

District Court Jefferson County, State of Colorado 100 Jefferson County Parkway Golden, CO	
<b>THE PEOPLE OF THE STATE OF COLORADO</b> v.  <b>MARK PASCHALL,</b>  Defendant.	
Scott W. Storey, District Attorney 500 Jefferson County Parkway Golden, CO 80401-6002 Phone Number: (303) 271-6800 FAX Number: (303) 271-6888	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case Number:  Div.:
<b>INDICTMENT</b>	

The grand jurors of the 2006 - 2007 County Grand Jury, in the name of and by the authority of the People of the State of Colorado, upon their oaths, present:

**COUNT ONE**  
**(Criminal attempt – theft - \$500 - \$15,000)**

On and before January 4, 2007, in the County of Jefferson, in the State of Colorado, MARK PASCHALL engaged in conduct constituting a substantial step towards the commission of the crime of Theft, in that the said MARK PASCHALL knowingly and unlawfully attempted to exercise control over money belonging to Jefferson County, Colorado, with the value of five hundred dollars or more but less than fifteen thousand dollars, without authorization, or by deception, and intended to deprive the county permanently of the use or benefit thereof; contrary to the form of the statute in such case made and provided, §18-2-101 and 18-4-401(1)(a),(2)(c), C.R.S., and against the peace and dignity of the People of the State of Colorado. (F5)

**COUNT TWO**  
**(Compensation for past official behavior)**

On and before January 4, 2007, in the County of Jefferson, in the State of Colorado, MARK PASCHALL unlawfully and knowingly solicited a pecuniary benefit as compensation for having, as a public servant, given a decision favorable to another, or for having otherwise exercised a discretion in the other's favor; contrary to the form of the statute in such case made and provided, §18-8-303, C.R.S., and against the peace and dignity of the People of the State of Colorado. (F6)

The offenses alleged in Counts One and Two were committed in the following manner:

(1) The compensation paid to persons who hold elective offices in Colorado counties is addressed by Art. XIV, sec. 15 of the Colorado Constitution. This section provides, in part, that "[t]he general assembly shall fix the compensation of county officers in this state by law...."

(2) Following this mandate, the general assembly has periodically set the compensation of persons elected to county office, including those who are elected to the office of county treasurer. During calendar years 2002 through 2006, the annual compensation of county treasurers was set by the legislature at \$75,500.

(3) County treasurers are not permitted to receive compensation in excess of the amount set by the legislature. This limitation is set forth both by statute (§30-2-102(3)(e), C.R.S.) ("No elected officer shall have his compensation increased or decreased during the term of office to which he has been elected...") and the Constitution (Art. XIV, sec. 15) ("County officers shall not have their compensation increased or decreased during the terms of office to which they have been elected...").

(4) The provisions of §30-2-102, C.R.S., and Colo. Const. Art. XIV, sec. 15, do not apply to persons on the treasurer's staff. The compensation of the treasurer's employees is instead set by the treasurer, subject to approval by the Board of County Commissioners.

(5) Between January 1, 2003, and December 31, 2006, the office of County Treasurer in Jefferson County was held by MARK PASCHALL ("PASCHALL"), in which capacity PASCHALL was a "public servant," as that term is defined in the Colorado Criminal Code. The Treasurer's office is located in the Jefferson County Administration and Justice Center, 100 Jefferson County Parkway, Golden, Jefferson County, Colorado.

(6) Under the stewardship of PASCHALL, the treasurer's staff usually consisted of 14 persons. Among the persons on this staff was Sarah Redmond, who was hired directly by PASCHALL, and not through the county's normal hiring procedures.

(7) As a consequence of the manner in which she was hired, Ms. Redmond was what is termed a "political appointee." Political appointees do not have the employment rights afforded to regular employees and, as a result, are expected to relinquish their positions upon the departure of the elected official who hired them.

(8) PASCHALL unsuccessfully sought his party's candidacy for county treasurer in the primary election of August, 2006. As a result of PASCHALL's loss in the primary election, it was known that the terms of employment for PASCHALL and his political appointees, including Ms. Redmond, would end on or about January 1, 2007.

(9) During the term of PASCHALL's service as County Treasurer, it was the practice of PASCHALL to award monetary bonuses to his staff at the end of each calendar year. To cause these bonuses to be paid, it was necessary for PASCHALL to prepare and sign internal accounting documents termed "personnel action forms" ("PAs" or "PA forms"), and to submit these forms to other county officers for approval and ultimate payment.

(10) It was the practice of PASCHALL to speak to employees prior to the employees' receipt of their yearly bonus. Following this practice, PASCHALL spoke to Ms. Redmond in the Treasurer's office on or about December 27, 2006. On that date, PASCHALL told Ms. Redmond that he intended to pay her a bonus of \$18,000, and that he expected her to remit one-half of that sum to him. In a later conversation on that same date, PASCHALL told Ms. Redmond that she was to give him 'whatever [portion of the bonus] you feel like giving me.'

(11) \$18,000 was far more than any of PASCHALL's employees had previously received as a yearly bonus, and constituted approximately one-half of Ms. Redmond's net annual salary.

(12) Realizing the impropriety of this proposal, Ms. Redmond advised PASCHALL that she wanted no part of his offer. When she informed PASCHALL that he would be criticized for such an action, PASCHALL replied that he did not care.

(13) PASCHALL did not heed Ms. Redmond's protests. Later on the day of December 27, 2006, PASCHALL caused a PA form to be prepared directing that a bonus of "\$18,000 at gross" be paid to Ms. Redmond. The PA form was prepared by a deputy treasurer, signed by PASCHALL on that date, and submitted to other county officials for review and ultimate payment.

(14) The phrase "\$18,000 at gross" referred to the fact that income taxes are withheld from the bonuses paid to the treasurer's employees. To cause a bonus

check to be issued to Ms. Redmond in the amount of \$18,000, it would therefore be necessary to award to her a bonus in a substantially larger amount. In the case of Ms. Redmond, this amount would have been approximately \$25,000.

(15) PASCHALL and Ms. Redmond spoke of the bonus again in a telephone conversation several days later, which conversation was recorded without PASCHALL's knowledge. The conversation included the following exchange:

Redmond: Then what was Fred's [another employee who received a bonus] listed as?

Paschall: Fred's is listed as a severance, uh for, and for finished work. For a finished project. He is different.

[ \* \* \* ]

Redmond: Okay. But you didn't make any deal with Fred though, right?

Paschall: Oh heck no. No.

Redmond: So he wasn't, you didn't talk to him about splitting anything either?

Paschall: No, no, no, no, no.

Redmond: [clears throat]

Paschall: Okay. No and that is absolutely the I - last thing that you should ever say but, but, but your question about the taxes, the reason why it was eighteen?

Redmond: Mm-hm [affirmative response]

Paschall: I figured a third for taxes.

Redmond: Uh huh [affirmative response]

Paschall: And, you know and then, then there would be, you, you it actually won't probably be a third but I just figured a third, and then a third, and a third. You know?

Redmond: Okay. I see. So a third going to taxes, then the third to me and the third to you.

Paschall: Right.

(16) Most of the bonuses paid by PASCHALL during his term of office were approved by the County Commissioners without review or discussion. The PA form signed by PASCHALL for Ms. Redmond, however, was brought to the attention of the County Commissioners, who refused to approve it.

(17) The \$9000 sought by PASCHALL from Ms. Redmond's bonus would have constituted "compensation" to PASCHALL, the receipt of which would have been prohibited by §30-2-102, C.R.S. and Colo. Const. Art. XIV, sec. 15. Had PASCHALL come into possession of the \$9000, therefore, his possession thereof would have been "without authorization," and "unlawful," as those terms is used in the Theft statute, §18-4-401, C.R.S.

(18) Under Colorado law, a person attempts to commit a crime when, acting with a culpable mental state, the person engages in conduct constituting a substantial step toward the commission of that crime. "Substantial step" has been defined by our legislature as "any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense."

(19) By soliciting Ms. Redmond's participation in a scheme in which he would obtain \$9000 of her bonus, and by causing the PA form to be prepared and submitted for the purpose of obtaining the bonus, PASCHALL performed a "substantial step" toward the commission of the crime of Theft of the county's \$9000.

(20) PASCHALL's determination to award a bonus to Ms. Redmond was a "decision ... favorable to another," and an 'exercise of discretion in the other's favor,' as those phrases are used in the Compensation for Past Official Behavior statute, §18-8-303, C.R.S.

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AS TO COUNT ONE  
A True Bill:

  
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A No True Bill:

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AS TO COUNT TWO  
A True Bill:

  
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A No True Bill:

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SCOTT W. STOREY  
DISTRICT ATTORNEY



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Dennis Hall  
Senior Deputy District Attorney

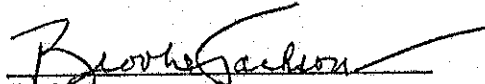
The County Grand Jury presents the within indictment of MARK PASCHALL, and the same is hereby ORDERED FILED this 29 day of JAN., 2007.

WARRANT TO ISSUE

BOND ORDERED SET AT:

1000<sup>00</sup> CPS

Date: 1/29/07

  
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Judge