

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
FRANKFORT

UNITED STATES OF AMERICA

V.

INDICTMENT NO. \_\_\_\_\_

MICHAEL D. SMITH,  
RAY GARTON,  
CHRISTOPHER CELLO SMITH,  
SHAUN MICHAEL SMITH,  
MARK IRWIN, and  
JOSHUA SCOTT HARRIS

\* \* \* \* \*

THE GRAND JURY CHARGES:

COUNT 1  
18 U.S.C. § 1349

From on or about February 18, 2003, and continuing through on or about February 2008, in, Franklin County, and in the Eastern District of Kentucky, and elsewhere,

MICHAEL D. SMITH,  
RAY GARTON,  
CHRISTOPHER CELLO SMITH,  
SHAUN MICHAEL SMITH,  
MARK IRWIN, and  
JOSHUA SCOTT HARRIS

conspired with each other and with others, to devise a scheme and artifice to defraud and to obtain money from persons throughout the United States who could be and were induced to enter into investment contracts with Target Oil and Gas Corporation and

Kentucky Indiana Oil and Gas Corporation and to purchase shares in oil and gas well drilling programs by false and fraudulent pretenses and representations, utilizing the following manner and means:

**INTRODUCTION**  
**BACKGROUND**  
**MANNER, MEANS AND OVERT ACTS**

1. During the period covered by this Indictment:

(a) The Kentucky Department for Energy Development and Independence, Division of Oil and Gas Resources, formerly known as the Department of Mines and Minerals, Division of Oil and Gas, and also the Kentucky Department of Natural Resources, Division of Oil and Gas Conservation, with addresses of 1025 Capitol Center Drive and P.O. Box 2244, Frankfort, Franklin County, Kentucky, is a division of the state government of Kentucky with the responsibility to process and approve applications for authority to drill, deepen or reopen oil and gas wells, also known as “permits”. All permits for oil and gas wells inside Kentucky are processed through the Kentucky Department of Natural Resources, Division of Oil and Gas Conservation in Frankfort, Kentucky. The Department also has the responsibility for regulating and monitoring the completion and closing, called “plugging,” of oil and gas wells inside Kentucky. All required well logs and well completion reports are processed through the Department in Frankfort, Kentucky.

(b) Target Oil and Gas Corporation, hereinafter referred to as Target Oil, is a

Kentucky corporation with its principal place of business initially and from time to time at 1000 East Lexington Road Suite 116 Danville, Kentucky, at 190 Delbar Lane Lancaster, Kentucky, at 474 Highway 738 Albany, Kentucky, and at 200 East Cumberland Street P.O. Box 35 Albany, Kentucky.

(c) Kentucky Indiana Oil and Gas Corporation hereinafter referred to as Kentucky Indiana, is a Kentucky corporation with its principal place of business initially at 1000 East Lexington Road Suite 116 Danville, Kentucky and later at 474 Highway 738 Albany, Kentucky.

(d) Defendant **Michael D. Smith** is the President and owner of Target Oil and controls Kentucky Indiana.

(e) Defendant **Ray Garton** is a geologist, not licensed in the State of Kentucky, who runs a company called Mammoth Geophysical Inc., P.O. Box 200/600, Barrackville, West Virginia. Defendant Garton prepares documents including brochures to send out to potential investors for Target Oil and Kentucky Indiana Oil programs.

(f) Defendant **Christopher Cello Smith** is the brother of **Michael D. Smith** and is the Vice-President of Target Oil and Kentucky Indiana, and sold shares in oil and gas well drilling programs to investors.

(g) Defendant **Shaun Michael Smith** is the son of **Michael D. Smith**, works for Target Oil and Kentucky Indiana, paid sales commissions on investor sales, deposited investors' checks and managed the bank accounts for Target Oil and Kentucky Indiana. **Shaun Michael Smith** received facsimiles reports from salesmen on the results of

telephone “cold calls”, and followed up by mailing out subscription agreements and brochures to potential investors.

(h) Defendants **Mark Irwin** and **Joshua Scott Harris** worked for Target Oil and Kentucky Indiana as salesmen selling to investors shares in oil and gas well drilling programs.

### **BACKGROUND**

2. An oil and gas well drilling program is used by oil and gas companies to generate working capital by soliciting money from a group of private investors. Investor money is used to drill an oil and/or gas well. Typically, an oil and gas company acts as a managing or general partner and manages the oil and gas well drilling program. The managing or general partner identifies a favorable geographic location for a well, and procures a lease of the oil and gas rights for the property, secures the permits from state regulatory authorities, and handles all necessary reporting to state regulatory authorities. The managing or general partner proposes an estimate of the cost of drilling and production. The proposed oil and gas program is described in a “private placement memorandum” sometimes called an “offering circular” which is suppose to inform potential investors of all facts material to the investment decision including the risks of the investment an the proposed distribution of any profits, the percentage of profits to be paid to the managing or general partner, and the manner in which the costs of the managing or general partner are to be reimbursed. Shares of an oil and gas drilling program are then sold to individual investors who are partners or “participants” in the program. If the drilling is successful

and a sufficient quantity of oil or gas is located, an operating well is established. The gas is piped from the well into a local gas or distribution pipeline, metered and sold to a local gas distributor. If the well is an oil well, the oil is pumped into a truck that transports it to a refinery. The costs of drilling are paid first from the proceeds of the sale of the oil or gas. Then the investors receive a division of the profits, called royalties, according to their respective ownership, that is, number of shares of the oil and gas well drilling program.

### **MANNER AND MEANS**

3. As part of the conspiracy, the Defendants operated an oil and gas drilling business through two companies or entities, Target Oil and Kentucky Indiana, which served as managing or general partners in a number of oil and gas well drilling programs.

4. As part of the conspiracy, the Defendants acquired drilling permits and/or leases for property located in the states of Kentucky, Tennessee, Texas, and West Virginia.

5. As part of the conspiracy, the Defendants put together a number of oil and gas well drilling programs including but not limited to the following:

- |                                |  |
|--------------------------------|--|
| 1. Target #58 & #59            | 8. Target 87 & #88                             |
| 2. Target #49, #60, #61, & #62 | 9. Target #89, #90, #91, & #92                 |
| 3. Target #63, #64, #65, & #66 | 10. Granville #1, & #2, and Big Sandy #1       |
| 4. Target #67, #68, #69, & #70 | 11. Big Sandy #3, Granville #5 & #6            |
| 5. Target #71, #72, #73, & #74 | 12. Hurricane #1                               |
| 6. Target #75, #76, #77, & #78 | 13. Big Sandy #2, Granville #3 & #4            |
| 7. Target #79, #80, #81, & #82 | 14. Granville, #7, #8, & #9 (CCG #7, #8, & #9) |

15. Clinton County-Granville #10, #11, & #12  
(CCG #10, #11, & #12)

16. Clinton County-Granville #1, #2, & #3  
(CCG #1, #3, & #4)

17. Clinton County-Granville #4, #5, & #6  
(CCG #4, #5, & #6)

18. Clinton County-Stones River #1, #2, & #3  
(CCSR #1, #2, & #3)

19. Big Sandy #6

20. Clinton County-Granville #7, #8, & #9  
(CCG #7, #8, & #9)

21. Big Sandy #4 & #5

22. Clinton County-Stones River #4, #5, & #6  
(CCSR #4, #5, & #6)

23. Magoffin #2

24. Floyd BE #1

25. Floyd #2

33. Hurricane #2 & #3

34. Floyd #6

35. Hurricane #4 & #5

36. Hurricane #6 & #7

37. Johnson #1 & #2

38. Hurricane #8 & #9

39. Whispering Pines #1 & #2

40. Whispering Pines #3

41. Clinton County #101, #102, & #103

42. Clinton County #104, #105, & #106

43. Whispering Pines #4

44. Clinton County #107 & #108

45. Texas-Zephyr #1

26. Reneau #1, #2, & #3

27. Reneau #4, #5, & #6

28. Reneau #7, #8, & #9

29. Floyd #3

30. Floyd #4

31. Floyd #5

32. Reneau #10, #11, & #12

46. Texas-Zephyr #2

51. Eastern Kentucky #4

47. Clinton County #201, #202 and Bell County #1

52. Knox #1 & #2 (aka Eastern Kentucky #1 & #2)

48. Bell County Well #2

53. Eastern Kentucky #5

49. Bell County #3

50. Clinton County #203 & #204

6. As part of the conspiracy, the Defendant **Michael D. Smith** directly and through salesmen, solicited individuals throughout the United States to invest in oil and gas well drilling programs offered by Target Oil and Kentucky Indiana, using unlicensed salesmen to sell unregistered securities. Initial investor contacts and solicitations were made via telephone “cold calls” and the overwhelming majority of potential investors contacted were not accredited investors. On many occasions, salesmen told potential investors that they, the salesmen, were licensed and that the oil and gas well drilling programs were registered securities. The salesman made no effort to determine whether the investors qualified as accredited investors.

7. As part of the conspiracy, the Defendants sold shares of these programs to numerous investors and collected in excess of \$3,192,793.50 in investors’ money, while paying out in royalties less than \$37,882.00 to these same investors.

8. As part of the conspiracy, the Defendants would give additional shares of an oil and gas well drilling program to some investors free of the investment costs required from other investors. These “free” shares were designed to placate, stall and lull suspicious investors

who had not received their anticipated return on investment. At other times, these “free” shares were designed to instill false confidence in an investor in the operations of the managing or general partner and to induce the investor to purchase additional shares in a program.

9. As part of the conspiracy, and in order to induce the investors to invest in their respective programs, the Defendant **Michael D. Smith** and the Defendant **Ray Garton** prepared and directed others to prepare, a brochure for each program. Each brochure contained reports with geologic information which appeared to be specific and unique to the stated geographic location of the proposed well site and which were presented in a manner that lead the investors to believe that Defendant **Ray Garton** acting as an independent geologist had performed a professional geological assessment of each local well site when, in fact, the reports contained non specific geological information generally applicable to a broad geographical area which encompassed the well site.

10. As part of the conspiracy, and to induce the investors to submit additional monies to complete the process of placing a producing well on a distribution pipeline, or to invest in new programs, the Defendants made, or caused to be made, numerous material false representations, statements, and promises, including but not limited to:

- a. that existing programs had successfully produced oil or gas;
- b. that specific wells were producing revenues and royalties were being paid;
- c. that specific wells had “hit” oil or gas;
- d. that **Ray Garton** had independently reviewed the logs from the newly producing

wells and had determined that a specific well was commercially viable and had recommended that the specific well be completed and completions fees collected;

e. that **Ray Garton** had independently reviewed the production logs and determined that certain wells should be plugged and abandoned.

11. As part of the conspiracy, the Defendants intentionally failed to disclose to potential investors numerous material facts, including, but not limited to:

a. the brochure provided to each potential investor was not a prospectus or offering circular.

b. that the Pennsylvania Securities Commission issued a Summary Order to Cease and Desist against Target Oil and Defendant **Michael Smith** dated December 27, 2001, prohibiting the offer of unregistered securities by an unregistered agent.

c. that the Wisconsin Department of Financial Institutions, Division of Securities, issued an Order of Prohibition and Revocation against Target Oil dated December 20, 2001, prohibiting the offering of unregistered securities in the form of working interests in oil and gas wells by unlicensed broker-dealers and agents.

d. that the Kentucky Department of Financial Institutions entered into an Agreed Order with Target Oil and Defendant **Michael Smith** on February 14, 2003, whereby Target Oil and its agents would have to have a reasonable belief that the potential investors being contacted were accredited investors, written verification of accredited status would be maintained for each investor, that a prospectus or offering circular would be provided for each offer or sale of an investment, and that the offering circular would

contain all material information a reasonable investor could want to know about the offering and the circumstances surrounding the offering.

e. that Oklahoma Department of Securities entered into an Agreed Cease and Desist Order with Target Oil and **Michael D. Smith** dated May 26, 2006, ordering the cessation of the offer and sale of non-exempt and unregistered securities in and from Oklahoma, and from transacting business as unregistered broker-dealers or agents.

f. that the Michigan Department of Labor & Economic Growth Office of Financial and Insurance Services issued a Cease and Desist Order against Target Oil and Defendants **Michael Smith** and **Christopher Cello Smith** on July 6, 2006, prohibiting the sale or offering to sell or selling unregistered securities and from offering to sell or selling securities without disclosing all material information.

g. that the Texas State Securities Board, Deputy Securities Commissioner issued and Emergency Cease and Desist Order against Target Oil on March 22, 2007, for offering unregistered securities for sale in Texas.

h. that the Missouri Office of the Secretary of State, Enforcement Section of the Securities Division on August 17, 2007, entered a Cease and Desist Order against Target Oil and **Michael Smith** prohibiting the sale of unregistered securities by unregistered agents, making untrue statements of material facts or omitting material facts in the offer or sale of securities in the State of Missouri.

I. that Defendant **Ray Garton** was not licensed as a geologist in the State of Kentucky and was under a Cease and Desist Order issued by Kentucky to prohibit **Garton**

from performing geology work within the state.

j. that Defendant **Michael D. Smith** would present Defendant **Ray Garton** with a drilling location and a proposal recommending the number of wells Smith wanted to drill and then Garton would issue a geological report recommending that Target Oil or Indiana Oil drill those wells.

k. that the brochures were prepared in substantial part by other employees of Target Oil and Kentucky Indiana Oil, based on well sites selected by Defendant **Michael D. Smith** prior to any geological reporting, and were not selected by Defendant **Ray Garton**.

l. that Defendant **Ray Garton** was an officer and agent of Target Oil and Indiana Oil, served as the agent for Target Oil in West Virginia, and assisted Defendant **Michael D. Smith** with the oversight of West Virginia operations.

m. that the brochures failed to disclose the intended use of the proceeds from the offering.

#### **OVERT ACTS**

12. For the purpose of executing the conspiracy to devise a scheme to defraud, the Defendants, on or about the respective dates below, placed in the United States mail or with a commercial interstate carrier or caused to be delivered by United States mail or by a commercial interstate carrier, according to the directions thereon, mail matter as described and as addressed below:

<b>DATE</b>	<b>ITEM MAILED</b>	<b>MAILED TO</b>	<b>MAILED FROM</b>
03/24/04	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 95816 Clinton #1, Raymond Reneau Lease	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
03/24/04	Target Investor Packet Subscription Agreement Document Reneau Wells #4, #5, #6	James Smith ***** Randolph, NJ 07869	Target Oil & Gas 1000 East Lexington Avenue Suite 116 Danville, KY 40422-1707
04/06/04	Target's Investor Packet Subscription Agreement and Document Reneau # 4, #5, #6	Louis Jeffrey ***** Sanibel, FL 33957	Target Oil & Gas 1000 East Lexington Avenue Suite 116 Danville, Kentucky 40422-1707
08/14/04	Letter to Chris Smith re: Floyd Well #6	Target Oil & Gas Corporation Greenleaf Center 1000 East Lexington Ave, Suite 116 Danville, KY 40422-1707	Daniel D.Grethen, President Better Days R Here, Inc. ***** Morganton, NC 28655
08/26/04	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 96358 Floyd #6, Craig Blackburn Lease	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
01/06/05	Target's Investor Packet Subscription Agreement and Brochure Hurricane #6 & #7	Albert Gaspar ***** Rio Rancho, NM 87124	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422-1707
02/11/05	Letter to Target re: Well Violation Clearance for Corrections Permit 94752: Hatfield, Curtis Target 75	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Gina Cavender Department of Mines and Minerals Division of Oil and Gas P.O. Box 2244 Frankfort, KY 40601

04/18/05	Subscription Agreement Investment Check Johnson Wells #1 & #2	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Vincent Guerrieri ***** Kensington, MD 20895
09/12/05	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 97949 Clinton 10-A, Robert Reneau Lease	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
12/30/05	Target's Investor Packet; Subscription Agreement and Brochure Reneau #10, #11, #12	Kenneth Endicott, DDS ***** Toledo, OH 43623	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422-1707
02/01/06	Letter regarding well completion fees Johnson Wells #1 & #2	Donald Speth ***** ***** Providence, UT 84332	Target Oil & Gas Corporation Greenleaf Center 1000 East Lexington Ave, Suite 116 Danville, KY 40422
02/20/06	Clinton #101, #102 & #103 Sales Material Prepared by Mammoth Geophysical	Ronald Knight ***** Birmingham, AL 35242	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422-1707
04/05/06	Letter from Ray Garton to Mike Smith Drilling Recommendation Hurricane Wells #8 & #9	Target Oil & Gas Corp. Mr. Michael Smith, President 1000 East Lexington Ave, Suite 124 Danville, KY 40422	E. Ray Garton, President Exploration Geologist Mammoth Geophysical PO Box 200/600 Saxman Street Barrackville, WV 26559
04/24/06	Investor letter requesting status of wells and explanation for lack of production. Target #79, #80, #81, & #82 and others	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422- 1707	Don Thompson ***** Omaha, NE 68154
05/31/06	Copy of letter and check From Thrifty Well Service Re: Zephyr #1 & #2 wells	Target Oil & Gas Corp P.O. Box 1110 Danville, KY 40423	Thrifty Well Service Inc. PO Box 181 Rice, TX 75155

06/12/07	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 101587 Bell Co #1 Hunter, et al	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
09/21/07	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 102130 Bell Co #2, Hunter, et al Lease	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
10/10/07	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 102228 Bell Co #3, Hunter, et al Lease	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
02/26/08	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 103049 Knox Zephyr #2, Dallas Brown Lease	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
02/26/08	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 103050 Knox #4, Dallas Brown Lease	Target Oil & Gas Corp, 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601

13. For the purpose of executing the conspiracy to devise a scheme to defraud, the Defendants, on or about the respective dates below, did transmit and cause to be transmitted in interstate commerce, by means of a wire communication, certain signs and signals, that is, the facsimile transmissions of documents, from points outside the Eastern District of Kentucky to a location within the Eastern District of Kentucky:

<b>DATE</b>	<b>ITEM WIRED</b>	<b>WIRED TO</b>	<b>WIRED FROM</b>
03/06/06	Fax from Eugene Teague re: drilling locations for Zephyr wells	Mike Smith, Target Oil & Gas Fax No. 859-792-9746	Eugene Teague Fax No. 903-326-6197
04/03/06	Fax from Eugene Teague re: Zephyr wells	Mike Smith, Target Oil & Gas Fax No. 859-792-9746	Eugene Teague Fax No. 903-326-6197

14. For the purpose of executing the conspiracy to devise a scheme to defraud, the Defendant, **MARK IRWIN**, on or about the respective dates below, sold or caused to be sold to investors shares in the below designated oil and gas programs and offered by Target Oil and Kentucky Indiana:

<b>DATE</b>	<b>PROGRAM</b>	<b>INVESTOR</b>
10/25/2006	Zephyr #1	Charles Kolar
12/19/2006	Zephyr #1	James D. Griffith
10/3/2006	Zephyr #1	Ray McCool
2/5/2007	Zephyr #2	Raymond Showalter
2/23/2007	Zephyr #2	Robert Wagner
3/14/2007	Zephyr #2	Charles Kolar
4/6/2007	Clinton Co #201, #202 & Bell #1	Mike Fuller
4/17/2007	Clinton Co #201, #202 & Bell #1	Vaughn Grasso
4/18/2007	Clinton Co #201, #202 & Bell #1	Don Kuenzli
5/19/2007	Clinton Co #201, #202 & Bell #1	Charles Kolar
6/14/2007	Clinton Co #201, #202 & Bell #1	Matt Miller

6/19/2007	Clinton Co #201, #202 & Bell #1	Chris Kuhn
10/10/2007	Bell #3	Melvin Snipes
Date After Feb 7, 2008	Eastern KY #4	Melvin Snipes

15. For the purpose of executing the conspiracy to devise a scheme to defraud, the Defendant, **JOSHUA SCOTT HARRIS**, on or about the respective dates below, sold or caused to be sold to investors shares in the below designated oil and gas programs and offered by Target Oil and Kentucky Indiana:

DATE	PROGRAM	INVESTOR
1/30/2007	Zephyr #2	Kenneth Powlesland
2/12/2007	Zephyr #2	Dale Emaar
3/19/2007	Zephyr #2	Weldon Sims
3/21/2007	Zephyr #2	Hans Banzinger
5/22/2007	Clinton Co #201, #202 & Bell #1	Duane Krautkremer
5/23/2007	Clinton Co #201, #202 & Bell #1	Dale Emaar
6/1/2007	Clinton Co #201, #202 & Bell #1	Dale Emaar

16. For the purposes of executing the conspiracy to devise a scheme to defraud, in January of 2006, **RAY GARTON**, met with investor Vincent R. Guerrieri in the area of Fairmont, West Virginia, and took him to the location of Johnson well #1, and the proposed sites for wells Whispering Pines #1, #2 and #3, and Johnson #2. At that time, Defendant **RAY GARTON** told Guerrieri he was an independent geologist who was paid to tell Target Oil

where to drill, that he, **GARTON**, had no other connection with Target Oil, and that there were several productive geological formulations under the leased site, and that drillers had tapped them and had developed commercially successful wells. Defendant **RAY GARTON** advised investor Guerrieri to invest in Whispering Pines wells #1 and #2 because they looked as good as Johnson #1.

17. For purposes of executing the conspiracy to devise a scheme to defraud, the Defendant **SHAUN MICHAEL SMITH** did between September 2007 and August 2008 instruct an employee that completion feeds would be waived for well program Zephr #2 because the drilling deadline had past, when in truth, the well site had not been drilled in Texas but moved to another state without disclosing the moving of the well site to investors.

All in violation of 18 U.S.C. § 1349.

**COUNTS 2-21**  
**18 U.S.C. § 1341**

18. The allegations of Count 1 are incorporated by reference as if again set forth.

19. For the purpose of executing the scheme to defraud, on or about the respective dates below,

**MICHAEL D. SMITH,  
RAY GARTON,  
CHRISTOPHER CELLO SMITH,  
SHAUN MICHAEL SMITH,  
MARK IRWIN, and**

**JOSHUA SCOTT HARRIS**

placed in the United States mail and with a commercial interstate carrier, and caused to be delivered by United States mail and by a commercial interstate carrier, according to the directions thereon, mail matter as described and as addressed below:

COUNT	DATE	ITEM MAILED	MAILED TO	MAILED FROM
2	3/24/04	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 95816 Clinton #1, Raymond Reneau Lease	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
3	03/24/04	Target Investor Packet Subscription Agreement Document Reneau Wells #4, #5, #6	James Smith ***** Randolph, NJ 07869	Target Oil & Gas 1000 East Lexington Avenue Suite 116 Danville, KY 40422-1707
4	04/06/04	Target's Investor Packet Subscription Agreement and Document Reneau #4, #5, #6	Louis Jeffrey ***** Sanibel, FL 33957	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422-1707
5	08/14/04	Letter to Chris Smith re: Floyd Well #6	Target Oil & Gas Corporation Greenleaf Center 1000 East Lexington Ave, Suite 116 Danville, KY 40422-1707	Daniel D.Grethen, President Better Days R Here, Inc. ***** Morganton, NC 28655
6	08/26/04	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 96358 Floyd #6, Craig Blackburn Lease	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601

7	01/06/05	Target's Investor Packet Subscription Agreement and Brochure Hurricane #6 & #7	Albert Gaspar ***** Rio Rancho, NM 87124	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422- 1707
8	02/11/05	Letter to Target re: Well Violation Clearance for Corrections Permit 94752: Hatfield, Curtis Target #75	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Gina Cavender Department of Mines and Minerals Division of Oil and Gas P.O. Box 2244 Frankfort, KY 40601
9	04/18/05	Subscription Agreement Investment Check Johnson Wells #1 & #2	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Vincent Guerrieri ***** Kensington, MD 20895
10	09/12/05	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 97949 Clinton 10-A, Robert Reneau Lease	Target Oil & Gas Corp 1000 East Lexington Ave Suite 116 Danville, KY 40422	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
11	12/30/05	Target's Investor Packet; Subscription Agreement and Brochure Reneau #10, #11, #12	Kenneth Endicott, DDS ***** Toledo, OH 43623	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422- 1707
12	02/01/06	Letter regarding well completion fees Johnson Wells #1 & #2	Donald Speth ***** ***** Providence, UT 84332	Target Oil & Gas Corporation Greenleaf Center 1000 East Lexington Ave, Suite 116 Danville, KY 40422
13	02/20/06	Sales Material & Brochure Prepared by Mammoth Geophysical Clinton #101, #102 & #103	Ronald Knight ***** Birmingham, AL 35242	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422- 1707

14	04/05/06	Letter from Ray Garton to Mike Smith Drilling Recommendation Hurricane Wells #8 & #9	Target Oil & Gas Corp. Mr. Michael Smith, President 1000 East Lexington Ave, Suite 124 Danville, KY 40422	E. Ray Garton, President Exploration Geologist Mammoth Geophysical PO Box 200/600 Saxman Street Barrackville, WV 26559
15	04/24/06	Investor letter requesting status of wells and explanation for lack of production. Target #79, #80, #81, & #82 and others	Target Oil & Gas 1000 East Lexington Ave Suite 116 Danville, KY 40422-1707	Don Thompson ***** Omaha, NE 68154
16	05/31/06	Copy of letter and check From Thrifty Well Service Re: Zephyr #1 & #2 wells	Target Oil & Gas Corp P.O. Box 1110 Danville, KY 40423	Thrifty Well Service Inc. PO Box 181 Rice, TX 75155
17	06/12/07	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 101587 Bell Co #1 Hunter, et al	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
18	09/21/07	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 102130 Bell Co #2, Hunter, et al Lease	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
19	10/10/07	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 102228 Bell Co #3, Hunter, et al Lease	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
20	02/26/08	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 103049 Knox Zephyr #2, Dallas Brown Lease	Kentucky Indiana Oil & Gas 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601

21	02/26/08	Commonwealth of Kentucky Authority to Drill, Deepen or Reopen a Well Permit No: 103050 Knox #4, Dallas Brown Lease	Target Oil & Gas Corp, 486 Delbar Lane Lancaster, KY 40444	Dept of Natural Resources Division of Oil & Gas Conservation 1025 Capital Center Drive, Frankfort, KY 40601
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Each count in violation of 18 U.S.C. § 1341.

**COUNTS 22-23**  
**18 U.S.C. § 1343**

20. The allegations of Count 1 are incorporated by reference as if again set forth.
21. For the purpose of executing the scheme to defraud, on or about the respective dates below, in the Eastern District of Kentucky, and elsewhere,

**MICHAEL D. SMITH,  
RAY GARTON,  
CHRISTOPHER CELLO SMITH,  
SHAUN MICHAEL SMITH,  
MARK IRWIN, and  
JOSHUA SCOTT HARRIS**

did transmit and cause to be transmitted in interstate commerce, by means of a wire communication, certain signs and signals, that is, the facsimile transmissions of documents, from points outside the Eastern District of Kentucky to a location within the Eastern District of Kentucky:

<b>COUNT</b>	<b>DATE</b>	<b>ITEM WIRED</b>	<b>WIRED TO</b>	<b>WIRED FROM</b>
22	03/06/06	Fax from Eugene Teague re: drilling locations for Zephyr wells	Mike Smith, Target Oil & Gas Fax No. 859-792-9746	Eugene Teague Fax No. 903-326-6197

23	04/03/06	Fax from Eugene Teague re: Zephyr wells	Mike Smith, Target Oil & Gas Fax No. 859-792-9746	Eugene Teague Fax No. 903-326-6197
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Each count in violation of 18 U.S.C. § 1343.

**COUNT 24**  
**15 U.S.C. § 78o(a)(1) & 78ff**

That at all times herein stated, in Boyle County, in the Eastern District of Kentucky, and elsewhere, the defendant,

**MICHAEL D. SMITH,**

was not registered with the United States Securities and Exchange Commission as a broker or dealer in accordance with subsection (b) of Section 15 of the Securities and Exchange Act of 1934 (15 U.S.C. Section 78o(b)), and did knowingly and willfully make use of the mails and means or instrumentalities of interstate commerce to effect transactions in and to induce and attempt to induce the purchase and sale of securities; to wit, on or about the dates show below, **MICHAEL D. SMITH**, sold or caused to be sold, shares in partnerships to drill oil and gas wells, which aforementioned securities were not exempted securities under Section 3(a)(12) of the Securities and Exchange Act of 1934 (15 U.S.C. Section 78c(a)(12)) or commercial paper, bankers' acceptances, or commercial bills:

<b>DATE</b>	<b>PROGRAM OR WELL</b>	<b>INVESTOR</b>
1/13/2004	Reneau #1, #2 & #3	James G. Smith
3/25/2004	Reneau #4, #5 & #6	James G. Smith
9/27/2004	Floyd #6	Jack Luck

10/31/2004	Floyd #6	Kenneth & Mary Powlesland
5/21/2005	Johnson#1 & #2	Byron Robinette
5/10/2005	Johnson#1 & #3	Vincent Guerrieri
1/15/2006	Whispering Pines # 3	Vincent Guerrieri
7/20/2006	Zephyr #1	Kenneth Powesland
10/25/2006	Zephyr #1	Charles Kolar
12/19/2006	Zephyr #1	James D. Griffith
10/3/2006	Zephyr #1	Ray McCool
2/5/2007	Zephyr #2	Raymond Showalter
2/23/2007	Zephyr #2	Robert Wagner
3/14/2007	Zephyr #2	Charles Kolar Raymond Showalter

All in violation of Title 15, U.S.C. §§ 78o(a)(1) and 78ff.

**COUNT 25**  
**15 U.S.C. § 78o(a)(1) & 78ff**

That at all times herein stated, in Boyle County, in the Eastern District of Kentucky, and elsewhere, the defendant,

**CHRISTOPHER CELLO SMITH**

was not registered with the United States Securities and Exchange Commission as a broker or dealer in accordance with subsection (b) of Section 15 of the Securities and Exchange Act of 1934 (15 U.S.C. Section 78o(b)), and did knowingly and willfully make use of the mails and means or instrumentalities of interstate commerce to effect transactions in and to induce and attempt to induce the purchase and sale of securities; to wit, on OR about the dates show below, **CHRISTOPHER CELLO SMITH**, sold or caused to be sold, shares

in partnerships to drill oil and gas wells, which aforementioned securities were not exempted securities under Section 3(a)(12) of the Securities and Exchange Act of 1934 (15 U.S.C. Section 78c(a)(12)) or commercial paper, bankers' acceptances, or commercial bills:

<b>DATE</b>	<b>PROGRAM OR WELL</b>	<b>INVESTOR</b>
1/13/2004	Reneau #1, #2 & #3	James G. Smith
3/25/2004	Reneau #4, #5 & #6	James G. Smith
6/9/2004	Hurricane #2 & #3	James G. Smith
9/27/2004	Floyd #6	Jack Luck
5/21/2005	Johnson#1 & #2	Byron Robinette
5/10/2005	Johnson#1 & #3	Vincent Guerrieri
1/15/2006	Whispering Pines # 3	Vincent Guerrieri
7/20/2006	Zephyr #1	Kenneth Powesland

All in violation of Title 15, U.S.C. §§ 78o(a)(1) and 78ff.

**COUNT 26**  
**18 U.S.C. § 981(a)(1)(C)**  
**28 U.S.C. § 2461(c)**  
**18 U.S.C. § 1961(1)(B)**  
**18 U.S.C. § 1956(c)(7)(D)**

In committing the felony offenses alleged in Counts 1 through 25 of this Indictment, each punishable by imprisonment for more than one year, the Defendants,

**MICHAEL D. SMITH,**  
**RAY GARTON,**

**CHRISTOPHER CELLO SMITH,  
SHAUN MICHAEL SMITH,  
MARK IRWIN, and  
JOSHUA SCOTT HARRIS**

shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), and 18 U.S.C. § 1961(1)(B) and 18 U.S.C. § 1956(c)(7)(D), any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the scheme to defraud of which the defendants are convicted, including but not limited to the following:

**MONEY JUDGMENT:**

\$3,192,793.50 (Three Million, One Hundred and Ninety-Two, Seven Hundred and Ninety-Three Dollars and Fifty Cents), representing the approximate amount of proceeds derived from the scheme to defraud and for which the defendants are jointly and severally liable.

**FINANCIAL INSTITUTION ACCOUNTS:**

- (1) \$72,050.00 (Seventy-Two Thousand, Fifty Dollars) in United States Currency;
- (2) One First Southern National Bank Cashier's Check #062629 in the amount of \$60,649.64 (Sixty Thousand, Six Hundred and Forty-Nine Dollars and Sixty-Four Cents); and
- (3) One Whitaker Bank Cashier's Check #022175 in the amount of \$100,000.00 or (One Hundred Thousand Dollars).

**SUBSTITUTE ASSETS:**

If any of the property listed above, as a result of any act or omission of the defendants,

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

- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek the forfeiture of any other property in which the above defendants have an interest in, up to the value of the currency described above and pursuant to 21 U.S.C. § 853(p), as incorporated 28 U.S.C. § 2461(c). These properties include, but are not limited to, the following real property:

- (1) 486 Delbar Lane, Lancaster, Kentucky, 40444 (Garrard County);
- (2) 452 Delbar Lane, Lancaster, Kentucky, 40444 (Garrard County);
- (3) 1137 North Plantation Drive, Cookeville, Tennessee, 38506 (Putnam County);
- and
- (4) 742 Coveview Circle, Cookeville, Tennessee, 38506 (Putnam County)

**A TRUE BILL**

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**FOREPERSON**

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**JAMES A. ZERHUSEN**  
**UNITED STATES ATTORNEY**

**PENALTIES**

**COUNT 1-23 :** Not more than 20 years imprisonment, not more than \$250,000 fine, and not more than 3 years supervised release.

**COUNT 24-25:** Not more than 20 years, not more than \$5,000,000 fine, and not more than 3 years supervised release.

**COUNT 26 :** Criminal forfeiture of listed assets.

**PLUS:** Mandatory special assessment of \$100 per count.

**PLUS:** Restitution, if applicable.