

County Court, City and County of Denver, Colorado Lindsey-Flanigan Courthouse, Room 160 520 W. Colfax Ave. Denver, CO 80204	Filed in the County Court City & County of Denver, Colorado
Plaintiff: The People of the State of Colorado	MAR 08 2017
Defendant: <b>CONSTANCE M VOLZ</b> (DOB 03/14/1963) W/F, 5'8", 130lbs, BLN/GRN	▲ CLERK OF COURT COURT USE ONLY ▲
	Case Number: 17CR01666 Div: Criminal Crim 2100
<b>SUPPORTING AFFIDAVIT FOR ARREST WARRANT</b>	

I, DAVID A DAWSON, of lawful age do swear upon my oath to the facts set forth below and on 5 continuation pages:

Your affiant, DAVID A DAWSON, an Investigator for the Denver District Attorney's Office, Economic Crime Unit was assigned to investigate allegations of THEFT in violation of 18-4-401(1),(2)(i), C.R.S. (F3) and THEFT in violation of 18-4-401(1),(2)(i), C.R.S. (F3) by **CONSTANCE M VOLZ** against **TRANSWESTERN BROADREACH, LLC** and **BRCP 17TH & GRANT, LLC** on DA Case Number 2015ECU00151.

On June 4, 2015, [REDACTED] Equity West Investment Partners, 1125 East 17th Street Suite 700, filed a complaint with the Denver District Attorney's Office alleging that Constance Marie Volz, hereinafter (Volz) the owner of Premier Parking, LLC which does business as Spire Parking had stolen money from BRCP 17th and Grant, LLC and from 1125 Transwestern Broadreach, LLC. [REDACTED] reported that Volz had signed agreements with each of these business entities to manage their respective parking garages in Denver. On November 13, 2015, Investigator David A. Dawson was assigned to conduct a follow-up investigation into the theft of money by Volz from the below listed business entities.

**BRCP 17th and Grant**, a Colorado registered limited liability company the owner of a parking garage located at 303 East 17th Street in the City and County of Denver, State of Colorado;

**1125 Transwestern Broadreach, LLC** a State of Delaware registered limited liability company the owner of a parking garage located at 1125 East 17th Street in the City and County of Denver, State of Colorado.

On November 23, 2009, Volz, President of Premier Parking, LLC dba Spire Parking, signed a Parking Management Agreement with BRCP 17th and Grant, to manage a parking garage located at 303 East 17th Avenue in Denver. The effective date of this agreement was January 1, 2010. The initial term of the agreement was from January 1, 2010 and was to end on December 31, 2012. This parking garage contained approximately 410 parking spaces.

On July 1, 2011, Volz, President of Premier Parking, LLC dba Spire Parking, signed a Parking Management Agreement with 1125 Transwestern Broadreach, LLC to manage a parking garage located at 1125 East 17th Avenue in Denver.

The effective date of this agreement was January 1, 2011. The initial term of the agreement was from January 1, 2011 and was to end on June 30, 2013. This parking garage contained approximately 445 parking spaces.

In the responsibilities sections of the agreements, Volz was to perform services that were professional, efficient and competent management, maintenance and the operation of the parking facilities. The Operator's (Volz) relationship to that of the owners of the two parking facilities was that of an independent contractor and neither the owners nor Volz were to represent to any other person that Volz's relationship was other than that of an independent contractor.

According to both agreements, Volz as President of Premier Parking, LLC dba Spire Parking, was to submit to the owners for review and approval, a proposed detailed, annual operating budget for each of the two parking facilities. The agreements stated that the budgets would not be final and effective until they were approved by the owners in writing. Notwithstanding, the owners' approval of the budgets with respect to the two parking facilities, certain expenditures were to be individually approved in writing by the owners. These expenditures included:

All capital expenditures and revenue equipment replacements and/or upgrades;

Any mark-up in cost for items billed to the individual parking facility by the Operator (Volz);

Any expenditure not considered to be in the ordinary course of business for a manager and/or operator of the two parking facilities; and

Any non-budgeted expenditure.

The agreements state that the Operator (Volz) was to use diligent efforts to collect, in accordance with accepted practices in the industry, all parking fees, rents, license fees (e.g., accounts payable in connection with the granting of licenses to provide advertising with the two parking facilities) not otherwise collected by the Owners in a timely manner, and all amounts receivable in connection with the parking of vehicles in the parking facilities or otherwise in connection with the operation of the parking facilities, but the Operator (Volz) is not a guarantor of receipts.

The agreements specified that the Operator (Volz) shall establish an account into which all receipts shall be deposited and from which withdrawals shall be made for the payment of operating expenses and upon which Operator (Volz) shall have signing authority.

The agreements stated that the accounts shall be interest-bearing accounts established by the Operator (Volz) at such bank or other financial institution reasonably designated by the owners of the two parking facilities. All funds, at any time on deposit in the accounts, shall be the sole property of the owners of the two parking facilities.

The two agreements specified that the Operator (Volz) shall be entitled to draw upon the accounts to pay Operating Expenses to the extent provided in Section 3.4.2 of the agreements as well as the Management Fee due to the Operator (Volz) in Section 4 of the agreements.

The two agreements also contained a section (3.4.3) called Disbursements. This section in the two agreements specified that the receipts collected in any month with respect to the parking facilities, shall first be applied to the payment of Operating Expenses for such months as they become due as set forth in Section 3.4.2 of the individual agreements and any remaining receipts shall thereafter be disbursed as follows:

First, on or before the fifteenth (15th) day of the then-current month, the Operator (Volz) shall remit to the Owner by check as designated by the Owner an amount equal to \$40,000.00 (1125 Transwestern Broadreach, LLC) and \$20,000.00 to (BRCP 17th and Grant, LLC); and

Second, on or before the twentieth (20th) day of the succeeding month, but in any event concurrently with Operator's (Volz) delivery to each of the owners of the applicable Monthly Report as defined in Section 3.5.1 of the agreements, the Operator (Volz) shall disburse the balance of the receipts collected in such month as follows:

Operator (Volz) shall pay itself the Management Fee earned with respect to such month; and the balance, if any, shall be remitted to the respective owners of each parking facility by wire, check, or electronic transfer to the owners' accounts as specified by each of the owners.

The Operator (Volz), according to each of the two agreements, was required to provide monthly reports according to Section 3.5.1 Monthly Reports. These monthly reports were due on or before the twentieth (20th) day of each month beginning with the second month of the term of the individual agreements. The agreements required that at the time of payment to the owner, the Operator (Volz) provide the Owner with a complete accounting on the accrual basis of all receipts, disbursements, balance sheet activity, a general ledger, a ticket summary, a detailed monthly billing report and copies of all paid or accrued invoices all for the preceding month.

Section 6.8 in each of the two agreements is titled Entire Agreement which in part states, "This Agreement shall not be amended, modified or terminated with respect to the Parking Facility except in writing signed by the applicable Owner and Operator."

Section 6.10 in each of the two agreements is titled Notices, Notices to both Owner and Manager (Volz) shall be in writing and delivered by messenger or sent by certified mail, postage prepaid, return receipt requested.

██████████ reported to Senior Criminal Investigator David A. Dawson that he first became aware of suspected missing funds from 303 East 17th Avenue in March 2014, when ██████████ ██████████ of ECI Investments Advisors, Inc., who was hired as a consultant to provide advice to both BRCP 17th and Grant, LLC and 1125 Transwestern Broadreach, LLC informed him that Volz had misappropriated funds from the parking facility at 303 East 17th Avenue. ██████████ said that based on Volz's history with both companies to that point having been good and with no allegations of missing money or reports not being filed, that he, thought that Volz might have a valid explanation of the money even though she told ██████████ she had misappropriated the money. ██████████ said that at the time ██████████ told him, he ██████████ believed there was an explanation and he didn't consider at that time that Volz had stolen money from the 303 East 17th Avenue parking facility.

██████████ said that subsequent to ██████████ informing him of the misappropriated money, he learned that Volz had not made monthly payments in December 2013 and January 2014 for the parking garage located at 1125 East 17th Avenue. ██████████ said that when ██████████ told him about the misappropriated money, he ██████████ checked with the manager at 303 East 17th Avenue and was informed that the payments there appeared to be on track. ██████████ said that he subsequently learned that Volz had stolen money from the parking garage at 303 East 17th Avenue as well.

██████████ said that Volz was confronted about the missing money and during the course of several meetings in March of 2014, he directed ██████████ to meet with Volz on repaying the missing money. ██████████ said that over the course of several meetings, ██████████ and Volz agreed on a repayment plan for Volz to repay the money to BRCP. ██████████ said that as a result of the agreement, Volz made a payment in March 2014 in the amount of \$30,000.00 and a partial payment in April of \$13,000.00 and; thereafter, made two further payments on the money she had misappropriated from BRCP. ██████████ said that in May 2014, both BRCP 17th and Grant, LLC and 1125 Transwestern Broadreach, LLC terminated their agreements with Premier Parking, LLC and Volz due to the thefts.

██████████ said that the two entities BRCP 17th and Grant, LLC and 1125 Transwestern Broadreach, LLC retained the services of ██████████ to review and determine the differences, if any, between the monthly financial reports prepared by Premier Parking dba Spire Parking a company owned and controlled by Constance Marie Volz and the bank records from ██████████ Bank and ██████████ Bank. ██████████ said that they wanted ██████████ to determine if the cash collections and payments had been accurately reported, or if there were indications that funds had been diverted. Additionally, ██████████ was asked to perform an analysis of the cash receipts and cash disbursements on the reconciliation reports prepared by ██████████ and submitted by Constance Volz. On May 29, 2015, ██████████ authored an Accountants' Report pertaining to the Premier Parking dba Spire Parking.

██████████ report included, but is not limited to the following:

Premier Parking dba Spire Parking made monthly payments to BRCP 17th & Grant, LLC for the period from January 2010, through November 2013;

In December 2013 and January 2014, Premier Parking failed to make the monthly payments to BRCP of \$52,795.00 (December 2013) and \$63,294.00 (January 2014) (\$116,089.00);

Ultimately, two partial payments were made one of \$30,000.00 and the second in the amount of \$13,000.00, leaving a balance owed of \$73,089.00;

Premier made monthly payments from February 2014 to April 2014; thereafter, Premier failed to make payments for May and June 2014 which totaled \$11,314.00 and \$22,289.00, respectively.

██████████ reported that based on the monthly financial statements prepared by Premier (Volz), the net amount due and unpaid to BRCP was \$106,700.99 (rounded up in the report to \$106,701.00).

Premier Parking dba Spire Parking made monthly payments to 1125 Transportation Broadreach, LLC for the period from July 2011, through February 2014;

In March 2014, Premier failed to make its monthly payment of \$101,494.00;

In April 2014, a partial payment in the amount of \$40,000.00 was made on the total amount due of \$95,861.00;

Premier Parking, LLC dba Spire Parking did not make the monthly payments in the months of May or June 2014.

██████████ reported that based on the monthly financial statements prepared by Premier (Volz), the net amount due and unpaid to 1125 Transportation Broadreach, LLC was \$336,841.00.

On March 7, 2017, Investigator Dawson contacted ██████████ in reference to Premier Parking, LLC dba Spire Parking both entities owned and controlled by Constance Marie Volz. ██████████ said that he recalls Volz and that she was the manager for two parking garages in Denver; one at 303 East 17th Avenue and the other at 1125 East 17th Avenue in Denver.

██████████ said that on March 7, 2014, he was talking with ██████████ the property manager for General Manager for BRCP and the parking garage located at 303 East 17th Avenue in Denver. ██████████ said that during the course of the conversation, ██████████ mentioned that Volz had not made the monthly payments to BRCP for December (2013) and January (2014) and that Volz had made the October monthly payment in January (2014).

██████████ said that he was very concerned about the late payment and the lack of payments because the funds to make these payments are generated by parking fees and these initial payments are estimates based on the parking garage. ██████████ said the remainder of the amount due to the owners of the garages is paid the following month but the estimated payment according to the agreements must be made by the 10th of the following month. ██████████ said that he recalls that the payments are like \$20,000.00 for one of the garages and \$40,000.00 for the other but he didn't recall which amount was due for the garage at 303 East 17th Avenue. According to the agreement for BRCP 17th & Grant the fee due on or before the 15th of the current month was \$20,000.00 with the remainder to be paid by the 20th day of the succeeding month. ██████████ said at that time the theft from the parking garage at 1125 East 17th Avenue in Denver had not been discovered because Volz was current on the monthly payments there.

██████████ said that he contacted Volz about the missing payments and she admitted to him that she had misappropriated the funds and that she had used the funds to pay for a patent she was working on for a parking operation system.

██████████ said that he also contacted ██████████ to inform him that Volz had misappropriated money from the parking garage.

██████████ said that there had been another meeting later in the month (March 11, 2014) which Volz was at and that during the meeting it was determined that Volz would be allowed to pay back the funds she diverted from the parking garage located at 303 East 17th Avenue. ██████████

said that he recalls Volz made two payments towards the amount she owed for the December and January payments one being for \$30,000.00 and the second in the amount of \$13,000.00 which was only a partial payment he didn't recall what the full payment was to have been.

██████████ said that they didn't discover anything was wrong at the 1125 East 17th Avenue garage until Volz missed the monthly payment in March 2014.

██████████ was asked if he had made any verbal agreements with Volz that would have altered, changed or modified the written agreements between BRCP 17th and Grant, LLC; 1125 Transwestern Broadreach, LLC and Constance Marie Volz. ██████████ said absolutely not. ██████████ said that he was hired as an advisor and had no legal authority from either company to make any decisions related to either company.

Volz had access and control of at least three bank accounts. ██████████ Bank account number ██████████, the account of Premier Parking LLC dba Spire Parking, the account for the parking garage located at 303 East 17th Avenue in Denver. ██████████ Bank account number ██████████ the account of Premier Parking, LLC dba Spire Parking; the account for the parking garage located at 1125 east 17th Avenue in Denver and ██████████ Bank account number ██████████ the account of Constance Marie Volz. A review of these accounts shows that there were a large number of unauthorized debit card withdrawals, point of sale purchases, as well as items marked as draws and payments made to Volz in excess of \$200,000.00.

Based on the foregoing, your affiant respectfully requests that an At Large Warrant be issued for the arrest of CONSTANCE M VOLZ, DOB: 03/14/1963 for THEFT in violation of 18-4-401(1),(2)(i), C.R.S. (F3) and THEFT in violation of 18-4-401(1),(2)(i), C.R.S. (F3).

I affirm this information to be true and correct.

*[Signature]*

AFFIANT

Subscribed and Sworn to before me this 9<sup>th</sup> day of March, 2017, at the City and County of Denver, State of Colorado.

My commission expires: 4-10-18

LEAH DUBOIS, M.S.  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20144015973

*[Signature]*  
NOTARY PUBLIC  
201 West Colfax Ave., Dept. 801  
Denver, CO 80202