

JACQUELINE D. FLORES

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FILED  
SECOND JUDICIAL DISTRICT

2013 JUN 11 AM 11:58

BRITNEY MUNOZ

D 0202 CR  
CR No. 2013002753

NM SEC # 10-005  
No. Ms 2006-0001

STATE OF NEW MEXICO,  
Plaintiff.

vs.

JOHN PEREA,  
Defendant.

**CRIMES CHARGED**

**GRAND JURY INDICTMENT**

**THE GRAND JURY CHARGES:**

**COUNT 1: FRAUD OVER \$20,000.00**

On or about March 3, 2008, in Bernalillo County, State of New Mexico, the above named defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), did intentionally misappropriate or take money which had a market value of \$180,000.00 belonging to Paul Cheng, by means of fraudulent conduct, practices or representations; contrary to NMSA 1978 § 30-16-6(F).

**COUNT 2: FRAUD OVER \$20,000.00**

On or about April 13, 2008, in Bernalillo County, State of New Mexico, the above named defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), did intentionally

misappropriate or take money which had a market value of \$100,000.00 belonging to Paul Cheng (d/b/a Sohom Investing, L.L.C.), by means of fraudulent conduct, practices or representations; contrary to NMSA 1978 § 30-16-6(F).

**COUNT 3: FRAUD OVER \$20,000.00**

On or about April 30, 2008, in Bernalillo County, State of New Mexico, the above named defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), did intentionally misappropriate or take money which had a market value of \$120,000.00 belonging to Ann Knight, by means of fraudulent conduct, practices or representations; contrary to NMSA 1978 § 30-16-6(F).

**COUNT 4. CONSPIRACY TO COMMIT FRAUD OVER \$20,000.00**

In and between March 3, 2008 and continuing to on or about August 18, 2009, in Bernalillo County, State of New Mexico, the above named defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.) along with codefendant Christina Coombs, by words or acts, agreed together to commit fraud over \$20,000.00; contrary to NMSA 1978 §§ 30-28-2 and 30-16-6(F) (as amended).

**COUNT 5. FRAUDULENT SALE OF A SECURITY (SECURITIES FRAUD)**

On or about June 26, 2008, in Bernalillo County, State of New Mexico, the above named defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), did commit the crime of securities fraud. JOHN PEREA offered to sell and sold to Thomas Stark a security, to wit; that

on or about June 26, 2008, Thomas Stark gave JOHN PEREA \$40,000.00 for a real estate investment in exchange for a Promissory Note, which promised a return of \$55,000.00 on August 26, 2008.

In connection with this offer to sell and sale or offer to purchase a security, directly or indirectly, the defendant:

- A. Employed a device, scheme or artifice to defraud; and/or
- B. Made an untrue statement of material fact or failed to state a necessary material fact where such omission would be misleading; and/or
- C. Engaged in an act practice or course of business which operates or would operate as a fraud or deceit upon a person;

The fraudulent practices, material misrepresentations and material omissions by defendant include, but are not limited to:

- 1. Failed to disclose that he does not possess a securities license as a broker-dealer and/or a sales representative;
- 2. Failed to disclose that Don Juan Construction, L.L.C., was in debt;
- 3. Failed to disclose the existence of pending civil claims and / or judgments filed against JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), by prior investors and subcontractors;
- 4. Failed to disclose that he used new investor monies to pay old investors;

5. Failed to segregate investor accounts;

6. Diverted investor monies from Don Juan Construction, L.L.C.'s business account to pay personal and non-investment related expenses; contrary to NMSA 1978 § 58-13B-30, and 39 (as amended).

**COUNT 6: SALE OR OFFER TO SALE AN UNREGISTERED SECURITY**

On or about June 26, 2008, in Bernalillo County, State of New Mexico, the above name defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), offered to sell and sold to Thomas Stark an investment for \$40,000 in exchange for a Promissory Note that promised a return of \$55,000 on August 26, 2008, that was required to be registered with the New Mexico Securities Division pursuant to the New Mexico Securities Act of 1986; contrary to NMSA 1978 § 58-13B-20, and 39 (as amended).

**COUNT 7: EMBEZZLEMENT OVER \$20,000.00**

On or about December 23, 2008 and continuing to on or about December 28, 2008, in Bernalillo County, State of New Mexico, the above named defendant, JOHN PEREA (d/b/a Don Juan Construction, L.L.C.), did embezzle or convert to his own use \$42,050.00 which was entrusted to JOHN PEREA by Prestito Moneta, L.L.C., with fraudulent intent to deprive the owner thereof; contrary to NMSA 1978 § 30-16-8(F).

The names of the witnesses upon whose testimony this Indictment is based are as follows:

**Carolyn Miller**

I hereby certify that the foregoing Indictment is a True Bill/No True Bill.

6/10/13  
Date

Barbara Mullins  
Foreperson

**APPROVED AS TO FORM:**

Scott L. Mullins  
Scott L. Mullins  
Special Assistant District Attorney  
Senior Prosecuting Attorney – NM/RLD

6.7.2013  
Date

**CASE INFORMATION**

**NO.** NMSEC #11-058

**NAME:** John M. Perea

**DOB:**

**SSN:**

**Address:** 420 Kingsbury Circle  
Los Lunas, NM 87031

**BOOKING/ARREST DATE:**

**BOOKING/ARREST#:**

**DEF. ATTY:**

**PHYSICAL DESCRIPTION OF DEFENDANT:**

**Height:** 5-10

**Weight:** 190

**Race:**

**Eye Color:** Green

**Hair Color:** Brown

**Other:**

## PENALTIES

COUNTS: 1, 2, 3, 7      2nd Degree Felonies  
COUNTS: 4, 5, 6      3rd Degree Felonies

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4th Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.

3rd Degree Felony: Basic sentence of 3 years imprisonment and not more than \$5,000 fine.

2nd Degree Felony: Basic sentence of 9 years imprisonment and not more than \$10,000 fine.

1st Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.

USE OF FIREARM ALTERATION TO BASIC SENTENCE (FE): Basic sentence of imprisonment increased by 1 year for first offense in which a firearm is used and 3 years for subsequent offenses in which a firearm is used.

USE OF HATE CRIME ENHANCEMENT: Basic sentence of imprisonment is increased by one (1) year, unless second offense, then the basic sentence is increased by two (2) years..

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Special Penalty: (Receiving or Transferring a Stolen Vehicle (Possession) only) Basic sentence of one year and/or \$5,000 fine.

Misdemeanor: Less than 1 year in the County Jail and/or not more than \$1,000 fine.

Petty Misdemeanor: Not more than 6 months in the County Jail and/or not more than \$500 fine.

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Penalty for Driving While Under the Influence, Felony Offense:(4th or Subsequent Offense): Basic sentence of 18 months and not more than \$5,000 fine, including a mandatory jail term of not less than 6 months.

Penalty for Driving While Under the Influence - Misdemeanor: If 1st Offense, basic sentence is maximum 90 days jail and \$500 fine, and if aggravated an additional 48 hours jail time; if 2nd Offense, basic sentence is mandatory 72 hours in jail and \$500 fine to maximum of 364 days and

\$1,000 fine, and if aggravated an additional 96 hours jail time; if 3rd Offense, basic sentence is a mandatory 30 days in jail and \$750 fine to maximum of 364 days and \$1,000 fine, and if aggravated an additional mandatory 60 days jail time.

Penalty for Driving While License Suspended or Revoked: Traffic Code Misdemeanor, Special Penalty: not less than 4 days nor more than 364 days and fine up to \$1,000 (non-DWI related suspension/revocation); or not less than 7 consecutive days imprisonment and mandatory fine not less than \$300 nor more than \$1,000 (DWI revocation).

Penalty for Reckless Driving: Upon first conviction, basic sentence of 5 days to 90 days imprisonment, and/or \$25 to \$100 fine. Upon a second or subsequent conviction, basic sentence of 10 days to 6 months imprisonment, and/or \$50 to \$1,000 fine.

Penalty for Traffic Code Misdemeanor: fine of not more than \$300 or imprisonment for not more than 90 days or both.

Penalty Assessment Misdemeanor: See Schedule in Traffic Code, Section 66-8-116.

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1st Degree Felony for Child Abuse (Intentionally Caused) (Resulting in Death) (Child Under 12): Life imprisonment.

2nd Degree Felony Resulting in the Death of a Human Being: Basic sentence of 15 years but not less than 10 years nor more than 20 years imprisonment and not more than \$12,500 fine.

3rd Degree Felony Resulting in the Death of a Human Being: Basic sentence of 6 years but not less than 4 years nor more than 8 years imprisonment and not more than \$15,000 fine.

2nd Degree Felony, Sexual Offense Against A Child: Basic sentence of 15 years imprisonment and not more than \$12,500 fine.

3rd Degree Felony, Sexual Offense Against A Child: Basic sentence of 6 years imprisonment and not more than \$5,000 fine.

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OPEN CHARGE OF MURDER

Penalty for **FIRST DEGREE MURDER (Willful and Deliberate) or (Depraved Mind)**

**CAPITAL FELONY: Life Imprisonment**

**SECOND DEGREE MURDER: Basic sentence of 15 years imprisonment and not more than \$12,500 fine.**

**VOLUNTARY MANSLAUGHTER: Basic sentence of 6 years imprisonment and not more than \$15,000 fine.**

**INVOLUNTARY MANSLAUGHTER: 4th Degree Felony: Basic sentence of 18 months imprisonment and not more than \$5,000 fine.**

Penalty for **FIRST DEGREE MURDER (Felony Murder):**

**CAPITAL FELONY: Life Imprisonment**