

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CASE NO. 1:17-CR-143-JEJ

v. :

KEYSTONE BIOFUELS, :
BEN WOOTTON, and :
RACE MINER :

Defendants :

SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES THAT:

At all times relevant to this Indictment, unless otherwise stated:

Introductory Allegations

1. Defendant KEYSTONE BIOFUELS, INC. (KEYSTONE) was a business originally located in Shiremanstown, Pennsylvania, that later relocated to Camp Hill, Pennsylvania. At these locations, KEYSTONE operated a production plant that purported to process animal fats and vegetable oils (“feedstock”) into biodiesel.

2. Biodiesel was a type of renewable fuel that satisfied a set of requirements established by the American Society of Testing and Materials. Collectively, these requirements were known as ASTM D6751.

3. Fuel could not be called biodiesel unless it met all of the requirements of ASTM D6751. Fuel that did not meet all of the requirements of ASTM D6751 was called off-specification (or “off-spec”) fuel.

4. When biodiesel was mixed with diesel fuel (usually, petroleum), the mixture was designated by the volume percentage of biodiesel in the mixture. For example, a mixture of 20 percent biodiesel and 80 percent petroleum was designated B20. Pure, unmixed biodiesel was designated B100.

5. Within the biodiesel industry, the terms “blending” and “mixing” were used interchangeably.

6. Defendant BEN WOOTTON (WOOTTON) was a resident of Pennsylvania, who served as the President and owner of KEYSTONE, and was at all times acting within the scope of his employment and agency and at least in part for the benefit of KEYSTONE. Defendant WOOTTON was a member of the National Biodiesel Board.

7. Defendant RACE MINER (MINER) was, at various times, a resident of Pennsylvania and Colorado who served as Chief Executive Officer and owner of KEYSTONE, and was at all times acting within the scope of his employment and agency and at least in part for the benefit of KEYSTONE.

8. Beginning in or around November 2011, Defendant MINER also operated RAAM Analytical, Inc. (RAAM), a Colorado corporation that purported to perform fuel sampling and laboratory analysis.

9. “Company A” was a fuel blender and wholesaler located in Middletown, Pennsylvania.

10. "Company B" was a small business located in New York that collected and sold waste vegetable oil. KEYSTONE occasionally bought feedstock from Company B and, at times, purported to sell biodiesel to Company B.

11. "Company C" was a small business located in Carlisle, Pennsylvania that purchased renewable fuels, including biodiesel. At times, KEYSTONE purported to sell biodiesel to Company C.

12. "Company D" was a business that operated fuel terminals in multiple locations, including Baltimore, Maryland. KEYSTONE occasionally sold fuel to Company D and purported to buy feedstock from Company D.

13. Blue Sky Resources, Inc. ("Blue Sky") was a Colorado corporation held in the name of a nominee controlled by defendants WOOTTON and MINER.

14. Unindicted Coconspirator 1 was a business development manager employed at KEYSTONE.

15. Unindicted Coconspirator 2 was a fuel production manager employed at KEYSTONE.

Count 1

Conspiracy to Commit Criminal Offenses

(18 U.S.C. § 371)

THE GRAND JURY FURTHER CHARGES THAT:

16. The Grand Jury incorporates by reference Paragraphs 1 to 8 and 14 to 15 here.

Renewable Identification Numbers

17. Laws passed by Congress, particularly the Energy Independence and Security Act of 2007, required the U.S. Environmental Protection Agency (EPA) to promote renewable fuel production and use in the United States.

18. To this end, the EPA created a program (known as the Renewable Fuel Standard or "RFS") requiring petroleum refiners and importers to have renewable fuel in their product portfolios. Under the RFS, refiners and importers were required to produce a certain amount of renewable fuel or, as an alternative to physically producing this fuel, to purchase credits (called "renewable identification numbers" or "RINs") from renewable fuel producers.

19. Registered renewable fuel producers generated RINs when they produced qualifying renewable fuels, such as biodiesel, in compliance with EPA regulations. Once a RIN is generated, it can be traded or sold on the open market.

20. Prior to July 1, 2010, businesses dealing in RINs sent paper reports to the EPA about their RIN activity, including RIN generation, separation, purchase, and sales reports. After July 1, 2010, such RIN transactions were reported electronically through the online EPA Moderated Transaction System (EMTS).

21. Producing biodiesel allows EPA registered producers to generate biodiesel RINs.

22. Biodiesel RINs cannot be generated unless the biodiesel produced meets the full ASTM D6751 standard. It is illegal to generate RINs for a volume of biodiesel not produced in compliance with EPA regulations, including the requirement that the biodiesel meet ASTM D6751.

23. RINs could only be generated once for a given quantity of fuel.

Count 1.

The Conspiracy and Its Object

24. At a time unknown to the Grand Jury, but no later than August 13, 2009, until at least on or about September 24, 2013, in Cumberland County, within the Middle District of Pennsylvania, and elsewhere, the defendants,

KEYSTONE, BEN WOOTTON, and RACE MINER,

did knowingly combine, conspire, confederate, and agree with others known and unknown to the grand jury to commit an offense against the United States; specifically, the defendants conspired to:

knowingly and willfully falsify, conceal, and cover up by trick, scheme, or device a material fact; and make materially false, fictitious, and fraudulent statements or representations; and make and use a false writing or document knowing the same to contain a materially false, fictitious, and fraudulent statement or entry; in violation of 18 U.S.C. § 1001;

Means and Methods of Conspiracy

25. The co-conspirators used the following means and methods, among others, to carry out the conspiracy and to achieve its unlawful objects:

26. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, regularly produced off-spec non-biodiesel (fuel that did not meet the ASTM D6751 standard) at both the Shiremanstown facility and the Camp Hill facility.

27. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, regularly generated “biodiesel” RINs on fuel that did not meet the ASTM D6751 standard and was not biodiesel.

28. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, falsely communicated to the EPA, and caused others to communicate to EPA that KEYSTONE had produced actual biodiesel, causing biodiesel RINs to be generated for the off-spec non-biodiesel fuel. Throughout the course of their conspiracy, the co-conspirators generated over 16 million of these “biodiesel” RINs.

29. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, sold these fraudulent RINs into commerce. Although RIN prices varied over time,¹ an estimated price of \$.65/per RIN indicates that over \$10 million was generated from these RIN sales.

¹ RIN prices fluctuate daily. Throughout the course of the conspiracy, prices ranged from as little as \$.10 per RIN to almost \$2.00 per RIN.

30. Defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, “doctored” fuel samples before sending them to customers and laboratories as proof that they were producing actual ASTM-compliant biodiesel.

Overt Acts

31. In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, did commit the following acts, among others, in the Middle District of Pennsylvania and elsewhere:

32. On or about August 25, 2009, Unindicted Coconspirator 2 sent a sample of biodiesel—produced at the Shiremanstown facility—that had been frozen and filtered to a laboratory for analysis;

33. On or about September 10, 2009, KEYSTONE issued an invoice to a customer for 7000 gallons of biodiesel labeled “B99.9.”

34. On or about October 1, 2009, Unindicted Coconspirator 2 sent an email to WOOTTON and MINER informing them that he sent two samples of biodiesel for analysis, one that was untreated, and one that had been frozen and filtered. Unindicted Coconspirator 2 reported that the untreated sample “failed miserably” and that he “prefer[ed] not to ‘doctor’ the samples to get passing results.”

35. On or about November 19, 2010, defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand

Jury, issued Invoice 2010-1119 to Company A for the sale of 21,608 gallons of biodiesel (labeled "B 100").

36. On or about September 22, 2011, Unindicted Co-conspirator 1 sent an email to WOOTTON and MINER, and Unindicted Co-conspirator 2, stating "Cold soak didn't make it" and attaching a laboratory analysis showing that a sample of biodiesel failed two ASTM D6751 parameters: oxidation stability and cold soak filterability.

37. On or about October 10, 2011, defendants KEYSTONE, WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, issued invoice 2011-2010 to Company A for the sale of 22,500 gallons of biodiesel (labeled "B 100 Biodiesel").

38. On or about April 30, 2012, defendants KEYSTONE, WOOTTON, and MINER generated 129,455 "biodiesel" RINs on 86,303 gallons of fuel that did not meet ASTM D6751

39. On or about May 2, 2012, defendants KEYSTONE, WOOTTON, and MINER generated 85,724 "biodiesel" RINs on 57,149 gallons of fuel that did not meet ASTM D6751. Thereafter, defendants KEYSTONE, WOOTTON, and MINER sold the fuel and RINs to Company A.

40. On or about May 10, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 43,505 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

41. On or about May 15, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 42,796 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

42. On or about June 25, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 14,508 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

43. On or about August 27, 2012, defendants KEYSTONE, WOOTTON, and MINER generated 76,511 RINs on 51,007 gallons of fuel that did not meet ASTM D6751. Thereafter, defendants KEYSTONE, WOOTTON, and MINER sold the fuel and RINs to Company A.

44. On or about August 29, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 29,005 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

45. On or about September 25, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 43,608 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

46. On or about November 2, 2012, defendant WOOTTON signed a Certificate for Biodiesel falsely attesting that 14,703 gallons of fuel produced at defendant KEYSTONE's facility was biodiesel conforming to ASTM D6751.

Each one of which is a separate overt act in furtherance of the conspiracy to make false statements.

Each of which is a separate overt act in furtherance of the conspiracy.

In violation of Title 18, United States Code, Section 371.

Count 2

Conspiracy to Defraud the Internal Revenue Service

(18 U.S.C. § 371)

THE GRAND JURY FURTHER CHARGES THAT:

47. The Grand Jury incorporates by reference Paragraphs 1 to 15 here.

48. The Internal Revenue Service ("IRS") was an agency of the U.S.

Department of the Treasury responsible for administering and enforcing the tax laws and regulations of the United States regarding the ascertainment, computation, assessment, and collection of taxes owed to the United States.

49. The Biodiesel Mixture Credit (also known as the BMC) was a federal tax credit for persons or businesses (i.e., claimants) who mixed biodiesel with diesel fuel (usually, petroleum) and used the mixture as a fuel or sold the mixture for use as a fuel.

50. The credit was equal to \$1.00 (one dollar) for every gallon of biodiesel used to produce a mixture of biodiesel and diesel fuel that was then used or sold for use as a fuel.

51. Within the biodiesel industry, the BMC was known as a "blender's credit" rather than a "producer's credit" because the credit was based on the number of gallons a claimant mixed, not the number of gallons a claimant produced. It was illegal to claim the BMC based on the sale or use of unmixed biodiesel (i.e., B100).

52. The BMC was also nontransferable, meaning that only the mixer of the biodiesel was eligible to claim the credit. Moreover, the BMC could only be claimed

once on a given quantity of mixed biodiesel. Lastly, the fuel used to produce the mixture had to meet the requirements of ASTM D6751, meaning that it was illegal to claim the BMC for mixing off-spec fuel with diesel fuel.

53. Form 8849, Claim for Refund of Excise Taxes, was a tax form signed under penalty of perjury that the producer of a qualifying biodiesel mixture (i.e., the mixer or blender) submitted to the IRS in order to claim the BMC.

54. When claimed using Form 8849 and its attached Schedules and Certificates, the credit was refundable, resulting in a payment from the Department of the Treasury to the claimant for the full amount of the credit claimed.

55. Schedule 3, Certain Fuel Mixtures and the Alternative Fuel Credit, was a schedule attached to Form 8849 used to report to the IRS, among other things, the number of gallons of biodiesel qualifying the claimant for the credit, the amount of the credit being claimed, and the time period of the claim.

56. Claimants were also required to submit Certificates for Biodiesel signed under penalty of perjury relating to the gallons of biodiesel reported on Schedule 3. Certificates for Biodiesel were required to be attached to Schedule 3 for submission to the IRS and to affirm, among other things, that the gallons of biodiesel reported on Schedule 3 met the requirements of ASTM D6751.

57. By submitting a signed Form 8849 and attached Schedules and Certificates to the IRS, a claimant made and presented a claim to the IRS for a tax refund in the full amount of the BMC.

The Charge

58. At a time unknown to the Grand Jury, but no later than on or about January 7, 2009, until at least on or about February 16, 2012, in Cumberland County, within the Middle District of Pennsylvania, and elsewhere, the defendants, BEN WOOTTON and RACE MINER, did knowingly combine, conspire, confederate, and agree with others known and unknown to the Grand Jury to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Governmental functions of the Internal Revenue Service of the Department of the Treasury in the ascertainment, computation, assessment, and collection of the revenue.

Objects of the Conspiracy

59. An object of the conspiracy was to enrich Keystone, BEN WOOTTON, and RACE MINER, by among other things, causing false Forms 8849 and attached Schedules and Certificates to be filed with the IRS, thereby fraudulently obtaining tax refunds to which Keystone, BEN WOOTTON, and RACE MINER were not entitled.

60. An object of the conspiracy was also to conceal the existence of the conspiracy from the IRS.

Means and Methods of Conspiracy

61. The coconspirators used the following means and methods, among others, to carry out the conspiracy to defraud the IRS and to achieve its unlawful objects:

Fraudulently Claiming Tax Refunds Based on Off-Spec Fuel

62. The Grand Jury incorporates by reference Paragraphs 26 and 30 as means and methods the coconspirators used to carry out the conspiracy to defraud the IRS and to achieve its unlawful objects.

63. From at least on or about January 26, 2009, until at least on or about January 31, 2012, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, caused false Forms 8849 and attached Schedules and Certificates to be submitted to the IRS falsely claiming tax refunds based on off-spec fuel Keystone was producing and selling.

64. Defendant MINER, beginning in or around November 2011, concealed or caused to be concealed the production of off-spec fuel from the IRS by providing defendant WOOTTON and other unindicted co-conspirators, known and unknown to the Grand Jury, false test results from RAAM indicating that Keystone fuel samples met the requirements of ASTM D6751 when, in fact, Keystone was producing off-spec fuel.

Fraudulently Claiming Tax Refunds Based on Phantom Fuel

65. From at least in or around January 2009 until at least in or around December 2009, defendants WOOTTON, MINER, and other co-conspirators, known and unknown to the Grand Jury, caused false Forms 8849 and attached Schedules and Certificates to be submitted to the IRS falsely claiming tax refunds based on fuel that Keystone did not produce (“phantom fuel”).

66. To account for the phantom fuel, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, falsified and caused to be falsified Keystone's books and records, making and causing to be made false entries for, among other things, feedstock purchases from Company B and Company D that did not actually occur and fuel sales to Company B, Company C, and Company D that did not actually occur.

67. To corroborate the false books and records, defendants WOOTTON, MINER, and other unindicted coconspirators, known and unknown to the Grand Jury, created and caused to be created false supporting documentation, including, among other things, false bills of lading (also known as "Acculoader" tickets or product receipt tickets) for fuel recirculated through the Shiremanstown facility; false invoices to Keystone from Company B and Company D for sales of feedstock that did not occur; and false invoices from Keystone to Company C for sales of fuel that did not occur.

68. To further corroborate the false books and records and false supporting documentation, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, caused a series of sham financial transactions to occur involving Keystone, Company B, Company C, and Blue Sky. These sham transactions were intended to, among other things, align with the dates and amounts of the false feedstock purchases and fuel sales recorded in Keystone's books and records in order to give the false entries the appearance of legitimacy.

69. To obstruct a then-pending IRS investigation into allegations that Keystone was fraudulently claiming tax refunds on phantom fuel, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, provided and caused to be provided to an IRS Special Agent Keystone's false books and records and the false supporting documentation.

70. To further obstruct the IRS investigation, defendant WOOTTON provided representatives from Company B and Company D the amounts of the false feedstock purchases and fuel sales recorded in the false books and records given to the IRS Special Agent and instructed the representatives to report the same false amounts to the IRS Special Agent.

Fraudulently Claiming Tax Refunds Based on Unmixed Fuel

71. Between in or around December 2011 until in or around February 2012, Keystone through defendant WOOTTON and other co-conspirators, known and unknown to the Grand Jury, sold to Company A an approximate total of 1,000,228 gallons of unmixed fuel.

72. Keystone was not eligible to claim the BMC on the 1,000,228 gallons sold to Company A because, among other things, the fuel was sold to Company A unmixed.

73. Nevertheless, defendant WOOTTON and other co-conspirators, known and unknown to the Grand Jury, caused a false Form 8849 and attached Schedule and Certificates to be submitted to the IRS fraudulently claiming approximately \$1,000,228 in tax refunds based on the unmixed fuel Keystone sold to Company A.

The Form 8849 and attached Schedule and Certificates falsely claimed, among other things, that Keystone mixed the approximate 1,000,228 gallons with diesel fuel.

Overt Acts

74. In furtherance of the conspiracy, and to accomplish the objectives of the conspiracy, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, did commit the following acts, among others, in the Middle District of Pennsylvania and elsewhere:

75. The Grand Jury incorporates by reference Paragraphs 32, 34, and 36 as overt acts in furtherance of the conspiracy and to accomplish the objectives of the conspiracy.

76. On or about January 9, 2009, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, created and caused to be created false Invoice # 459 from Keystone to Company C for the sale of 1,499 gallons of "B99.9" when, in fact, the sale did not occur.

77. On or about April 15, 2009, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, created and caused to be created false Invoice # 662 from Keystone to Company C for the sale of 6,501 gallons of "B99.9" when, in fact, the sale did not occur.

78. On or about November 5, 2009, defendant MINER and other co-conspirators, known and unknown to the Grand Jury, created and caused to be created a KEYSTONE delivery confirmation falsely recording that Keystone

received a total of 28,000 gallons of "WVO" (waste vegetable oil) from Company D when, in fact, the delivery did not occur.

79. On or about November 9, 2009, defendant WOOTTON and other co-conspirators, known and unknown to the Grand Jury, created and caused to be created false Invoice # 11092009 from Company D to Keystone for the sale of 144,000 gallons of "Feedstock Delivered 11/2 TO 11/6" when, in fact, the sale did not occur.

80. On or about September 10, 2010, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, submitted and caused to be submitted false Keystone books and records to an IRS Special Agent, which included, among other things, false entries for feedstock purchases from Company B and Company D that did not occur and false entries for fuel sales to Company B, Company C, and Company D that did not occur.

81. On or about October 13, 2010, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, submitted and caused to be submitted to an IRS Special Agent false documents, including, among other things, false invoices from Company B and Company D for sales of feedstock that did not occur and false confirmations of "WVO" deliveries from Company B and Company D that did not occur.

82. On or about December 6, 2010, defendant WOOTTON sent an email to a representative of Company D, informing the representative that an IRS

representative might contact him to “confirm some numbers” and to “Let me know if she calls you.”

83. On or about December 7, 2010, defendant WOOTTON sent an email to a representative of Company B, telling the representative “don’t worry about the IRS” and that “what we reported to her was 1,980,811 gallons and the dollar amount we showed was \$1,802,668....I would call her first thing in the morning and leave a message with those amounts and you will be fine.”

84. On or about December 6, 2011, defendant MINER and other co-conspirators, known and unknown to the Grand Jury, created and caused to be created a “Certificate of Analysis” from RAAM indicating that a Keystone fuel sample met all the requirements of ASTM D6751 when, in fact, Keystone was producing off-spec fuel.

85. On or about December 9, 2011, defendant WOOTTON and other co-conspirators, known and unknown to the Grand Jury, created and caused to be created a Certificate for Biodiesel listing Keystone as the purchaser of 54,158 gallons of fuel when, in fact, the purchaser was Company A.

86. On or about December 12, 2011, defendant WOOTTON and other co-conspirators, known and unknown to the Grand Jury, created and caused to be created a Certificate for Biodiesel listing Keystone as the purchaser of 66,656 gallons of fuel when, in fact, the purchaser was Company A.

87. On or about December 28, 2011, defendant MINER and other co-conspirators, known and unknown to the Grand Jury, created and caused to be

created a "Certificate of Analysis" from RAAM indicating that a Keystone fuel sample met all the requirements of ASTM D6751 when, in fact, Keystone was producing off-spec fuel.

88. On or about the following dates, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, submitted and caused to be submitted to the IRS false Forms 8849 and attached Schedules and Certificates fraudulently claiming tax refunds in the amounts listed below. The Forms 8849 and attached Certificates and Schedules were false in the following ways, among others: (1) they claimed that Keystone produced gallons of fuel in excess of what Keystone actually produced; and (2) they claimed that the fuel Keystone produced met the requirements of ASTM D6751 when, in fact, it did not:

Overt Act	Approximate Date of Filing	Approximate Period of Claim	Approximate Amount of Refund Claimed
a	1/26/2009	1/1/2009 to 1/15/2009	\$110,499.48
b	2/6/2009	1/16/2009 to 1/31/2009	\$181,415.73
c	2/19/2009	2/1/2009 to 2/15/2009	\$102,451.08
d	3/2/2009	2/16/2009 to 2/28/2009	\$60,879.44
e	3/25/2009	3/1/2009 to 3/15/2009	\$113,248.55
f	4/6/2009	3/16/2009 to 3/31/2009	\$221,247.91
g	4/23/2009	4/1/2009 to 4/15/2009	\$217,987.95
h	5/4/2009	4/16/2009 to 4/30/2009	\$5,541.36
i	6/11/2009	5/1/2009 to 5/31/2009	\$56,311.96
j	7/7/2009	6/1/2009 to 6/30/2009	\$55,706.62
k	8/6/2009	7/1/2009 to 7/31/2009	\$24,884.74
l	9/11/2009	8/1/2009 to 8/31/2009	\$94,421.90
m	9/18/2009	9/1/2009 to 9/15/2009	\$172,782.19
n	10/7/2009	9/16/2009 to 9/30/2009	\$164,299.66
o	10/23/2009	10/1/2009 to 10/15/2009	\$225,202.13
p	11/18/2009	10/16/2009 to 10/31/2009	\$200,785.97
q	11/23/2009	11/1/2009 to 11/15/2009	\$267,753.34
r	12/17/2009	11/16/2009 to 11/30/2009	\$349,735.68
s	12/31/2009	12/1/2009 to 12/15/2009	\$423,307.14

t	1/15/2010	12/16/2009 to 12/31/2009	\$30,268.98
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89. On or about January 24, 2011, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, submitted and caused to be submitted to the IRS a false Form 8849 and attached Schedule and Certificates fraudulently claiming a tax refund in the approximate amount of \$71,023.60. The Form 8849 and attached Schedules and Certificates were false, among other ways, because they claimed that the fuel Keystone produced met the requirements of ASTM D6751 when, in fact, it did not.

90. On or about January 31, 2012, defendants WOOTTON, MINER, and other unindicted co-conspirators, known and unknown to the Grand Jury, submitted and caused to be submitted to the IRS a false Form 8849 and attached Schedules and Certificates claiming a tax refund in the approximate amount of \$1,000,228. The Form 8849 and attached Schedule and Certificates were false in the following ways, among others: (1) they claimed that Keystone sold biodiesel mixed with diesel fuel to Company A when, in fact, Keystone sold unmixed, off-spec fuel to Company A; and (2) they claimed that the fuel Keystone produced met the requirements of ASTM D6751 when, in fact, it did not.

Each of which is a separate overt act in furtherance of the conspiracy.

(All in violation of Title 18, United States Code, Section 371.)

Counts 3-8

False Statements

(18 U.S.C. § 1001)

91. The Grand Jury incorporates by reference paragraphs 1 to 7, 9, 14 to 15, and 26 to 46.

92. On or about the dates set out below, defendants,

KEYSTONE BIOFUELS, BEN WOOTTON, and RACE MINER

in a matter within the jurisdiction the EPA, which was an agency of the executive branch of the government of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations and caused others to make materially false, fictitious, and fraudulent statements and representations; namely electronic submissions to EPA requesting the generation of biodiesel RINs for fuel that was purported to be biodiesel, but did not meet ASTM D6751 and was not biodiesel, as set out below:

Count	Date	Fuel Gallons	RIN quantity
3	05/10/2012	55,175.00	82,763
4	05/10/2012	56,991	85,487
5	05/14/2012	71,138.00	106,707
6	06/25/2012	25,503.00	38,255
7	09/25/2012	31,615.00	47,423
8	11/02/2012	13,305	19,958

All in violation of Title 18, United States Code, Section 1001 and Section 2.

Count 9

Aiding and Assisting in the Preparation and Presentation of False Tax Claims

(26 U.S.C. § 7206(2))

93. The Grand Jury incorporates by reference Paragraphs 1-15 and 47-90.

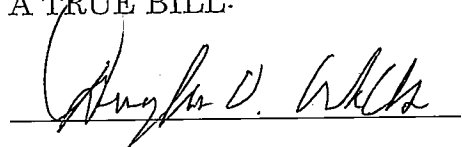
94. On or about January 31, 2012, defendants

BEN WOOTTON and RACE MINER

did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS, of a Claim for Refund of Excise Taxes, Form 8849, and attached Schedules and Certificates of Keystone Biofuels, Inc. for the period December 1, 2011, to December 31, 2011. The Form 8849 and attached Schedules and Certificates were false and fraudulent as to a material matter, in that they represented that Keystone Biofuels, Inc. was entitled under the provisions of the internal revenue laws to claim a tax refund in the approximate amount of \$1,000,228, whereas, as defendants WOOTTON and MINER then and there knew, Keystone Biofuels, Inc. was not entitled to claim a tax refund in the approximate amount of \$1,000,228 because during the period December 1, 2011, to December 31, 2011, Keystone Biofuels, Inc. did not produce fuel that met the requirements of ASTM D6751; and whereas, as defendant WOOTTON then and there knew, Keystone Biofuels, Inc. was not entitled to claim a tax refund in the approximate amount of \$1,000,228 because during the period December 1, 2011, to December 31, 2011, Keystone Biofuels, Inc. did not produce or sell mixtures of biodiesel and diesel fuel.

(In violation of Title 26, United States Code, Section 7206(2).)

A TRUE BILL:



FOREPERSON, GRAND JURY

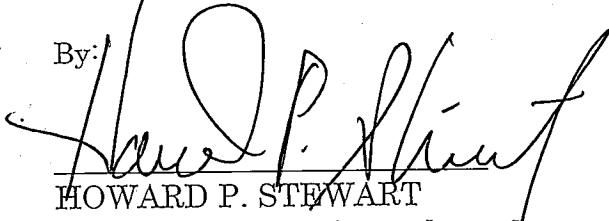
This 24 day of January, 2018.

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division

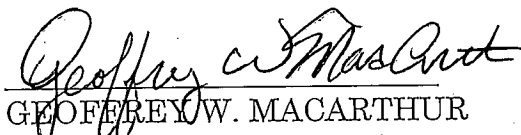
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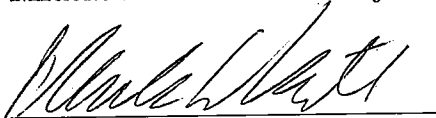


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