

**FILED**  
**CHARLOTTE, NC**  
MAY 17 2011  
US DISTRICT COURT  
WESTERN DISTRICT OF NC

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 NICHOLAS T. COX, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_ )

**BILL OF INDICTMENT**

DOCKET NO: 3:11 cr 135-MOC

18 U.S.C. § 1349  
18 U.S.C. § 1341  
18 U.S.C. § 1956(h)  
18 U.S.C. § 2

**THE GRAND JURY CHARGES THAT:**

**INTRODUCTION**

**AT ALL TIMES MATERIAL TO THIS BILL OF INDICTMENT:**

1. Between in or about September 2006 and in or about January 2009, NICHOLAS T. COX ("COX") was a principal and co-owner of Integra Capital Management, LLC ("Integra"), a North Carolina company with its principal place of business initially in Archdale, and then in High Point, North Carolina.
2. Integra was established for the purpose of pooling investors' funds in a so-called commodity pool, and investing in commodity futures and foreign currency exchange ("forex") trading. COX was primarily, but not exclusively, in charge of the commodity futures and forex trading conducted by Integra.
3. Rodney W. Whitney ("Whitney") was also a principal and co-owner of Integra. Whitney was primarily, but not exclusively, in charge of soliciting investors for Integra.
4. From in or about September 2006 and in or about January 2009, in the Western District of North Carolina and elsewhere, COX and Whitney conspired with each other and others to unlawfully enrich themselves by submitting false and fraudulent information to current and prospective investors in Integra for the purpose of inducing them to invest money in Integra. Between in or about September 2006 and in or about January 2009, based on the false and fraudulent information provided to current and prospective investors, COX and Whitney obtained and misappropriated more than \$3,290,000 of investor funds.

## COUNT ONE

**Violation:** 18 U.S.C. § 1349 (Conspiracy to Commit Mail Fraud)

### The Conspiracy

5. Paragraphs 1 through 4 of the Introduction to this Bill of Indictment are hereby realleged and incorporated into Count One by reference herein.
6. From in or about September 2006 until in or about January 2009, within the Western District of North Carolina, and elsewhere, the defendant,

**NICHOLAS T. COX,**

with others known and unknown, did knowingly and intentionally conspire, combine, confederate and agree to commit certain offenses against the United States, that is, to devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and knowingly: (a) placing and causing to be placed in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service; (b) depositing and causing to be deposited any matter and thing whatever to be sent and delivered by any private and commercial interstate carrier; and (c) causing to be delivered by mail and private and commercial interstate carrier any matter and thing whatever according to the direction thereon, in violation of Title 18, United States Code, Section 1341.

### A GOAL OF THE CONSPIRACY

7. A goal of the conspiracy was for the co-conspirators, including COX, to unlawfully enrich themselves by providing false and fraudulent information to current and prospective commodity pool investors to obtain and misappropriate investor funds.

### THE MANNER AND MEANS OF THE CONSPIRACY

8. To achieve the goals of the conspiracy, COX, Whitney, and others used the following manners and means, among others:
  - a. COX and Whitney would agree to persuade, and did persuade, prospective and existing Integra investors to invest by misrepresenting, personally and by mail, interstate telephone calls, emails and facsimiles, and in-person meetings, COX's and Whitney's backgrounds and investing experience; Integra's past track record for success; the amount of investment returns that Integra could and did generate; and the use of investor funds;

b. COX and Whitney caused to be mailed, sent by facsimile, and personally provided to prospective and existing Integra investors a prospectus for Integra that falsely represented, among other things, that Integra's managers had more than 30 years combined market experience; that Integra paid monthly dividends of 2% to 3% of the investor's initial investment, which was derived from Integra's trading profits; and investors could remove their principal investments within five days upon giving notice to Integra;

c. COX and Whitney would and did make it falsely appear to prospective investors that they were actively and successfully trading commodity futures and forex by sitting at computer terminals in Integra's High Point, North Carolina offices, and acting like they were successfully trading when prospective investors visited the offices;

d. COX and Whitney would and did misrepresent to potential and existing investors that Integra was consistently earning a profit from successfully trading commodity futures and forex;

e. COX and Whitney caused to be mailed and sent by facsimile to existing investors dividend checks, 1099 IRS tax forms, and account statements, all containing false information in that they purported to show the investors' profits from Integra's trading in commodity futures and forex;

f. COX and Whitney caused to be mailed to existing investors contracts falsely promising monthly returns of 3% to 5% on their invested principal, and falsely representing that investors could remove their principal investment at any time within five days of giving notice to Integra;

g. COX and Whitney would and did use investors' funds to pay dividends to investors who had invested earlier in time;

h. COX and Whitney would and did commingle investor funds and use those monies to purchase real estate, to fund other business ventures, and to purchase automobiles and other personal goods and services; and

(All in violation of Title 18, United States Code, Section 1349.)

**COUNTS TWO through EIGHT**

**Violation:** 18 U.S.C. § 1341 (Mail Fraud), 18 U.S.C. § 2 (Aiding and Abetting)

9. Paragraphs 1 through 4 of this Bill of Indictment are hereby realleged and incorporated into Counts Two through Eight by reference herein.
10. On or about each of the dates listed below for Counts Two through Eight, within the Western District of North Carolina, and elsewhere, the defendant,

**NICHOLAS T. COX,**

aided and abetted by persons known and unknown to the grand jury, having devised a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises to Integra investors in the Western District of North Carolina and elsewhere, for the purpose of attempting to execute, and executing such scheme and artifice, did knowingly: (a) place and cause to be placed in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service; (b) deposit and cause to be deposited any matter and thing whatever to be sent and delivered by any private or commercial interstate carrier; and (c) cause to be delivered by mail or private or commercial interstate carrier any matter and thing according to the direction thereon, the following:

<b>Count</b>	<b>On or about Date</b>	<b>Mailing</b>
2	10/19/2007	Integra Investor N.T. ("N.T."), residing in Hickory, North Carolina, mailed, through the U.S. Postal Service, a \$50,000 money order to Integra.
3	10/22/2007	COX and Whitney caused the mailing, through the U.S. Postal Service, of an investment contract to N.T. in Hickory, North Carolina.
4	3/20/2008	COX and Whitney caused the mailing, through the U.S. Postal Service, of an investment contract to Integra Investor P.A.R. ("P.A.R.") in Charlotte, North Carolina.
5	3/25/2008	P.A.R. mailed through the U.S. Postal Service an executed investment contract and a check for \$30,000, made payable to Integra, from Charlotte, North Carolina to Integra's office in High Point, North Carolina.
6	9/18/2008	Integra Investor P.H.R. ("P.H.R.") mailed, through the U.S. Postal

Count	On or about Date	Mailing
		Service, an executed investment contract and a check for \$30,000, made payable to Integra, from Charlotte, North Carolina to Integra's office in High Point, North Carolina.
7	12/10/2008	COX and Whitney caused the mailing of a \$900.00 check, through the U.S. Postal Service, from Integra to P.H.R. in Charlotte, North Carolina.
8	1/7/2009	COX and Whitney caused the mailing of a \$3,990.00 check, through the U.S. Postal Service, from Integra to P.A.R. in Charlotte, North Carolina.

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

**COUNT NINE**

**Violation:** 18 U.S.C. §§ 1956(h) (Money Laundering Conspiracy).

11. Paragraphs 1 through 4 of this Bill of Indictment are realleged and incorporated into Count Nine by reference herein.
12. From in or about September 2006 until in or about January 2009, within the Western District of North Carolina and elsewhere, the defendant

**NICHOLAS T. COX,**

along with others known and unknown, did knowingly conspire, combine, confederate, and agree with each other to commit an offense against the United States, that is, knowingly engaging and attempting to engage, in monetary transactions by, through and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, that is, the proceeds of mail fraud, in violation of Title 18, United States Code, Section 1957.

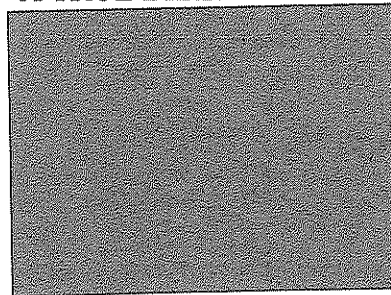
(All in violation of Title 18, United States Code Section 1956(h).)



**NOTICE OF FORFEITURE  
AND FINDING OF PROBABLE CAUSE**

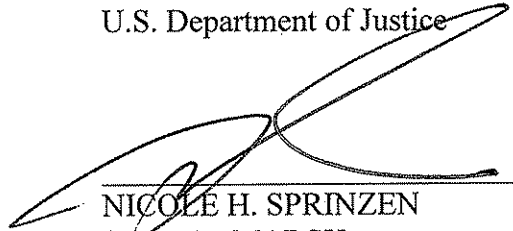
- I. Notice is hereby given of the provisions of 18 U.S.C. §§ 981, 982, 21 U.S.C. § 853, and 28 U.S.C. § 2461(c). Under section 2461(c), criminal forfeiture is applicable to any offense for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981 and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by section 981(a)(1)(C). The defendant has or had a possessory or legal interest in the following property that is subject to forfeiture in accordance with sections 981, 982, 853, and/or 2461:
- a. all property which constitutes or is derived from proceeds traceable to the violations alleged in this bill of indictment;
  - b. all property involved in the violations alleged in this bill of indictment;
  - c. all property used or intended to be used to commit the violations alleged in this bill of indictment; and
  - d. in the event that any property described in (a), (b), or (c) cannot be located or recovered or has been substantially diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendants, to the extent of the value of the property described in (a), (b), and (c).
- II. The Grand Jury finds probable cause to believe that the following properties are subject to forfeiture on one or more of the grounds stated above:
- a. all currency and monetary instruments constituting or derived from proceeds traceable to or property involved in the offenses alleged in this bill of indictment, including but not limited to the sum of more than \$2,077,000.

A TRUE BILL:



ANNE M. TOMPKINS  
UNITED STATES ATTORNEY

DENIS J. McINERNEY  
CHIEF, FRAUD SECTION  
Criminal Division  
U.S. Department of Justice



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**NEW CRIMINAL CASE COVER SHEET**

**U. S. DISTRICT COURT**

*(To be used for **all** new Bills of Indictments and Bills of Information)*

**CASE SEALED:** ( ) Yes (X) No **DOCKET NUMBER:** 3:11cr135-MOC  
*(If case is to be sealed, a Motion to Seal and proposed Order must be attached.)*

**CASE NAME** : US vs NICHOLAS COX

**COUNTY OF OFFENSE** : Mecklenburg

**RELATED CASE INFORMATION** :

*Magistrate Judge Case Number* : \_\_\_\_\_

*Search Warrant Case Number* : \_\_\_\_\_

*Miscellaneous Case Number* : \_\_\_\_\_

*Rule 20b* : \_\_\_\_\_

**SERVICE OF PROCESS -** Arrest Warrant

**U.S.C. CITATIONS** *(Mark offense carrying greatest weight):*  Petty  Misdemeanor  Felony

18 U.S.C. §§ 1349, 1341, 2, 1956(h); 18 U.S.C. §§ 981, 982; 21 U.S.C. §853; 28 U.S.C. §2461(c)

**JUVENILE** :  Yes  No

**ASSISTANT U. S. ATTORNEY** : DOJ Criminal Division, Fraud Section Trial Attorneys Nicole Sprinzen and Luke Marsh; WDNC AUSA Kurt Meyers

**VICTIM / WITNESS COORDINATORS** : \_\_\_\_\_  
Barbara Newman, 202-353-7643

**INTERPRETER NEEDED** : NO  
**LIST LANGUAGE AND/OR DIALECT:** \_\_\_\_\_

**REMARKS AND SPECIAL INSTRUCTIONS:** 3:11 cr 49 related case