

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

MAY 18 2016

BY: Shelly Landwehr
SHELLY LANDWEHR, DEPUTY

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9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 STATE OF NEVADA,

Case No.: C-13-287915-1

Dept. No.: II

12 Plaintiff,

13 v.

14 WILLIAM GAYLER,

Defendant.

15
16 **AMENDED INDICTMENT**

17 The above named defendant, **WILLIAM GAYLER**, is accused by the Clark County Grand
18 Jury of the crimes of one (1) Count of **SECURITIES FRAUD**, a category "B" felony, in violation of
19 NRS 90.570. In Clark County, State of Nevada, as follows:

20 **COUNT I**

21 **SECURITIES FRAUD**

22 **Category "B" Felony – NRS 90.570, NRS 90.650**

23 Defendant, **WILLIAM GAYLER** (hereinafter, "**GAYLER**"), in the County of Clark, State of
24 Nevada, did feloniously and unlawfully, in connection with the offer to sell, sale, offer to purchase
25 or purchase of a security, directly or indirectly: employed a device, scheme or artifice to defraud;
26 and/or made an untrue statement of a material fact or omitted to state a material fact necessary
27 in order to make the statements made not misleading in the light of the circumstances under
28 which they are made; and/or engaged in an act, practice, or course of business which operates
or would operate as a fraud or deceit upon a person, to wit:

C-13-287915-1
AIND
Amended Indictment
4646121



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1 On or about May 2, 2005, **GAYLER** offered to sell and/or sold an interest in a limited
2 liability company pursuant to NRS 90.295 (the "Offer") to J. Colby Williams, John O'Brien, Ofer
3 Herzog, Donald Campbell, and Mario Borini, (together, the "Investors"). In offering to sell and/or
4 selling this membership interest to the Investors, **GAYLER** utilized one or more of the following
5 misrepresentations, omissions, and/or acts or practices which were fraudulent or deceitful:

6 **MATERIAL MISREPRESENTATIONS:**

- 7 • **GAYLER** misrepresented to the Investors that Diamante Rose would collect \$2,500,000
8 in investor capital contributions;
- 9 • **GAYLER** misrepresented to the Investors that investor capital contributions would be
10 used exclusively for Diamante Rose's business purposes;
- 11 • **GAYLER** misrepresented to the Investors that investors capital contributions would be
12 used to purchase the Property on behalf of Diamante Rose for the total cash price of
13 \$2,500,000;
- 14 • **GAYLER** misrepresented to the Investors that Diamante Rose would purchase the
15 Property out of a bankruptcy.

16 **MATERIAL OMISSIONS:**

- 17 • **GAYLER** did not disclose to the Investors that Diamante Rose would collect less than
18 \$2,500,000 in investor capital contributions;
- 19 • **GAYLER** did not disclose to the Investors that investor capital contributions would not be
20 used exclusively for Diamante Rose's purposes;
- 21 • **GAYLER** did not disclose to the Investors that investor capital contributions would be
22 used to purchase the Property on behalf of Lewis Cellars.

23 The Investors invested in Diamante Rose based upon the misrepresentations and/or
24 omissions **GAYLER** made when making the Offer. **GAYLER** did not collect \$2,500,000 in capital
25 contributions from the members of Diamante Rose. **GAYLER** converted funds received from
26 Diamante Rose investors to his own uses and/or to uses unrelated to Diamante Rose's
27 purposes. **GAYLER** used investor capital contribution to purchase the Property from bankruptcy
28 on behalf of Lewis Cellars rather than on behalf of Diamante Rose.

1 All of which constitutes the crime of **SECURITIES FRAUD**, a category "B" felony, in
2 violation of NRS 90.570 and NRS 90.650.

3 All of which is contrary to the form of the Statute in such cases made and provided, and
4 against the peace and dignity of the State of Nevada.

5 Dated this 8th day of May, 2016.

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7 SUBMITTED BY:

8 ADAM PAUL LAXALT
9 Attorney General

10 By:

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12 _____
13 SAMUEL R. KERN
14 Chief Deputy Attorney General
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