

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>PEOPLE OF THE STATE OF COLORADO,</p> <p>v.</p> <p>MARK L. SCHIFTER, DOB: 5/29/1956,</p> <p>Defendants.</p>	
<p>JOHN W. SUTHERS, Attorney General DAVID R. COSSON, Senior Assistant Attorney General* 1525 Sherman Street, 5<sup>th</sup> Floor Denver, CO 80203 (303) 866-5546 Registration Number: 22589 *Counsel of Record</p>	<p>Case No.: 2009 CR 01</p> <p>Ctrm.: 6</p>
<p><b>COLORADO STATE GRAND JURY INDICTMENT: 2009-2010 SESSION</b></p>	

Of the 2009-2010 term of the Denver District Court in the year 2010, the 2009-2010 Colorado State Grand Jurors, chosen, selected and sworn in the name and by the authority of the People of the State of Colorado, upon their oaths, present the following:

**COUNT ONE**  
**Theft-\$20,000 or More, C.R.S. 18-4-401(1)(a)**

On or about and between October 18, 2004 and August 25, 2009, but not discovered until October 21, 2009, in the State of Colorado, **Mark Schifter** did unlawfully, feloniously, knowingly, and by deceit, take a thing of value, to-wit: money of the value of twenty thousand dollars (\$20,000) or more, from individuals (named in the attached Victim List, and which is hereby incorporated herein by reference), with the intent to permanently deprive them of the thing of value, in violation of section 18-4-401 (1)(a) and (2)(d), C.R.S. as amended, THEFT, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F3)

The offenses alleged in Count One were committed in the following manner:

1. **Mark Schifter** is the President of [www.AV123.com](http://www.AV123.com) (AV123) and Perpetual Technologies, doing business in Longmont, Colorado, which is located in Boulder County. Perpetual Technologies sells high-end audio and stereo equipment.
2. The main web site for Perpetual Technologies is [www.AV123.com](http://www.AV123.com). **Mark Schifter's** company has a large following who often post comments on the forum area of AV123. These bloggers live throughout the U.S., including Colorado and Canada
3. Beginning in October, 2004, **Mark Schifter** began using company computers, located in Boulder County, Colorado, to post announcements on AV123, advertising numerous charity raffles which he initiated and ran until each one was concluded. Money was solicited directly by **Mark Schifter**, collected by him and appropriated by him primarily for personal purposes. At least 27 known charity raffles were operated by **Mark Schifter** between October 18, 2004 and about August 25, 2009.
4. Each raffle was advertised on AV123 by **Mark Schifter**, or someone at his direction, and purported to benefit some charitable organization, such as the Red Cross, or some other charitable purpose, such as raising money for an individual with a serious or terminal illness.
5. **Mark Schifter** fraudulently solicited and collected \$180,034.09 connected to the 27 raffles he operated. Of that amount, only \$29,500 was ever given to the ostensible recipients of the donated raffle money. **Mark Schifter** kept approximately \$150,534.09 for himself. Many charities that **Mark Schifter** said would receive large amounts of donations from his raffles, in fact, received nothing. Money that was collected and not given to the intended charity or recipient, was used by **Mark Schifter** exclusively for personal purposes.

6. **Mark Schifter** represented in each raffle advertisement that all or nearly all of the money donated by forum contributors would go directly to the named recipient of the raffle. **Mark Schifter** often used emotional pleas to encourage forum members to give. A total of 707 victims gave to the charity raffles run by **Mark Schifter**, with many of them donating hundreds of dollars and giving to multiple raffles. These donors were from all over the U.S. and several were from Colorado.

**COUNT NUMBER TWO**  
**Charitable Fraud-Scheme/Defraud, C.R.S. 6-16-111(1)(g)**

On or about and between October 18, 2004 and August 25, 2009, in the State of Colorado, **Mark Schifter**, with the intent to defraud, unlawfully and feloniously devised and executed a scheme or artifice to defraud by means of a solicitation or obtained money by means of a false or fraudulent pretense, representation or promise in the course of a solicitation, in violation of section 6-16-111(1)(g), C.R.S., CHARITABLE FRAUD, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F5)

The offenses described in Count Number Two are based on a series of acts performed at different times, and the last act was committed on or about August 25, 2009.

The offenses alleged in Count Two were committed in the following manner:

1. The information contained in the offense description relating to Count One is incorporated herein by reference.
2. For each raffle conducted by **Mark Schifter** using his web site, he included a written plea for help for the subject of the raffle, and he would periodically continue to appeal for help for the charity or individual throughout the period that the raffle was still open. He also enticed donors by always including an expensive piece of audio equipment as the raffle prize. **Mark Schifter** would make an emotional appeal for whatever cause he was fraudulently promoting and then would tout the qualities of the prize the winner of the raffle would receive. People who participated in the raffles were swayed by both tactics, as demonstrated by their posted responses to each raffle advertisement. Forum participants would always acknowledge what a great cause **Mark Schifter** was promoting. They regularly expressed their deep appreciation, and would discuss the desirability of the raffle prize.
3. The scheme consisted of **Mark Schifter** utilizing his company website and its ready group of customers and followers to make strong appeals to their sense of compassion and giving, by developing intricate pleas for assistance for prominent charity groups or for

individuals with actual serious illnesses. He used his standing among the forum members to convince them that he was actually sending thousands of dollars to worthy causes. He even made donating money as easy as possible by eventually instituting a PayPal account system. Money donated using this method was transferred directly into **Mark Schifter's** own business account. For some raffles, he would even offer to absorb any PayPal fees so that more money would go the charity cause. He would also state at times that he was putting large amounts of his own personal money towards the charitable cause. He used ploy after ploy for nearly two-and-a-half years to steal people's money, which he never intended to pass on to the advertised recipients.

### **COUNT NUMBER THREE**

#### **Charitable Fraud-Use of Name Without Authorization, C.R.S. 6-16-111(1)(b)**

On or about and between May 17, 2007 and August 25, 2009, in the State of Colorado, **Mark Schifter**, did knowingly solicit any contribution and, in aid of or in the course of such solicitation, utilized the name of another person or organization without written authorization from such person or organization for such use, in violation of section 6-16-111(1)(b), C.R.S., CHARITABLE FRAUD, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F5)

The offenses alleged in Count Three were committed in the following manner:

1. The information contained in the offense descriptions relating to Count One and Count Two is incorporated herein by reference.
2. Mark Schifter used the names of several charitable organizations to induce potential donors who visited his web site to make monetary donations. He did not obtain authorization from these organizations to use their names. In fact, most of the organizations were unaware that a so-called raffle was being held to benefit them. Some of the organizations whose names were used by Mark Schifter were: the Dana-Farber Cancer Institute, the American Red Cross, to benefit the victims of Hurricane Katrina, the Sloan Kettering Cancer Center, the Salvation Army, The Children's Hospital of Denver, the Juvenile Diabetes Research Foundation and alleged orphanages in Russia.

#### COUNT NUMBER FOUR

#### **Computer Crime-Scheme/Defraud-\$20,000 or More, C.R.S. 18-5.5-102(1)(b),(d)**

On or about and between October 18, 2004 and August 25, 2009, and not discovered until October 21, 2009, in the State of Colorado, **Mark Schifter** unlawfully, feloniously, and knowingly accessed a computer, computer network, or computer system, or any part thereof, for the purpose of devising or executing a scheme or artifice to defraud, or to commit theft, and the loss, damage, value of services, or thing of value taken, or cost of restoration or repair was twenty thousand dollars or more; in violation of section 18-5.5-102(1)(b);(d), C.R.S., **COMPUTER CRIME**, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado. (F3)

The offenses alleged in Count Four were committed in the following manner:

1. The information contained in the offense descriptions relating to Counts One, Two and Three is incorporated herein by reference.
2. Each of the 27 fraudulent raffles were conducted solely by use of computer generated solicitations from **Mark Schifter**. Each raffle announcement was posted on **Mark Schifter's** web site, [www.AV123.com](http://www.AV123.com). Additional communications relating to the raffles from **Mark Schifter** to AV123 forum members were sent regularly by **Mark Schifter** by use of computer.
3. All donations made by unsuspecting victims were processed through **Mark Schifter's** web site. The announcement of individual winners of each raffle was made on the AV123 web site.

#### COUNT FIVE

#### **Raffle Law Violation, C.R.S. 12-9-114**

On or about and between June 11, 2007 and August 25, 2009, **Mark Schifter** willfully violated provisions of Article 9 of Title 12 of the Colorado revised Statutes, namely: **Schifter** failed to obtain a charitable gaming license and was not a qualified charitable organization, in violation of 12-9-114, C.R.S. as amended, **RAFFLE LAW VIOLATION**, (M2) contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the People of the State of Colorado.

The offense described in Count Number Seven was based on a series of acts performed at different times, and the last act was committed on or about August 25, 2009.

JOHN W. SUTHERS  
ATTORNEY GENERAL  
STATE OF COLORADO



David R. Cosson, #22589  
Assistant Attorney General  
Criminal Justice Section

Subscribed to before me in the City and County of Denver, State of Colorado, this  
25<sup>th</sup> day of February 2010.

  
Notary Public

My commission expires: 1-5-2013