

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 11-cr-00376-WJM

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. EXECUTIVE RECYCLING, INC.,
2. BRANDON RICHTER, and
3. TOR OLSON,

Defendants.

INDICTMENT
18 U.S.C. § 1341
18 U.S.C. § 1343
42 U.S.C. § 6928(d)(4)
18 U.S.C. § 554
18 U.S.C. § 1519
18 U.S.C. § 2

The Grand Jury charges that:

INTRODUCTORY ALLEGATIONS

At all times material to this indictment:

1. The defendant EXECUTIVE RECYCLING, INC. (“ER”), was an electronic waste (“e-waste”) recycling business located in Englewood, Colorado, with affiliated locations in Utah and Nebraska. ER collected e-waste from private households, businesses, and governmental entities including hazardous e-waste. ER was registered with the Colorado Department of Public Health and Environment (“CDPHE”) as a Large

Quantity Handler of Universal Waste. Accordingly, the company was familiar with state regulations governing hazardous waste.

2. The defendant BRANDON RICHTER was the owner and chief executive officer of ER. His responsibilities included supervising company personnel, finances, marketing, customer relations, business development and the collection, processing and exporting of e-waste.

3. The defendant TOR OLSON was the vice-president of operations of ER. His responsibilities included running day-to-day business operations, business development, marketing, and the collection, processing and exporting of e-waste.

4. A significant portion of e-waste collected by the defendants ER, BRANDON RICHTER and TOR OLSON were Cathode Ray Tubes (“CRTs”). CRTs are the glass video display component of an electronic device, usually a computer or television monitor, and are known to contain lead.

5. The defendants ER, BRANDON RICHTER, and TOR OLSON engaged in the practice of exporting e-waste, including CRTs, from the United States to foreign countries, including the People’s Republic of China. The defendants regularly negotiated the sale of e-waste to brokers who represented foreign buyers or who sold the e-waste overseas. The foreign buyers often paid the defendants directly. To transport the e-waste, the defendants requested the delivery of shipping cargo containers from container drayage companies to the ER facility. The defendants loaded the containers with e-waste, including CRTs, and affixed shipping seals to the containers. The containers were

transported by rail to domestic ports for export overseas.

6. The defendant ER appeared as the exporter of record in over 300 exports from the United States between 2005 and 2008, including at least ten exports that departed from the Port of Tacoma, Washington. Approximately 160 of these exported cargo containers contained a total of more than 100,000 CRTs.

The Resource Conservation and Recovery Act

7. The Resource Conservation and Recovery Act (hereinafter "RCRA"), Title 42, United States Code, Sections 6901 to 6992, was enacted by Congress to require a safe means of managing hazardous waste from cradle to grave, including its generation, transportation, treatment, storage, and ultimate disposal. The United States Environmental Protection Agency ("EPA") regulates the storage, disposal and export of hazardous waste, including CRTs, pursuant to RCRA.

8. Under RCRA states may seek authorization from EPA to administer and enforce their own hazardous waste programs. Colorado received such authorization from EPA for its hazardous waste program which operates in lieu of the federal program. The federal government retains authority to enforce criminal violations of Colorado's hazardous waste program.

9. A solid waste is a hazardous waste if it exhibits one of the four enumerated characteristics, namely, ignitability, corrosivity, reactivity, or toxicity (these wastes are commonly referred to as "characteristic hazardous wastes") or if the waste is specifically

listed as a hazardous waste in the regulations. A waste is a characteristic hazardous waste if, using the Toxicity Characteristic Leaching Procedure (TCLP), a representative sample of the waste contains a concentration of lead of 5.0 milligrams per liter or more.

10. Under RCRA and Colorado's authorized hazardous waste program, businesses that generate and handle hazardous wastes are required to determine whether their wastes are hazardous, and if so, to maintain records relating to the storage, treatment, disposal, and transportation of such wastes. RCRA and Colorado's authorized hazardous waste program prohibit the export of hazardous waste to another country without first filing with the EPA a written notification of intent to export and obtaining the consent of the receiving country.

COUNT 1
18 U.S.C. § 1343

11. The grand jury re-alleges and incorporates paragraphs 1-6.

12. Between in or about February 2005 and continuing through in or about January 2009, in the State and District of Colorado, the defendants, ER, BRANDON RICHTER and TOR OLSON knowingly devised and intended to devise a scheme to defraud various business and government entities who wanted to dispose of their e-waste, and to obtain moneys, funds, and property owned by and under the custody and control of these business and government entities by means of materially false and fraudulent pretenses and representations (hereinafter "the scheme").

13. It was part of the scheme that the defendants represented themselves to have

“extensive knowledge of current EPA requirements.” Specifically, the defendants ER, BRANDON RICHTER, and TOR OLSON maintained a website that promoted their expertise in the area of EPA regulations and laws and ER’s commitment to protecting the environment from “harmful electronics by-products.” The website specifically referenced the lead contained in CRT glass as a harmful electronics by-product. The defendants falsely advertised to customers that they would dispose of e-waste in compliance with all local, state and federal laws and regulations. The defendants further represented on their website that they would issue a certificate absolving customers of all liability associated with disposal of e-waste.

14. It was part of the scheme that the defendants also falsely represented that they would dispose of all e-waste, whether hazardous or not, in an environmentally-friendly or “green” manner. Specifically, the defendants falsely represented that the defendant ER recycled the e-waste “properly, right here in the U.S.” and they would not send the e-waste overseas. The defendants often identified the downstream vendors to whom they falsely claimed they would send certain e-waste components to ensure that the e-waste was being recycled properly. The defendants also falsely represented to some customers that they would totally destroy their e-waste and would not ship their e-waste overseas.

15. The defendants’ misrepresentations described above induced customers to enter into contracts or agreements to pay the defendants for disposal of e-waste. Pursuant to these contracts or agreements the defendants made specific representations about how

they would handle and dispose of the e-waste in a lawful and environmentally-friendly manner. The e-waste included CRTs. In reliance on the defendants' false representations described above, each victim paid the defendants to recycle their e-waste in accordance with the representations made by the defendants. Victims of the defendants' scheme included: City and County of Broomfield, El Paso County, City of Boulder, Jefferson County Public Schools, The Children's Hospital, Centura Health Hospital, Denver Newspaper Agency, Cherry Creek School District, and ADT Security.

16. Contrary to their representations, the defendants sold the e-waste they received from customers to brokers for export overseas to the People's Republic of China and other countries. The defendants made more than \$1,800,000 on sales to brokers which included sales of CRTs. If the defendants had disposed of the CRTs in the green manner they promised, then they would have had to pay for such services by a facility authorized to handle CRT glass.

17. On or about November 20, 2006, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to DanSchmied@Centura.Org with the subject line "Re:Recycle only."

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 2

18 U.S.C. § 1343

18. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

19. On or about December 6, 2006, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to Sgarcia@ci.broomfield.co.us with the subject line “Re:E-Waste Event.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 3

18 U.S.C. § 1343

20. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

21. On or about January 3, 2007, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme caused to be transmitted by means of wire communication in interstate commerce, a wire transfer notification for a deposit of \$29,982.00 from Bank of China on behalf of Heng Tong Trading Company to Executive Recycling’s Wells Fargo Bank Account Number XXXXXX8417.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 4

18 U.S.C. § 1343

22. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

23. On or about February 13, 2007, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme caused to be transmitted by means of wire communication in interstate commerce, a wire transfer notification for a deposit of \$15,000 from Bank of America on behalf of Jet Ocean Technology to Executive Recycling's Wells Fargo Bank Account Number XXXXXX8417.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 5
18 U.S.C. § 1343

24. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

25. On or about October 9, 2007, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to tbarrell@cherrycreekschools.org with the subject line "RE: City of Denver MSA"

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 6
18 U.S.C. § 1343

26. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

27. On or about November 6, 2007, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to davis.dusty@tchden.org with the subject line “Executive Recycling, Inc.–Children’s Hospital.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 7
18 U.S.C. § 1341

28. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

29. On or about December 13, 2007, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme caused to be deposited, and to be sent or delivered by United States mail or private or commercial interstate carrier, an executed contract between Executive Recycling and El Paso County for electronic recycling services.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 8
18 U.S.C. § 1341

30. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

31. On or about January 30, 2008, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme caused to be deposited and to be sent or delivered

by United States mail or private or commercial interstate carrier to the City and County of Broomfield, a flyer advertising their business and promising to protect customers from improper disposal of e-waste.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 9
18 U.S.C. § 1343

32. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

33. On or about March 14, 2008, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from jgoetzfried@executiverecycle.com to KathyAndrew@elpasoco.com with the subject line “certificate of recycle, inventory list, invoice-El Paso County Waste.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 10
18 U.S.C. § 1343

34. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

35. On or about March 21, 2008, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from Executive Recycling, Inc. to Duane Casmey and Kim McCleskey with the subject line “Invoice

from Executive Recycling, Inc. - City of Boulder.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 11
18 U.S.C. § 1343

36. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

37. On or about April 7, 2008, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to bruley@jeffco.k12.co.us with the subject line “RE:RFP 21891 clarification question.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 12
18 U.S.C. § 1343

38. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

39. On or about October 23, 2008, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to KathyAndrew@elpasoco.com with the subject line “Re:Renewal.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 13

18 U.S.C. § 1343

40. The grand jury re-alleges and incorporates paragraphs 1-6 and 12-16.

41. On or about December 23, 2008, in the State and District of Colorado, the defendants ER, BRANDON RICHTER, and TOR OLSON, for the purpose of executing and attempting to execute the scheme transmitted and caused to be transmitted by means of wire communication in interstate commerce, an email message from tor_olson@executiverecycle.com to Robert Rowland with the subject line “ER Documented Process and Procedures- Denver Newspaper Agency.”

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 14

42 U.S.C. § 6928(d)(4)

42. The grand jury re-alleges and incorporates paragraphs 1-10.

43. On or about April 5, 2008 in the State and District of Colorado and elsewhere, the defendants ER, BRANDON RICHTER, and TOR OLSON knowingly exported and caused to be exported hazardous waste, namely CRTs which exhibited the characteristic of toxicity for lead, in a shipping container labeled GATU 8815610, and in connection with that export failed to file a Notification of Intent to Export with the United States Environmental Protection Agency as required under 6 C.C.R 1007-3 § 262.53.

All in violation of Title 42, United States Code, Section 6928(d)(4), and Title 18,

United States Code, Section 2.

COUNT 15
18 U.S.C. § 554

44. The grand jury re-alleges and incorporates paragraphs 1-6.

45. Between on or about March 13, 2008, and April 5, 2008, in the State and District of Colorado and elsewhere, the defendants ER, BRANDON RICHTER, and TOR OLSON knowingly and fraudulently facilitated the transportation, concealment and sale of merchandise, articles, and objects, to wit, CRTs, prior to exportation, knowing that such CRTs were intended for exportation contrary to any law and regulation of the United States, specifically, 42 U.S.C. § 6928(d)(4) and 42 U.S.C. § 6928(d)(6) .

All in violation of the Title 18, United States Code, Section 554.

COUNT 16
18 U.S.C. § 1519

46. Between on or about September 11, 2008 to January 23, 2009, in the State and District of Colorado, the defendants BRANDON RICHTER and TOR OLSON knowingly altered, destroyed, mutilated, and concealed any record, document and tangible object with the intent to impede, obstruct and influence the investigation and proper administration of any matter within the jurisdiction of the Environmental Protection Agency, a department and agency of the United States; to wit ER's export shipping records from approximately October 2004 through December 2008.

All in violation of Title 18, United States Code, Sections 1519 and 2.

Forfeiture Allegation

47. The allegations contained in Counts One through Fifteen of this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C), Title 18, United States Code, Section 1956(c)(7), and Title 28, United States Code, Section 2461(c).

48. Upon conviction of the violations alleged in Counts One through Fifteen of this Indictment involving violations of Title 18, United States Code, Sections 1341 and 1343, Title 42, United States Code, Sections 6928(d)(4), and Title 18, United States Code, Section 554, the defendants ER, BRANDON RICHTER, and TOR OLSON shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c) any and all of the defendants' right, title and interest in all property constituting and derived from any proceeds the defendants obtained directly and indirectly as a result of such offense, including, but not limited to a money judgment in the amount of proceeds obtained by the scheme and by the defendants as a result of the offenses, for which the defendants are joint and severally liable.

49. If any of the property described in the paragraphs above, as a result of any act or omission of the defendants:

- a) cannot be located upon the exercise of due diligence;
- b) has been transferred or sold to, or deposited with, a third party;

- c) has been placed beyond the jurisdiction of the Court;
- d) has been substantially diminished in value; or
- e) has been commingled with other property which
cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendants up to the value of the forfeitable property.

A TRUE BILL

Ink signature on file in the Clerk's Office
FOREPERSON

JOHN F. WALSH
UNITED STATES ATTORNEY

s/ Suneeta Hazra
By: SUNEETA HAZRA
Assistant U.S. Attorney
1225 17th Street, Suite 700
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s/ Lillian Alves

By: LILLIAN ALVES
Special Assistant United States Attorney
1225 17th Street, Suite 700
Denver, Colorado 80202
Telephone: (303) 454-0122
Facsimile: (303) 454-0406
Lillian.Alves@usdoj.gov

DEFENDANT: Executive Recycling

YOB: None

ADDRESS: Englewood, Colorado

COMPLAINT FILED? _____ YES X NO

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? NO

OFFENSE: Counts 1 - 6, 9-13: 18 U.S.C. §1343 - Wire Fraud

Counts 7-8: 18 U.S.C. § 1341 - Mail Fraud

Count 14: 42 U.S.C. § 6928(d)(4) - Failure to file notification of intent to export hazardous waste

Count 15: 18 U.S.C. § 554 - Exportation contrary to law

LOCATION OF OFFENSE: Arapahoe County, Colorado

PENALTY: Counts 1 through 13: Per Count, a \$500,000 fine or twice the gross gain or loss, NMT 5 years NLT 1 year probation; and a \$100 Special Assessment Fee

Count 14: a \$50,000 fine per day of violation or twice the gross gain or loss, or NMT 5 years NLT 1 year probation; and a \$100 Special Assessment Fee

Count 15: \$500,000 fine or twice the gross gain or loss or NMT 5 years NLT 1 year probation; and a \$100 Special Assessment Fee

Forfeiture as described in the indictment.

AGENT: Stewart Sapien, Special Agent
Homeland Security Investigations
Denver, Colorado

Brian Beach, Special Agent
Homeland Security Investigations
Denver, Colorado

Lance Ehrig, Special Agent
Environmental Protection Agency
Denver, Colorado

AUTHORIZED BY: Suneeta Hazra, Assistant U.S. Attorney
Lillian Alves, Special Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

five days or less over five days other

THE GOVERNMENT

will seek detention in this case will not seek detention in this case

The statutory presumption of detention **is not** applicable to this defendant.

OCDETF CASE: Yes No

DEFENDANT: Brandon Richter

YOB: 1974

ADDRESS: Highlands Ranch, Colorado

COMPLAINT FILED? _____ YES X NO

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? NO

OFFENSE: Counts 1 - 6, 9-13: 18 U.S.C. §1343 - Wire Fraud

Counts 7-8: 18 U.S.C. § 1341 - Mail Fraud

Count 14: 42 U.S.C. § 6928(d)(4) - Failure to file notification of intent to export hazardous waste

Count 15: 18 U.S.C. § 554 - Exportation contrary to law

Count 16: 18 U.S.C. § 1519 - Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

LOCATION OF OFFENSE: Arapahoe County, Colorado

PENALTY: Counts 1 through 13: Per Count, NMT 20 years imprisonment, a \$250,000 fine or twice the gross gain or loss, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

Count 14: NMT 2 years imprisonment, a \$50,000 fine per day of violation or \$500k fine or twice the gross gain or loss, or both; NMT 1 year supervised release; and a \$100 Special Assessment Fee

Count 15: NMT 10 years imprisonment, a \$250,000 fine or twice the gross gain or loss, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

Count 16: NMT 20 years imprisonment, a \$250,000 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

Forfeiture as described in the indictment.

AGENT: Stewart Sapien, Special Agent
Homeland Security Investigations

Denver, Colorado

Brian Beach, Special Agent
Homeland Security Investigations
Denver, Colorado

Lance Ehrig, Special Agent
Environmental Protection Agency
Denver, Colorado

AUTHORIZED BY: Suneeta Hazra, Assistant U.S. Attorney
Lillian Alves, Special Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

five days or less over five days other

THE GOVERNMENT

will seek detention in this case will not seek detention in this case

The statutory presumption of detention **is not** applicable to this defendant.

OCDETF CASE: Yes No

DEFENDANT: Tor Olson

YOB: 1975

ADDRESS: Parker, Colorado

COMPLAINT FILED? _____ YES X NO

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? NO

OFFENSE: Counts 1 - 6, 9-13: 18 U.S.C. §1343 - Wire Fraud

Counts 7-8: 18 U.S.C. § 1341 - Mail Fraud

Count 14: 42 U.S.C. § 6928(d)(4) - Failure to file notification of intent to export hazardous waste

Count 15: 18 U.S.C. § 554 - Exportation contrary to law

Count 16: 18 U.S.C. § 1519 - Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

LOCATION OF OFFENSE: Arapahoe County, Colorado

PENALTY: Counts 1 through 13: Per Count, NMT 20 years imprisonment, a \$250,000 fine or twice the gross gain or loss, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

Count 14: NMT 2 years imprisonment, a \$50,000 fine per day of violation or \$500k fine or twice the gross gain or loss, or both; NMT 1 year supervised release; and a \$100 Special Assessment Fee

Count 15: NMT 10 years imprisonment, a \$250,000 fine or twice the gross gain or loss, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

Count 16: NMT 20 years imprisonment, a \$250,000 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

Forfeiture as described in the indictment.

AGENT: Stewart Sapien, Special Agent
Homeland Security Investigations

Denver, Colorado

Brian Beach, Special Agent
Homeland Security Investigations
Denver, Colorado

Lance Ehrig, Special Agent
Environmental Protection Agency
Denver, Colorado

AUTHORIZED BY: Suneeta Hazra, Assistant U.S. Attorney
Lillian Alves, Special Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

five days or less over five days other

THE GOVERNMENT

will seek detention in this case will not seek detention in this case

The statutory presumption of detention **is not** applicable to this defendant.

OCDETF CASE: Yes No