FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN.
MAY 26 2016
BY DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	NO. 3:16-00117
v.	)	
	)	18 U.S.C. § 2
	)	18 U.S.C. § 371
ROBERT F. ARNOLD,	)	18 U.S.C. § 1341
JOE L. RUSSELL II, and	)	18 U.S.C. § 1343
JOHN VANDERVEER	)	18 U.S.C. § 1346
	)	18 U.S.C. § 666(a)(1)(B)
	)	18 U.S.C. § 666(a)(2)
	)	18 U.S.C. § 1951
	)	18 U.S.C. § 1512(b)(3)

INDICTMENT

COUNT ONE
(Conspiracy)

THE GRAND JURY CHARGES:

Introduction

At all times relevant to this Indictment:

1. **ROBERT F. ARNOLD** ("**ARNOLD**") was the Sheriff of Rutherford County, Tennessee. **ARNOLD** was elected Sheriff in August 2010 and was reelected in August 2014. As Sheriff of Rutherford County, **ARNOLD** was the chief law enforcement officer in charge of the Rutherford County Sheriff's Office ("RCSO"), which covered a territory of approximately 626 square miles and employed approximately 175 law enforcement personnel and 135 detention personnel. **ARNOLD** was also responsible for the operation of the Rutherford County Adult Detention Center, also known as the Rutherford County jail, which was a 958-bed correctional

facility operating under the authority of the RCSO. As the Sheriff of Rutherford County, **ARNOLD** owed a fiduciary duty to the County and its citizens to act in their best interests.

2. **JOE L. RUSSELL II** ("**RUSSELL**") was the Chief Deputy of Administration for the Rutherford County Sheriff's Office. As the Chief Deputy of Administration for the Rutherford County Sheriff's Office, **RUSSELL** owed a fiduciary duty to the County and its citizens to act in their best interests.

3. **JOHN VANDERVEER** ("**VANDERVEER**") was the uncle of **ARNOLD** and was a resident of Marietta, Georgia.

4. JailCigs, LLC ("JailCigs") was a limited liability company formed on or about October 11, 2013 and organized under the laws of Georgia. Under JailCigs' Articles of Incorporation, the members of the company were **RUSSELL**, **VANDERVEER**, and **VANDERVEER**'s wife, who was **ARNOLD**'s aunt. JailCigs' primary business involved selling electronic cigarettes ("e-cigarettes") that could be used by inmates at jails and other detention facilities.

5. "Person 1" is a person known to the Grand Jury who worked as the primary sales representative for JailCigs in Tennessee and elsewhere.

The Conspiracy and Its Objects

6. From in or about June 2013 to in or about May 2015, in the Middle District of Tennessee and elsewhere, the defendants, **ROBERT F. ARNOLD**, **JOE L. RUSSELL II**, and **JOHN VANDERVEER**, did knowingly and willfully conspire, confederate, and agree with each other and others known and unknown to the Grand Jury to commit offenses against the United States, that is:

a. to devise and intend to devise a scheme and artifice to defraud and obtain money and property from Rutherford County by means of materially false and fraudulent pretenses, representations, and promises, in violation of 18 U.S.C. § 1343;

b. to devise and intend to devise a scheme and artifice to defraud and deprive Rutherford County and its citizens of the honest services of **ARNOLD**, a sheriff elected by the citizens of Rutherford County, in violation of 18 U.S.C. §§ 1341, 1343, and 1346;

c. to, while being an agent of Rutherford County, corruptly solicit, demand, accept, and agree to accept a thing of value from a person, intending to be influenced and rewarded in connection with any business, transaction, and series of transactions of Rutherford County; that is, **ARNOLD**, the Sheriff of Rutherford County, sought and received things of value from **RUSSELL** and **VANDERVEER** in order to influence **ARNOLD**'s official action to benefit JailCigs, in violation of 18 U.S.C. § 666(a)(1)(B);

d. to corruptly give, offer, and agree to give anything of value to any person, with intent to influence and reward an agent of Rutherford County in connection with any business, transaction, and series of transactions of Rutherford County; that is, **RUSSELL** and **VANDERVEER** gave, offered to give, and agreed to give things of value to **ARNOLD**, the Sheriff of Rutherford County, in order to influence official acts benefitting JailCigs, in violation of 18 U.S.C. § 666(a)(2);

e. to knowingly obstruct, delay, and affect in any way and degree commerce and the movement of any article and commodity in commerce by extortion; that is, for **ARNOLD** to unlawfully obtain and attempt to obtain property not due **ARNOLD** or his office from JailCigs,

RUSSELL, and **VANDERVEER**, with their consent, under color of official right, in violation of 18 U.S.C. § 1951; and

f. to knowingly alter, destroy, mutilate, conceal, cover up, and falsify documents with the intent to impede, obstruct, and influence the investigation and proper administration of a matter, and in relation to and contemplation of such matter, which matter was within the jurisdiction of a department and agency of the United States, specifically, the Federal Bureau of Investigation and the United States Department of Justice, in violation of 18 U.S.C. § 1519.

Purposes of the Conspiracy

7. It was a purpose of the conspiracy for **ARNOLD**, **RUSSELL**, and **VANDERVEER** to enrich themselves by using **ARNOLD**'s official position as the Sheriff of Rutherford County to provide favorable treatment to JailCigs in selling e-cigarettes for inmates at the Rutherford County jail in exchange for bribes and kickbacks.

8. It was further a purpose of the conspiracy for **ARNOLD**, **RUSSELL**, and **VANDERVEER** to enrich themselves by defrauding Rutherford County out of tens of thousands of dollars of revenue from the sale of e-cigarettes to inmates in the Rutherford County Jail and instead sharing the proceeds of those sales among themselves.

9. It was further a purpose of the conspiracy to hide, conceal, and misrepresent **ARNOLD** and **RUSSELL**'s financial involvement with JailCigs, and to prevent the detection of the conspiracy through the destruction of evidence.

Manner and Means

10. The defendants carried out the conspiracy through the following manner and means, among others:

11. **ARNOLD** used his official position with the RCSO to make JailCigs profitable, including by:

a. Allowing the company's e-cigarettes to be admitted into the Rutherford County jail and distributed to inmates as non-contraband;

b. Directing and permitting jail employees to do various tasks beneficial to JailCigs while working on county time, including handing out e-cigarettes to inmates, testing the e-cigarettes to ensure they were working properly, and documenting the results;

c. Promoting, and permitting others to promote, JailCigs to counterpart sheriff's offices and counties; and

d. Permitting the company not to pay Rutherford County the customary commission payment that JailCigs made to other counties in Tennessee.

12. In exchange for **ARNOLD** using his official position as Sheriff of Rutherford County to permit, facilitate, and promote the sale of JailCigs for use in the Rutherford County jail, **RUSSELL** and **VANDERVEER** offered and paid **ARNOLD** bribes and kickbacks, including the opportunity to invest in JailCigs and tens of thousands of dollars in payments.

13. **ARNOLD**, **RUSSELL**, and **VANDERVEER** concealed **ARNOLD** and **RUSSELL**'s involvement with JailCigs from RCSO employees, Rutherford County officials, officials in other counties, and the citizens of Rutherford County.

14. **ARNOLD**, **RUSSELL**, and **VANDERVEER** made false and misleading statements suggesting that they had obtained approval from the county auditor and the county attorney for the arrangement between the RCSO and JailCigs.

15. Through misrepresentations, omissions, and deception, **ARNOLD**, **RUSSELL**, and **VANDERVEER** deprived Rutherford County of the opportunity to earn, obtain, and control tens of thousands of dollars in fees and commissions from the sale of e-cigarettes for use in County facilities, and instead kept all of the proceeds from the sale of e-cigarettes for use in the Rutherford County jail for themselves.

16. **ARNOLD** made false and misleading statements to the media about his role in and knowledge of JailCigs in order to protect JailCigs' ongoing business.

17. When the defendants became aware of an investigation into JailCigs, **ARNOLD**, **RUSSELL**, and **VANDERVEER** attempted to cover up their criminal activity by tampering with a witness (Person 1) and directing her to destroy records that showed JailCigs payments to **ARNOLD** and **RUSSELL**.

Overt Acts

18. In furtherance of the conspiracy and to achieve its objects, the defendants committed the following overt acts, among others, in the Middle District of Tennessee and elsewhere:

A. Formation of JailCigs, LLC

19. In the summer of 2013, **ARNOLD**, **RUSSELL**, and **VANDERVEER** agreed to create a new company that would sell e-cigarettes that could be used by inmates at jails and other detention facilities.

20. On or about October 3, 2013, **VANDERVEER** executed the Articles of Incorporation for JailCigs, LLC. The listed members of the LLC were **RUSSELL**, **VANDERVEER**, and **VANDERVEER**'s wife, who was **ARNOLD**'s aunt.

21. In October 2013, **ARNOLD**, **RUSSELL**, and **VANDERVEER** wrote checks to JailCigs to fund the company's initial operations:

a. On or about October 24, 2013, **RUSSELL** wrote a check to JailCigs for $3,000.

b. On or about October 24, 2013, **VANDERVEER** wrote a check to JailCigs for $3,000, with a memo line stating, "Investment."

c. On or about October 25, 2013, **ARNOLD** wrote a check to JailCigs for $3,000, with a memo line stating, "Investment."

22. On or about October 14, 2013, **RUSSELL** sent **ARNOLD** an email with the username and password that would allow **ARNOLD** to log in as the administrator for www.JailCigs.com, as well as the usernames and passwords that would allow him to log into the company's online banking account and PayPal account.

B. JailCigs' Business Model and Sales Pitch

23. **ARNOLD**, **RUSSELL**, and **VANDERVEER** agreed on a business model and marketing scheme in which JailCigs would differentiate itself from competitors by offering e-cigarettes which would not be sold directly to the jail or to the inmate, but rather would be purchased online or over the phone by an inmate's friends or family members, shipped to the jail where the inmate was detained, and distributed to inmates by jail personnel.

24. For JailCigs to do business with a jail, it needed the jail to agree to do certain things, including:

a. Allowing e-cigarettes to come into the jail as non-contraband;

b. Putting up posters and other marketing materials for JailCigs in the jail;

c. Directing jail employees to distribute the e-cigarettes to inmates and test each one to ensure it was functioning properly; and

d. Documenting the number of e-cigarettes distributed and the number that functioned properly.

25. A key part of the company's sales pitch was the opportunity for the jail to make money by allowing JailCigs to sell e-cigarettes that would be delivered to and used by the jail's inmates. For example, JailCigs' marketing materials stated, "You just missed thousands in revenue for your jail!!! Each month that goes by is another month of lost opportunity." Likewise, a JailCigs marketing email had a subject line stating, "NEED REVENUE FOR NEXT YEAR'S BUDGET?" and a body stating, "You just mi$$ed the opportunity to easily earn THOUSAND$ for your jail!!!"

26. JailCigs employed sales representatives in various states in which they operated. In Tennessee, that sales representative was Person 1. **ARNOLD**, **RUSSELL**, and **VANDERVEER** agreed to pay Person 1 a commission on each sale in her territory. **ARNOLD**, **RUSSELL**, and **VANDERVEER** also instructed Person 1 on how to market and promote JailCigs, including offering jails a $5 commission on each e-cigarette sold that was sent to the particular jail.

27. Jails in Tennessee that agreed to do business with JailCigs were offered a choice of how to receive the $5 commission payment. The first option was for JailCigs to send the sheriff's office a monthly check, which the sheriff's office would then send to the county commission for deposit in the county general fund. The second option was for JailCigs to donate goods to the sheriff's office that were equal in value to the amount of money that JailCigs owed it in commissions.

28. JailCigs emphasized that, if a sheriff's office agreed to accept commission payments in the form of donated goods, the sheriff's office could avoid having to send the money to the county commission to be deposited in the county general fund. As the company's marketing materials stated, "Only JailCigs.com offers a program designed for **Sheriffs** & eliminates any audit issues and creates revenue that is directed by the -->Sheriff<--." Likewise, a marketing email from JailCigs stated, "A new source of revenue is available for your jail and it puts the Sheriff in the driver seat of where the rewards can be applied. **Our program** is not burdened by normal commissary rules. The Sheriff **is not obligated** to forward the funds to County General. It puts the Sheriff in command of how the rewards are appropriated."

C. Sales of JailCigs at the Rutherford County Adult Detention Center

29. Shortly after the company was formed, **ARNOLD** and **RUSSELL** introduced JailCigs into the Rutherford County jail. The Rutherford County jail was JailCigs' first customer, as well as its largest customer in Tennessee.

30. **ARNOLD** and **RUSSELL** allowed the e-cigarettes to come into the jail and be treated as non-contraband. They also directed that or allowed posters and other marketing materials advertising JailCigs to be put up in various places in the jail. They also directed

employees of the Rutherford County Sheriff's Office to distribute e-cigarettes to inmates while the employees were working on county time. This distribution process typically required the employees to have the inmates test each e-cigarette to ensure it was functioning properly; if an e-cigarette was not functioning properly, RCSO employees would report that fact to **RUSSELL**. RCSO employees were also required to document how many e-cigarettes had been distributed, to whom, and how many had malfunctioned.

31. Despite allowing JailCigs to operate at the Rutherford County jail, and despite using county property and labor to facilitate the company's operations there, **ARNOLD** and **RUSSELL**, in violation of their fiduciary duties to Rutherford County, did not require JailCigs to pay the $5 commission that the company offered on sales at every other county in Tennessee, and indeed did not require JailCigs to pay any commission to Rutherford County at all.

32. **ARNOLD** and **RUSSELL** did not subject the arrangement between the Rutherford County jail and the e-cigarettes vendor to competitive bidding, nor did they memorialize the agreement with JailCigs in a written contract, despite having been advised to do both things by the county attorney.

33. Sales involving inmates at the Rutherford County jail began in October 2013 and continued until April 2015. Records indicate that during that time, JailCigs sold approximately 10,500 e-cigarettes that were delivered to inmates at the Rutherford County jail. Based on the unit price on the JailCigs.com website of $12.95, plus approximately $2.00 for shipping and handling, this resulted in revenue to JailCigs from sales at Rutherford County of approximately $156,975.

D. Total Payments to the Defendants

34. Beginning in December 2013, JailCigs began making significant payments to **ARNOLD**, **RUSSELL**, and **VANDERVEER** on a regular basis. Between December 2013 and April 2015, the defendants received the following payments from the company:

Payments to ARNOLD

Date	Check Number	Payee	Amount
12/04/2013	904	Robert Arnold	$2,500.00
01/02/2014	906	Robert Arnold	$500.00
01/07/2014	910	Robert Arnold	$1,756.50
02/07/2014	902	Robert Arnold	$964.50
04/07/2014	1007	Robert Arnold	$3,054.00
05/07/2014	1015	Robert Arnold	$2,533.50
06/04/2014	1021	Robert Arnold	$2,500.00
06/06/2014	1023	Robert Arnold	$5,000.00
07/07/2014	1029	Robert Arnold	$7,634.00
07/25/2014	1035	Robert Arnold	$7,500.00
10/03/2014	1067	Robert Arnold	$3,000.00
10/03/2014	1068	Robert Arnold	$2,500.00
11/14/2014	1077	Robert Arnold	$2,724.00
12/02/2014	1080	Robert Arnold	$3,054.00
12/02/2014	1086	Robert Arnold	$4,000.00
01/15/2015	1099	Robert Arnold	$6,405.00
02/03/2015	1102	[Arnold's Wife]	$3,764.50
03/03/2015	1112	[Arnold's Wife]	$3,500.00
04/05/2015	1117	Robert Arnold	$3,900.00
TOTAL			**$66,790.00**

Payments to RUSSELL

Date	Check Number	Payee	Amount
12/09/2013	903	Joe Russell	$2,500.00
01/02/2014	907	Joe Russell	$2,014.41
01/07/2014	911	Joe Russell	$1,756.50
02/07/2014	901	Joe Russell	$964.50
03/15/2014	909	Joe Russell	$1,428.00
05/15/2014	1018	Joe Russell	$4,159.00
06/04/2014	1022	Joe Russell	$2,500.00

07/07/2014	1027	Joe Russell	$2,634.00
08/05/2014	1037	Joe Russell	$3,200.00
11/07/2014	1076	Joe Russell	$5,500.00
12/02/2014	1083	Joe Russell	$3,054.00
12/02/2014	1084	Joe Russell	$3,124.00
12/02/2014	1088	Joe Russell	$4,000.00
01/06/2015	1094	Joe Russell	$3,250.00
02/05/2015	1103	Joe Russell	$700.00
02/05/2015	1104	Joe Russell	$3,750.00
02/05/2015	1105	Joe Russell	$300.00
03/03/2015	1113	Joe Russell	$3,500.00
04/02/2015	1116	Joe Russell	$3,900.00
TOTAL			**$52,234.41**

Payments to VANDERVEER

Date	Check Number	Payee	Amount
12/09/2013	902	John Vanderveer	$2,500.00
01/02/2014	905	John Vanderveer	$750.00
01/10/2014	912	Vanderveer, Inc.	$1,756.50
02/07/2014	903	John Vanderveer	$1,464.50
03/06/2014	908	Vanderveer, Inc.	$1,428.00
04/11/2014	1009	Vanderveer, Inc.	$1,626.00
05/07/2014	1014	Vanderveer, Inc.	$2,533.50
06/04/2014	1020	Vanderveer, Inc.	$2,500.00
07/07/2014	1026	Vanderveer, Inc.	$2,634.00
07/11/2014	1032	Vanderveer, Inc.	$125.00
08/05/2014	1038	Vanderveer, Inc.	$2,500.00
08/29/2014	1042	Vanderveer, Inc.	$2,500.00
10/02/2014	1061	Vanderveer, Inc.	$3,000.00
11/02/2014	1070	John Vanderveer, Inc.	$2,724.00
12/02/2014	1085	Vanderveer, Inc.	$3,054.00
12/02/2014	1089	Vanderveer, Inc.	$4,000.00
01/02/2015	1122	John Vanderveer, Inc.	$3,250.00
02/03/2015	1125	Vanderveer, Inc.	$3,750.00
03/02/2015	1128	Vanderveer, Inc.	$3,500.00
04/02/2015	1130	Vanderveer, Inc.	$3,950.00
TOTAL			**$49,545.50**

E. Connections Between JailCigs and ARNOLD's 2014 Re-Election Campaign

35. Between June and July 2014, at a time when **ARNOLD** was running for re-election as Sheriff of Rutherford County, he received four checks from JailCigs totaling $22,634. Three of those checks were deposited directly into the "Arnold for Rutherford County Sheriff" bank account. During that same time period, **RUSSELL** and **VANDERVEER** received slightly more than $5,000 each.

36. On the eve of the 2014 election, **RUSSELL** sent an email from his JailCigs.com email address to a customer who had purchased e-cigarettes from JailCigs for an inmate at the Rutherford County jail. The email said:

> We at Jailcigs wanted to make you aware that Sheriff Robert Arnold brought the Jailcigs program to the Rutherford County Detention Center for the enjoyment of inmates who smoke and do not want to quit "cold turkey."
>
> After polling all of the opposing candidates, this program will end if Sheriff Arnold is not re-elected. If you value the right of the person you know at RCADC to continue being allowed to use our products, then please get everyone you know to the polls to vote for Sheriff Robert Arnold. We feel he has great concern for those having to serve time by allowing them to use our product. Please tell everyone you know to support Sheriff Arnold in his re-election.
>
> This email will seem self serving for Jailcigs to continue its service however we got A LOT of feedback that our products are greatly appreciated by those who receive them.
>
> Election day August 7
>
> Vote Robert Arnold on August 7th!!
>
> JAILCIGS LLC

F. Concealment and Misrepresentation of Arnold and Russell's Involvement with JailCigs

37. **ARNOLD**, **RUSSELL**, and **VANDERVEER** concealed **ARNOLD** and **RUSSELL**'s involvement with JailCigs to anyone outside of the company. For example:

a. On or about January 27 2014, **ARNOLD** filed his 2014 "Statement of Disclosure of Interests" with the Tennessee Ethics Commission by placing the form in the mail. On that form, **ARNOLD** failed to list JailCigs as a source of income, despite the fact that, as of the date of filing, he had received three checks from JailCigs totaling $4,756.50.

b. **ARNOLD** and **RUSSELL** instructed Person 1 that when she spoke to other jails in Tennessee, she should point to the Rutherford County jail as an example of a place where the JailCigs program was working well, but should avoid telling anyone that **ARNOLD** and **RUSSELL** had any involvement the company.

c. When **RUSSELL** talked about JailCigs with colleagues at the RCSO, he routinely referred to the company as though it were a completely independent third party. For example, he often sent emails saying things like, "The vendor called and they are dropping by with the shipment tomorrow"; "I will contact the vendor to see if there are any orders in the pipeline"; and "[the vendor] realized his shipping dept missed putting [some e-cigarettes] in the box."

d. **RUSSELL** sent emails to jail representatives in other counties in which he promoted the JailCigs program while failing to disclose his role with the company, stating, "I am sending out information to all jails in the state to let everyone know of our E-cigarette program that is working very well and avoids all of the usual hassles with accounting and commissary. . . . I am not big on reinventing the wheel, so when I find a solution, I like to share."

e. **RUSSELL** sent an email to a jail in Alabama, stating, "Our vendor, Jailcigs.com, has asked me to contact a facility in Alabama concerning the county government regulations as it applies to the county jail and Office of the Sheriff." **RUSSELL** claimed that the program "has been quite successful here and we enjoy a good relationship with the vendor which is why I am doing this favor for him."

G. Misrepresentations Regarding Benefits to Rutherford County

38. Although Rutherford County was not receiving any benefits from the relationship with JailCigs, at various points **ARNOLD** and **RUSSELL** misrepresented to others that Rutherford County was in fact receiving significant benefits from the relationship. For example:

a. **ARNOLD** told a sheriff from another county in Tennessee that the RCSO was making a lot of money from its relationship with JailCigs. **RUSSELL** later spoke to representatives from this same county and told them the RCSO was making thousands of dollars a month from its relationship with JailCigs.

b. In 2014, a representative of the Tennessee Sheriff's Association noticed that e-cigarettes were being sold at the Rutherford County jail. The representative asked **ARNOLD** if the RCSO was making money from e-cigarette sales, and **ARNOLD** told him that the RCSO was receiving commission checks from the company and was depositing those checks in the county general fund.

39. On April 14, 2014, **ARNOLD** forwarded to **RUSSELL** an email in which a journalist from *The Tennessean* asked the RCSO's public information officer whether e-cigarettes were allowed in the Rutherford County jail. **RUSSELL** responded by email to **ARNOLD**, stating, "I would offer that it is a great program with many benefits. We do use it and have not

experienced any down sides to it. Mention improvements to morale, reduction in contraband, another reward item for good behavior and since it contains no tobacco, it is not covered/ restricted by TN tobacco laws."

H. Misrepresentations Regarding Approvals by the County Attorney and County Auditor

40. Several people raised questions and concerns about the propriety of the arrangement between JailCigs and Rutherford County. When questioned, **ARNOLD** and **RUSSELL** repeatedly stated that the arrangement had been reviewed and approved by various officials, including the county attorney and the county auditor. This was false.

41. In or around July 2014, the county auditor asked **ARNOLD** and **RUSSELL** about whether Rutherford County or the RCSO was benefitting from the arrangement with JailCigs, as well as whether **ARNOLD** and **RUSSELL** were personally benefitting. **ARNOLD** and **RUSSELL** told the auditor that neither Rutherford County nor the RCSO was benefitting from the sale of e-cigarettes, and they denied that they were receiving any personal benefit. Neither **ARNOLD** nor **RUSSELL** disclosed their involvement with the company to the county auditor.

42. In or around September 2014, **ARNOLD** and **RUSSELL** met with the county attorney in an attempt to obtain approval for the arrangement with JailCigs. In seeking this approval, **ARNOLD** and **RUSSELL** did not disclose their involvement with JailCigs and misleadingly described the company as though it were a completely independent third party.

I. Discovery of the Scheme and Further Misrepresentations

43. On or about April 7, 2015, **ARNOLD** sat down with members of the local media for interviews, which were aired on television that night. In those interviews, **ARNOLD** made numerous false or misleading statements.

a. In an interview with WSMV, a local television station, **ARNOLD**:

i. acknowledged that his aunt and uncle had an interest in JailCigs, but expressly denied having any interest in the company himself;

ii. claimed that his wife worked intermittently for JailCigs answering phones and received a commission of "twenty-five cents or so" for every order that she processed;

iii. indicated that he was unaware of **RUSSELL**'s involvement with JailCigs and, after being presented with the JailCigs Certificate of Organization, which listed **RUSSELL** as a member of the LLC, stated that he was "kind of shocked" and "taken back [sic]" by the discovery, despite the fact that he had received numerous checks drawn on an account with the name "Joe L. Russell II DBA JailCigs";

iv. stated that Rutherford County received "about a dollar an order or something around that line" in commission payments from JailCigs and acknowledged that, under state law, any money received by the Sheriff's Office must "go[] back to the general fund . . . back to the citizens, the people of the county."

b. In a separate interview with WKRN, another local television station, **ARNOLD**:

i. stated that he did not "really have anything to do with [JailCigs]";

ii. claimed that when he had filed with the Tennessee Ethics Commission the 2015 "Statement of Disclosure of Interests" form—on which he had listed JailCigs as both a source of income and an investment held by his spouse—he had been "under

the gun" and had intended to list the company only as a source of spousal income, because his wife supposedly worked part-time at JailCigs answering phones;

iii. responded, "No. No," when asked if he was "putting money in [his] pocket from this," despite the fact that he had received from JailCigs 19 checks (including two written to his wife) totaling $66,790, including one in the amount of $3,900 that he had deposited into his account on April 6, 2015, the day before the interview was conducted.

44. On or about April 9, 2015, a member of the media sent an email to the RCSO's public information officer, with a list of follow-up questions regarding the relationship between Rutherford County and JailCigs. The public information officer forwarded the email to **ARNOLD**. **ARNOLD** then forwarded the email on to **RUSSELL** and **VANDERVEER**.

45. On April 9, 2015, **ARNOLD** sat down for an interview with investigators from the state Comptroller's Office. In that interview, **ARNOLD** again made numerous false or misleading statements. For example, **ARNOLD**:

a. reiterated that prior to April 7, 2015, he had been unaware that **RUSSELL** was an owner of the company, while also acknowledging that, contrary to the statements he had made to the media, he had previously been aware that **RUSSELL** had invested in JailCigs;

b. acknowledged that, contrary to the statements he had made to the media, he himself had invested in JailCigs, in an amount of between $5,000 and $10,000;

c. claimed that he had invested this money with the company in order "to buy another bulk of stock," after **VANDERVEER** had said that he needed funds to purchase more inventory, while at another point characterizing his investment in the company as a loan to his aunt, Judy Vanderveer;

d. stated that his investment in the company had come well after JailCigs started doing business at Rutherford County;

e. acknowledged that he had exaggerated his wife's involvement with JailCigs when he spoke to the media, while reiterating that she had in fact worked at the company;

f. responded to a question about whether he had personally benefitted from the sale of e-cigarettes, by twice stating, "For this facility, no";

g. claimed that he received a payment of about $3,000 a month in return "[f]or loaning my aunt the money"; and

h. stated, "I think so," when asked if he had been paid back in full for his loan or investment, and when further asked if he "get[s] any more payments, responded, "No, I haven't gotten any more payments. Well, yeah—did I get one last month? I'd have to look that up," despite the fact that he had deposited a check from JailCigs on April 6, 2015, just three days before the interview.

46. On or about April 17, 2015, **VANDERVEER** met with Person 1 to discuss the media reports and pending criminal investigation. During the meeting, **VANDERVEER** told Person 1, "Joe would like for you to destroy your commission tabulation sheets, you know, that came with your checks." When Person 1 asked why, **VANDERVEER** responded, "He'll give you—he'll give you a whole different set . . . Because he'll be able to say—the others will say that your commission initially derived from Rutherford County so that it doesn't show that—it shows where the commission from Rutherford County went and didn't go to Robert or any of us." When Person 1 expressed hesitation, **VANDERVEER** said, "Well, no matter what, whether you take

the new ones or whatever, if you would just at least destroy the old ones, at least there's not, you know, another copy of something out there laying around that looks bad."

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

COUNTS TWO THROUGH FIVE
(Money/Property Fraud)

THE GRAND JURY FURTHER CHARGES:

47. The allegations contained in paragraphs 1 through 46 of this Indictment are hereby repeated, realleged, and incorporated by reference as though fully set forth herein.

48. From at least in or about June 2013 through in or about May 2015, the defendants, **ROBERT F. ARNOLD**, **JOE L. RUSSELL**, and **JOHN VANDERVEER**, devised and intended to devise a scheme and artifice to defraud and obtain money and property from Rutherford County by means of materially false and fraudulent pretenses, representations, and promises.

49. On or about the dates listed below, in the Middle District of Tennessee and elsewhere, **ARNOLD**, **RUSSELL**, and **VANDERVEER**, for the purpose of executing the above-described scheme and artifice to defraud and obtain money and property, and attempting to do so, transmitted and caused to be transmitted by means of wire communications in interstate commerce, the following writings, signals, and sounds:

Use of Interstate Wires to Execute the Scheme

Count	Date	Wire Communication
2	October 30, 2013	**RUSSELL** sent an email to a representative of a jail in Alabama, stating that the JailCigs program had been "quite successful" in Rutherford County and that "we have a good relationship with the vendor which is why I am doing this favor for him."
3	April 3, 2014	**RUSSELL** sent an email to a supplier based in China, to negotiate a wholesale purchase of e-cigarettes.
4	December 7, 2014	**RUSSELL** sent an email to a supplier based in China, to negotiate a wholesale purchase of e-cigarettes.
5	April 9, 2015	**ARNOLD** forwarded to **RUSSELL** and **VANDERVEER**

		an email in which a journalist from *The Murfreesboro Post* posed a number of questions about JailCigs, including whether "the sheriff's office or jail ha[s] a contract with JailCigs" and how much money has been paid to Rutherford County, in light of **ARNOLD**'s statement to "TV reporters [that] some of the revenue from JailCigs goes into the county's general fund."

In violation of Title 18, United States Code, Section 1343.

COUNTS SIX THROUGH TEN
(Honest Services Fraud)

THE GRAND JURY FURTHER CHARGES:

50. The allegations contained in paragraphs 1 through 46 of this Indictment are hereby repeated, realleged, and incorporated by reference as though fully set forth herein.

51. From at least in or about June 2013 through in or about May 2015, in the Middle District of Tennessee and elsewhere, the defendants, **ROBERT F. ARNOLD**, **JOE L. RUSSELL**, and **JOHN VANDERVEER**, devised and intended to devise a scheme and artifice to defraud and deprive Rutherford County and its citizens of their right to the honest services of **ARNOLD**, a sheriff, through bribery and kickbacks.

Use of Interstate Wires to Execute the Scheme

52. On or about the dates listed below, in the Middle District of Tennessee and elsewhere, **ARNOLD**, **RUSSELL**, and **VANDERVEER**, for the purpose of executing the above-described scheme and artifice to defraud and deprive, and attempting to do so, transmitted and caused to be transmitted by means of wire communications in interstate commerce, the following writings, signals, and sounds:

Count	Date	Wire Communication
6	October 14, 2013	**RUSSELL** sent an email to **ARNOLD** with an attached document listing instructions for how to log into the administrator section of www.JailCigs.com and how to log into JailCigs' online banking platform.
7	August 6, 2014	**RUSSELL** sent an email on behalf of JailCigs to a JailCigs customer stating, "After polling all of the opposing candidates, this program will end if Sheriff Arnold is not re-elected. If you value the right of the person you know at RCADC to continue being allowed to use our products, then please get everyone you know to the polls to vote for Sheriff Robert Arnold."

8	September 8, 2014	**RUSSELL** sent an email to the county attorney—in response to the county attorney's advice to bid out the contract with the e-cigarette vendor and submit any donations or commissions received from the vendor to the county commission—asking, "If no donations are being made or expected to be made by the vendor, then what? Does it still need to be bid out?"
9	September 8, 2014	**RUSSELL** sent an email to the county attorney stating, "So, best advice is to bid out or at least have some type of contract with any donations going to General fund? The current vendor is the only one we know of with this business model."

In violation of Title 18, United States Code, Sections 1343 and 1346.

Use of the Mails to Execute the Scheme

53. On or about the dates listed below, in the Middle District of Tennessee and elsewhere, **ARNOLD**, **RUSSELL**, and **VANDERVEER**, for the purpose of executing and attempting to execute the scheme and artifice to defraud and deprive, and attempting to do so, placed in any post office and authorized depository for mail matter, the following matter and thing:

Count	Date	Mailing
10	January 27, 2014	**ARNOLD** caused to be delivered by mail to the Tennessee Ethics Commission his 2014 "Statement of Disclosure of Interests," in which he failed to list JailCigs as a source of income.

In violation of Title 18, United States Code, Sections 1341 and 1346.

COUNT ELEVEN
(Bribery Concerning Programs Receiving Federal Funds)

THE GRAND JURY FURTHER CHARGES:

54. The allegations contained in paragraphs 1 through 46 of this Indictment are hereby repeated, realleged, and incorporated by reference as though fully set forth herein.

55. Rutherford County was a local government that received federal assistance in excess of $10,000 during the one-year period beginning April 7, 2014 and ending April 7, 2015.

56. At all times material to this indictment, defendant **ROBERT F. ARNOLD** was an agent of Rutherford County, whose duties as the Sheriff of Rutherford County included supervising and running the Rutherford County jail.

57. From at least in or about June 2013 to in or about April 2015, in the Middle District of Tennessee and elsewhere, defendant **ROBERT F. ARNOLD**, did corruptly solicit, demand, accept, and agree to accept a thing of value from a person, intending to be influenced and rewarded in connection with a transaction and series of transactions of Rutherford County involving $5,000 or more.

In violation of Title 18, United States Code, Section 666(a)(1)(B).

COUNT TWELVE
(Bribery Concerning Programs Receiving Federal Funds)

THE GRAND JURY FURTHER CHARGES:

58. The allegations contained in paragraphs 1 through 46 of this Indictment are hereby repeated, realleged, and incorporated by reference as though fully set forth herein.

59. Rutherford County was a local government that received federal assistance in excess of $10,000 during the one-year period beginning April 7, 2014 and ending April 7, 2015.

60. At all times material to this indictment, defendant **ROBERT F. ARNOLD** was an agent of Rutherford County, whose duties as the Sheriff of Rutherford County included supervising and running the Rutherford County jail.

61. From at least in or about June 2013 to in or about April 2015, in the Middle District of Tennessee and elsewhere, defendants **JOE L. RUSSELL II** and **JOHN VANDERVEER**, did corruptly give, offer, and agree to give a thing of value to **ROBERT F. ARNOLD,** with the intent to influence and reward him in connection with a transaction and series of transactions of Rutherford County involving $5,000 or more.

In violation of Title 18, United States Code, Section 666(a)(2).

COUNT THIRTEEN
(Extortion Under Color of Official Right)

THE GRAND JURY FURTHER CHARGES:

62. The allegations contained in paragraphs 1 through 46 of this Indictment are hereby repeated, realleged, and incorporated by reference as though fully set forth herein.

63. At all times material to this Indictment, defendant **ROBERT F. ARNOLD** was the Sheriff of Rutherford County.

64. From at least in or about June 2013 to in or about April 2015, in the Middle District of Tennessee and elsewhere, defendant **ROBERT F. ARNOLD**, aided and abetted by defendants **JOE L. RUSSELL II** and **JOHN VANDERVEER**, did knowingly obstruct, delay, and affect, and attempt to obstruct, delay, and affect, in any way and degree, commerce and the movement of articles and commodities in commerce by extortion, as those terms are defined in Title 18, United States Code, section 1951; that is, defendant **ROBERT F. ARNOLD** obtained property not due him or his office, from JailCigs, **RUSSELL**, and **VANDERVEER** with their consent, under color of official right.

In violation of Title 18, United States Code, Sections 1951 and 2.

COUNT FOURTEEN
(Attempt to Tamper with a Witness by Corrupt Persuasion)

THE GRAND JURY FURTHER CHARGES:

65. The allegations contained in paragraphs 1 through 46 of this Indictment are hereby repeated, realleged, and incorporated by reference as though fully set forth herein.

66. On or about April 17, 2015, in the Middle District of Tennessee, the defendants, **ROBERT F. ARNOLD**, **JOE L. RUSSELL II**, and **JOHN VANDERVEER**, did knowingly attempt to corruptly persuade Person 1 by directing her to destroy documents, with the intent to prevent the communication to law enforcement of information relating to the commission and possible commission of a Federal offense, including conspiracy, wire fraud, honest services wire fraud, bribery concerning programs receiving federal funds, and extortion under color of official right.

In violation of Title 18, United States Code, Sections 1512(b)(3) and 2.

FORFEITURE ALLEGATION

THE GRAND JURY FURTHER CHARGES:

1. Pursuant to Federal Rule of Criminal Procedure 32.2, notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461(c), in the event of the defendants' convictions on any of Counts One through Thirteen of this Indictment.

2. Upon conviction of any of the offenses set forth in Counts One through Thirteen of this Indictment, the defendants, **ROBERT F. ARNOLD**, **JOE L. RUSSELL II**, and **JOHN VANDERVEER**, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses. Such forfeitable property includes a sum of money equal to the amount of proceeds obtained as a result of the offenses, for which the defendants are jointly and severally liable.

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

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL:

[redacted]

FOREPERSON

JACK SMITH
Acting United States Attorney
Middle District of Tennessee

for RNH by

RAYMOND N. HULSER
Chief, Public Integrity Section
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