALLISTER on Kelsie Court in Clark, Colorado. Additionally, ELIZABETH WHITNEY, with the knowledge and approval of McALLISTER, materially falsified a Uniform Residential Loan Application stating that she was employed by McAllister Properties, LLC, with a monthly income of \$39,728. Moreover, WHITNEY falsified the purpose for the acquisition of the real estate indicating that it was the “Primary Residence” of the borrower.

**Counts 8-19**  
**ENGAGING IN MONETARY TRANSACTIONS**  
**IN PROPERTY DERIVED FROM SPECIFIED UNLAWFUL ACTIVITY**  
**IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2 &**  
**1957**

21) Paragraphs 1 through 20 are incorporated herein by reference.

22) On or about the dates set forth below, in the District of Colorado and elsewhere, the defendants,

**ROBERT T. McALLISTER and**  
**ELIZABETH WHITNEY**

knowingly and wilfully engaged and attempted to engage in monetary transactions affecting interstate or foreign commerce, that is, transfers by,

through and to a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, of criminally derived property of a value greater than \$10,000, such property having been derived from the specified unlawful activity of wire fraud, as set forth in Counts 2 - 4, in violation of Title 18, United States Code, Sections 2 & 1343; and, interstate transportation of money that had been stolen converted and taken by fraud, as set forth in Counts 5 - 7, in violation of Title 18, United States Code, Sections 2 & 2314, as follows:

Count	Date	Transaction
8	July 27, 2006	Transfer of \$200,000 from COLTAF account 0410, to McAllister's PC account 7353
9	August 4, 2006	Transfer of \$714,137.65 from COLTAF account 0410, to McAllister's PC account 7353
10	August 17, 2006	Transfer of \$100,000 from McAllister's PC account 7353, to McAllister Properties account 0399
11	August 30, 2006	Transfer of \$204,221 from McAllister's PC account 7353, to RJ McDady account 0226
12	August 30, 2006	Transfer of \$204,221 from RJ McDady account 0226, to McAllister Properties account 0399
13	August 30, 2006	Transfer of \$198,112 from McAllister's PC account 7353, to Whitney- McAllister account 7136
14	August 30, 2006	Transfer of \$198,112 from Whitney McAllister

		account 7136 to McAllister Properties account 0399
15	August 30, 2006	Transfer of \$210,000.42 from McAllister's PC account 7353, to McAllister Properties account 0399
16	September 8, 2006	Transfer of \$572,522.38 from McAllister Properties 0399, to Whitney McAllister account 7136
17	September 8, 2006	Transfer of \$572,502.38 from Whitney McAllister account 7136, to account of Title America
18	September 8, 2006	Transfer of \$171,500 from Title America to McAllister Properties 0399
19	September 8, 2006	Transfer of \$644,752.02 from Title America to McAllister Properties 0399

### **THE SECOND CONSPIRACY**

23) Commencing sometime in 2007, the precise date being unknown to the grand jury, ROBERT T. McALLISTER and ELIZABETH WHITNEY collaborated to conceal the fact that they had embezzled the more than \$1 million that had been unlawfully transferred to McALLISTER, in violation of the order of Judge Limbaugh prohibiting RICHARD C. NEISWONGER from directly or indirectly transferring, concealing or otherwise disposing of any assets. See Paragraph 8, above. This concealment included submitting a false and fraudulent Trust Account

Summary and bank statements to the NEISWONGERS via wire transfers.

24) Specifically up until October of 2006 McALLISTER had maintained an account, Robert T. McAllister PC Account II, Account number ending in 7353 at Citywide Banks, Denver, Colorado. This account contained no funds after October of 2006. The defendants ROBERT T. McALLISTER and ELIZABETH WHITNEY created bank statements through a cut and paste process which falsely represented that between July 31, 2007 and June 30, 2010, there was between \$900,135.66 to \$1,006,102, in the account and earning interest. These false representations were made to deceive the NEISWONGERS into believing that money transferred by them to McALLISTER was in a trust as McALLISTER had promised.

25) Sometime in 2007, the precise date being unknown to the grand jury, the NEISWONGERS requested the return of moneys they had transferred to McALLISTER. Because McALLISTER had embezzled these moneys to invest in projects and properties that he and ELIZABETH WHITNEY were involved with, McALLISTER had to resort to various contrivances to make payments back to the NEISWONGERS. These contrivances included embezzlement of moneys from one of

McALLISTER's law clients and concocting a scheme to commit bankruptcy fraud through the filing of false and fraudulent bankruptcy petitions in an attempt to manipulate the bankruptcy court into ordering a contingent fee due McALLISTER, to be paid to SHANNON NEISWONGER under false and fraudulent pretenses.

**COUNT 20**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS**  
**371 & 1349**  
**THE CONSPIRACY:**

26) Paragraphs 1 through 25 are incorporated herein by reference.

27) Beginning in at least 2006, the precise date being unknown to the grand jury, and continuing into 2011, the defendants herein,

**ROBERT T. McALLISTER, and**  
**ELIZABETH WHITNEY**

combined, conspired, confederated and agreed to commit offenses against the United States of America, and to defraud the United States, and any agency thereof, in any manner and for any purpose, in the District of Colorado and elsewhere, that is:

A) to commit wire fraud, in violation of Title 18, United States Code, Sections 2 & 1343.

B) to transport in interstate commerce money that had been stolen converted and taken by fraud, in violation of Title 18, United States Code, Sections 2 & 2314.

C) to engage in bankruptcy concealment and bankruptcy fraud in violation of Title 18, United States Code, Sections 2, 152(1) & 157.

C) to engage in monetary transactions in property derived from specific unlawful activity, in violation of Title 18, United States Code, Sections 2 & 1957.

28) In furtherance and execution of this scheme and conspiracy, the defendants and others at their direction, committed overt acts to affect the object of said conspiracy including, but not limited to, the following substantive offenses, and Counts 8 through 19.

**COUNTS 21-26**  
**WIRE FRAUD, IN VIOLATION OF TITLE 18, UNITED STATES CODE,**  
**SECTIONS 2 & 1343**

29) Paragraphs 1 through 28 are incorporated herein by reference.

30) Having devised the aforesaid scheme and artifice to defraud, in the District of Colorado and elsewhere, the defendants,

**ROBERT T. McALLISTER, and**  
**ELIZABETH WHITNEY**

for the purpose of executing the aforesaid scheme and artifice, and

attempting so to do, knowingly caused to be transmitted by means of wire, radio and television communication in interstate commerce from Colorado, certain signs, signals, pictures and sounds, to wit: facsimiles of Trust Account Summary and bank statements, on or about the following dates:

Count	Date	Type of Transmission
21	March 20, 2007	Legal Service Billing from Robert T. McAllister to Richard Neiswonger, 9509 Verland Ct., Las Vegas, NV 89145, with "Trust Account Summary" which falsely represents a "Balance of Client Funds" in the amount of \$1,047,835.99.
22	August 13, 2007	Bank Statement on Account 7353, falsely representing that there was an ending balance of \$1,006,102.54
23	March 31, 2008	Bank Statement on Account 7353, falsely representing that there was an ending balance of \$1,018,114.01
24	October 31, 2008	Bank Statement on Account 7353, falsely representing that there was an ending balance of \$ 995,483.63
25	August 28, 2009	Bank Statement on Account 7353, falsely representing that there was an ending balance of \$ 917,399.32
26	July 14, 2010	Bank Statement on Account 7353, falsely representing that there was an ending balance of \$ 900,135.66

**McAllister's Client Terry K. Vickery**

31) Defendant ROBERT T. McALLISTER represented Terry K. Vickery, a respondent in a lawsuit filed in Jefferson County, Colorado. On September 22, 2010, District Court Judge Stephen M. Munsinger ordered that all assets and interest of Vickery were to be surrendered and held in trust for the plaintiff in the action. In October, 2010, in violation of this order, Mr. Vickery transferred approximately \$100,000 to ROBERT T. McALLISTER'S COLTAF account. McALLISTER was fully aware of the freeze order. Nonetheless, within a matter of days McALLISTER was involved in another illegal transfer when he wrote a check for \$80,307, to fund a cashier's check payable to Shannon Schaffer (defendant SHANNON NEISWONGER) who had been demanding the return of money transferred earlier to McALLISTER, which he represented would be held in trust.

**COUNT 27**  
**INTERSTATE TRANSPORTATION OF MONEY STOLEN CONVERTED**  
**AND TAKEN BY FRAUD**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 2 &**  
**2314**

32) Paragraphs 1 through 31 are incorporated herein by reference.

31) On or about the dates set forth below, in the District of



Colorado, and elsewhere, the defendants,

**ROBERT T. McALLISTER, and  
ELIZABETH WHITNEY**

did unlawfully transport, transmit and transfer in interstate commerce, from the State of Colorado, money of the value of \$5,000 or more, knowing the same to have been stolen, converted and taken by fraud:

Count	Date	Amount
27	October 4, 2010	Cashier's Checks for \$80,300 payable to Shannon Schaffer (defendant SHANNON NEISWONGER).

**COUNT 28**  
**BANKRUPTCY FRAUD**  
**A VIOLATION OF 18, UNITED STATES CODE, SECTIONS 157 & 2**

34) Paragraphs 1 through 33 are incorporated herein by reference.

35) On or about March 11, 2011, in the District of Colorado, the defendants,

**ROBERT T. McALLISTER, and  
ELIZABETH WHITNEY**

having devised and intending to devise a scheme and artifice to defraud, and for the purpose of executing and concealing such scheme and artifice and attempting so to do, filed and caused to be filed a Chapter 11 Bankruptcy Petitions in the United States Bankruptcy Court for the District

of Colorado, in the name of the debtor Robert T. McAllister, P.C., Case Number 11-15008-SBB and Robert T. McAllister, Case number 11-15009-SBB.

36) It was part of this scheme and artifice to defraud that the defendants filed with his cases a Statement of Financial Affairs and in paragraph "6. Assignments and receiverships" identified a \$341,250 contingency fee as being in the custody of the Clerk of the District Court for the City and County of Denver, State of Colorado.

37) It was part of this scheme and artifice to defraud that the defendants falsely identified Shannon Shaffer, 8738 Cypress Reserve Circle, Orlando, Florida, as the largest secured creditor of Robert T. McAllister, P.C., and having as a claim the amount of \$682,030.

38) It was part of this scheme and artifice to defraud that in Schedule D to the Chapter 11 Petition of Robert T. McAllister, P.C., the defendants identified Shannon Shaffer as having an assignment of a security interest in the contingency fee in the amount of \$341,250.

39) It was part of this scheme and artifice to defraud that this Chapter 11 Petition was filed as a contrivance to manipulate the power and authority of the bankruptcy court to order a contingency fee in the

amount of \$341,250 be paid to a “Shannon Shaffer”, when in truth and in fact as the defendants full well knew, the “Shannon Shaffer” identified in the petition and schedules was an intentionally deviated spelling of Shannon Schaffer, a name used by SHANNON NEISWONGER prior to her marriage to RICHARD NEISWONGER, and was not in fact a bona fide secured creditor of McALLISTER.

**COUNT 29**  
**CONCEALMENT OF ASSETS IN BANKRUPTCY**  
**A VIOLATION OF TITLE 18, UNITED STATES CODE, SECTIONS 152(1)**  
**& 2**

40) Paragraphs 1 through 39 are incorporated herein as though fully set forth.

41) When a bankruptcy petition under Chapter 11 is filed, the debtor is expected to make complete disclosure of his financial affairs in the Statement of Financial Affairs, and specifically in paragraph 10 to disclose all transfers taking place within two years immediately preceding the commencement of the case.

42) On or about March 11, 2011, in the District of Colorado, the defendants,

**ROBERT T. McALLISTER, and  
ELIZABETH WHITNEY**

knowingly and fraudulently concealed from a trustee, marshal and other officer of the court charged with the control or custody of property, and in connection with a case under Title 11, from creditors and the United States Trustee, a transfer of approximately \$100,000 in October 2010, from Mr. Vickery – a client of ROBERT T. McALLISTER – into his client trust account; and, a subsequent transfer of \$80,307 into McALLISTER's operating account; which funded a cashier's check for \$80,300 that was transferred to SHANNON NEISWONGER, who formerly used the name Shannon Schaffer, to whom the cashier's check was made payable.

**FORFEITURE NOTICE AND ALLEGATION**

43) Upon conviction of the offenses in violation of Title 18, United States Code, Sections 152(1), 1343, 1957 and 2314, and conspiracy to commit said offenses, the defendants

**ROBERT T. McALLISTER  
RICHARD C. NEISWONGER  
SHANNON NEISWONGER and  
ELIZABETH WHITNEY**

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) & Title 28 United States Code, Section

2461, any property, real or personal, which constitutes or is derived from proceeds obtained directly or indirectly as a result of such violations; and pursuant to Title 18, United States Code, Section 982(a)(1), and proceeds and property involved in the offense, including, but not limited to:

A. Money Judgment. A sum of money in excess of \$1,000,000, and equal to the amount of proceeds obtained as a result of the violations alleged herein, for which the defendants are jointly and severally liable.

B. In the event any of the foregoing property: i) cannot be located upon the exercise of due diligence; ii) is transferred, sold to, or deposited with, a third party; iii) is placed beyond the jurisdiction of the Court; iv) is substantially diminished in value; or, v) is commingled with other property which cannot be divided without difficulty, as a result of any act or omission of any defendant, the Court shall order the forfeiture of any other property of the defendants, up to the value of the property and proceeds derived.

A TRUE BILL

Ink signature on file in the Clerk's Office  
FOREPERSON

ERIC H. HOLDER, JR.  
ATTORNEY GENERAL OF THE UNITED STATES

&

BARRY R. GRISSOM, # 10866  
UNITED STATES ATTORNEY  
DISTRICT OF KANSAS  
[barry.grissom@usdoj.gov](mailto:barry.grissom@usdoj.gov)

by:

s/Richard L. Hathaway  
[rich.hathaway@usdoj.gov](mailto:rich.hathaway@usdoj.gov)

&

s/Christine E. Kenney  
[christine.kenney@usdoj.gov](mailto:christine.kenney@usdoj.gov)  
Special Attorneys  
444 SE QUINCY, SUITE 290  
TOPEKA, KS 66683  
Phone: (785) 295-2850  
Fax: (785) 295-2853