

THE SUPERIOR COURT, STATE OF CALIFORNIA
For the County of Santa Barbara
Figueroa Division

THE PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff,

vs.

PENNY ART ESTES

DOB: 10/07/1949

Defendant.

DA No. 12-07-293605
Court No. 1422014

2ND AMENDED
FELONY COMPLAINT

AB109 INELIGIBLE

The undersigned is informed and believes that:

COUNT 1

On or between July 14, 2011 and August 3, 2011, in the County of Santa Barbara, the crime of **DIVERSION OF CONSTRUCTION FUNDS**, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM B. ARTHUR and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

COUNT 2

On or about and between July 14, 2011 and August 3, 2011, in the County of Santa Barbara, the crime of **GRAND THEFT OF PERSONAL PROPERTY**, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to B. ARTHUR and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

COUNT 3

On or between July 14, 2011 and August 3, 2011, in the County of Santa Barbara, the crime of **OBTAINING SERVICES BY FALSE PRETENSES**, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: B. ARTHUR, of money, labor or property, whether real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud B. ARTHUR, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: TEA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 4

On or between February 1, 2011 and November 30, 2011, in the County of Santa Barbara, the crime of **DIVERSION OF CONSTRUCTION FUNDS**, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM L. BONNEAU and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

COUNT 5

On or about and between February 1, 2011 and November 30, 2011, in the County of Santa Barbara, the crime of **GRAND THEFT OF PERSONAL PROPERTY**, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to L. BONNEAU and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

COUNT 6

On or between February 1, 2011 and November 30, 2011, in the County of Santa Barbara, the crime of **OBTAINING SERVICES BY FALSE PRETENSES**, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: L. BONNEAU, of money, labor or property, whether real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

SPEC ALLEG - AGGRAVATED WHITE COLLAR CRIME

It is further alleged, pursuant to **Penal Code section 186.11(a)(1)**, that the offenses set forth in counts 4, 5 and 6 are related felonies, a material element of which is fraud and embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than one hundred thousand dollars (\$100,000).

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud L. BONNEAU, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: JESUSITA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 7

On or between June 1, 2010 and November 30, 2010, in the County of Santa Barbara, the crime of DIVERSION OF CONSTRUCTION FUNDS, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM N. KELTNER and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

COUNT 8

On or about and between June 1, 2010 and November 30, 2010, in the County of Santa Barbara, the crime of GRAND THEFT OF PERSONAL PROPERTY, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to N. KELTNER and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

COUNT 9

On or between June 1, 2010 and November 30, 2010, in the County of Santa Barbara, the crime of OBTAINING SERVICES BY FALSE PRETENSES, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: N. KELTNER, of money, labor or property, whether real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud N. KELTNER, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: JESUSITA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 10

On or between February 26, 2011 and March 1, 2012, in the County of Santa Barbara, the crime of DIVERSION OF CONSTRUCTION FUNDS, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM W. KOONCE and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

SPEC ALLEG-EXCESSIVE LOSS OVER \$200,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$200,000, within the meaning of **Penal Code Section 12022.6(a)(2)**.

COUNT 11

On or about and between February 26, 2011 and March 1, 2012, in the County of Santa Barbara, the crime of GRAND THEFT OF PERSONAL PROPERTY, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to W. KOONCE and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

SPEC ALLEG-EXCESSIVE LOSS OVER \$200,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$200,000, within the meaning of **Penal Code Section 12022.6(a)(2)**.

COUNT 12

On or between February 26, 2011 and March 1, 2012, in the County of Santa Barbara, the crime of OBTAINING SERVICES BY FALSE PRETENSES, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: W. KOONCE, of money, labor or property, whether

real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

**SPECIAL ALLEGATION – AGGRAVATED WHITE COLLAR CRIME ENHANCEMENT
TRANSACTIONS OVER \$500,000: Penal Code §186.11(a) (1) and (2)**

It is further alleged, pursuant to Penal Code section 186.11(a) (1) and (2), that the offenses set forth in counts 10, 11, and 12, committed by PENNY ART ESTES are related felonies, a material element of which is fraud and embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than Five Hundred Thousand Dollars (\$500,000).

SPEC ALLEG – FELONY EXCLUDED FROM LOCAL CUSTODY

It is further alleged that the above offense is an offense for which the defendant PENNY ART ESTES, is excluded from a state prison sentence to be served in the county jail pursuant to **Penal Code section 1170(h)**.

“NOTICE: Pursuant to **Penal Code section 1170(f)**, notwithstanding any other provisions of this section, for purposes of subdivision (h) of section 1170, any allegation that a defendant is ineligible for a state prison sentence to be served in the county jail due to a prior or current conviction, or sentence enhancement, or because he or she is required to register as a sex offender, or because the legislature specifically excluded the offense, shall not be subject to dismissal pursuant to §1385 PC”.

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud W. KOONCE, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: JESUSITA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 13

On or between August 1, 2009 and July 14, 2011, in the County of Santa Barbara, the crime of **DIVERSION OF CONSTRUCTION FUNDS**, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM C. SANTANDREA and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

COUNT 14

On or between August 1, 2009 and July 14, 2011, in the County of Santa Barbara, the crime of **OBTAINING SERVICES BY FALSE PRETENSES**, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: C. SANTANDREA, of money, labor or property, whether real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud C. SANTANDREA, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: TEA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 15

On or between August 1, 2009 and July 14, 2011, in the County of Santa Barbara, the crime of GRAND THEFT OF PERSONAL PROPERTY, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to C. SANTANDREA and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

COUNT 16

On or between September 23, 2010 and September 30, 2011, in the County of Santa Barbara, the crime of DIVERSION OF CONSTRUCTION FUNDS, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM R. SCOTT and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

SPEC ALLEG-EXCESSIVE LOSS OVER \$200,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$200,000, within the meaning of **Penal Code Section 12022.6(a)(2)**.

COUNT 17

On or about and between September 23, 2010 and September 30, 2011, in the County of Santa Barbara, the crime of GRAND THEFT OF PERSONAL PROPERTY, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to R. SCOTT and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

SPEC ALLEG-EXCESSIVE LOSS OVER \$200,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$200,000, within the meaning of **Penal Code Section 12022.6(a)(2)**.

COUNT 18

On or between September 23, 2010 and September 30, 2011, in the County of Santa Barbara, the crime of **OBTAINING SERVICES BY FALSE PRETENSES**, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: R. SCOTT, of money, labor or property, whether real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud R. SCOTT, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: TEA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 19

On or between August 25, 2010 and September 30, 2010, in the County of Santa Barbara, the crime of **DIVERSION OF CONSTRUCTION FUNDS**, in violation of **PENAL CODE SECTION 484B**, a Felony, was committed by PENNY ART ESTES, who received money for the purpose of obtaining or paying for services labor, materials and equipment FROM C. WALDEN and willfully failed to apply such money for such purpose by willfully failing to complete the improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received, said diverted funds being in excess of One Thousand Dollars, (\$1,000).

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

COUNT 20

On or about and between August 25, 2010 and September 30, 2010, in the County of Santa Barbara, the crime of **GRAND THEFT OF PERSONAL PROPERTY**, in violation of **PENAL CODE SECTION 487(a)**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully take money or personal property, to wit: MONEY, which belongs to C. WALDEN and has a value exceeding Nine Hundred and Fifty Dollars (\$950).

SPEC ALLEG-EXCESSIVE LOSS OVER \$65,000

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, took, damaged and destroyed property of a value exceeding \$65,000, within the meaning of **Penal Code section 12022.6(a)(1)**.

COUNT 21

On or between August 25, 2010 and September 30, 2010, in the County of Santa Barbara, the crime of OBTAINING SERVICES BY FALSE PRETENSES, in violation of **PENAL CODE SECTION 532(a)**, a Felony, was committed by PENNY ART ESTES, who knowingly and designedly, by any false or fraudulent representation or pretense, defraud another person, to wit: C. WALDEN, of money, labor or property, whether real or personal, or caused or procured another to report falsely of his or her wealth or mercantile character, and by thus imposing upon any person obtained credit and thereby fraudulently obtained possession of money or property or obtained the labor or service of another.

SPEC ALLEG – NATURAL DISASTER

It is further alleged that in the commission of the above offense(s) the said defendant, with the intent to do so, and as part or scheme to defraud, did defraud C. WALDEN, an owner of a residential property, with the offer or performance of repairs to his residential property for damage caused by a natural disaster, to wit: TEA FIRE, within the meaning of **Penal Code Section 667.16(a)**.

COUNT 22

On or about and between January 1, 2009 and December 31, 2009, in the County of Santa Barbara, the crime of FAILURE TO FILE INCOME TAX RETURN FOR 2009, in violation of **REVENUE AND TAXATION CODE SECTION 19706**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully fail to file a return to the Franchise Tax Board, with intent to evade tax in violation of Revenue & Taxation Code §19706.

COUNT 23

On or about and between January 1, 2010 and December 31, 2010, in the County of Santa Barbara, the crime of FAILURE TO FILE INCOME TAX RETURN FOR 2010, in violation of **REVENUE AND TAXATION CODE SECTION 19706**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully fail to file a return to the Franchise Tax Board, with intent to evade tax in violation of Revenue & Taxation Code §19706.

COUNT 24

On or about and between January 1, 2011 and December 31, 2011, in the County of Santa Barbara, the crime of FAILURE TO FILE INCOME TAX RETURN FOR 2011, in violation of **REVENUE AND TAXATION CODE SECTION 19706**, a Felony, was committed by PENNY ART ESTES, who did willfully and unlawfully fail to file a return to the Franchise Tax Board, with intent to evade tax in violation of Revenue & Taxation Code §19706.

COUNT 25

On or between August 25, 2010 and September 30, 2010, in the County of Santa Barbara, the crime of THEFT FROM ELDER OR DEPENDENT ADULT, in violation of **PENAL CODE SECTION 368(d)**, a Felony, was committed by PENNY ART ESTES, who committed theft, embezzlement, forgery, fraud, or identity theft with respect to the property or personal identifying information of an elder or dependent adult, said property, goods, or services taken or obtained having a value exceeding \$950.00, and knew or reasonably should have known that said person, C. WALDEN, was an elder or dependent adult.

“NOTICE: To defendant and defendant’s attorney of record; be advised that pursuant to California Evidence Code Section 1109, the people intend to introduce evidence of any prior act(s) of elder abuse committed by the defendant.”

* * * * *

Pursuant to penal code section 1054.5(b), the people are hereby informally requesting that defense counsel provide discovery to the people as required by penal code section 1054.3.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 25 COUNT(S).

Executed at Santa Barbara, California, on June 4, 2013.



GARY GEMBERLING
DEPUTY DISTRICT ATTORNEY

Agency: SBDA

<u>DEFENDANT NAME</u>	<u>SEX</u>	<u>RACE</u>	<u>HGT</u>	<u>WGT</u>	<u>EYES</u>	<u>HAIR</u>	<u>DRIVER'S LICENSE</u>	<u>STS</u>	<u>COURT DATE</u>
Penny Art Estes mg	F	W	507	175	BLU	GRY	N8802502	IC	06/05/2013