

## **AFFIDAVIT OF RICHARD J. DENT**

I, Richard J. Dent, hereby swear and affirm as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI), United States Department of Justice. I have been a Special Agent with the FBI for approximately thirteen years and am presently assigned to its Jacksonville Field Division at Jacksonville, Florida. In the performance of my duties, I have led, conducted, and participated in numerous investigations pertaining primarily to the violation of federal laws involving health care fraud, public corruption, bank fraud, mail and wire fraud schemes, and environmental crimes.

2. This affidavit is submitted in support of an application for complaints and arrest warrants charging:

- A. Jerome P. Jacobson, a/k/a Jerry Jacobson;
- B. Noah Dwight Baker, Sr., a/k/a Dwight Baker;
- C. Linda Baker;
- D. Ronald E. Hughey, a/k/a Ronnie Hughey, Ron Hughey;
- E. Brenda S. Phenis;
- F. Andrew Glomb, a/k/a A.J. Glomb;
- G. Michael L. Hoover; and
- H. John F. Davis;

with conspiracy to commit an offense against the United States, that is, mail fraud, a violation of Title 18, United States Code, Section 1341, in violation of Title 18, United States Code, Section 371.

## **ATTACHMENT A**

3. I am the case agent on an investigation pertaining to an ongoing criminal conspiracy to defraud the McDonald's Corporation (McDonald's), an internationally known chain of fast-food restaurants, McDonald's franchisees, and the customers of McDonald's restaurants. The fraud, which has been ongoing since at least 1995, has involved high-value promotional games used by McDonald's in its national and international advertising campaigns. In an effort to orient the Court in its consideration of the specific factual information contained in this affidavit, I will briefly summarize the nature of the investigation and the fraudulent scheme.

### **The Promotions**

4. The facts set forth in this section were provided to me by various representatives of McDonald's, including Robert B. Holm, Director, Global Security Services, Kathryn K. Misna, Managing Counsel, Global Marketing Legal Group, and Jack Daly, Senior Vice President, Corporate Relations. In connection with McDonald's promotional advertising strategy, McDonald's contracts with Simon Marketing, Inc. (Simon). Simon implements virtually all of McDonald's promotions, from its Happy Meals menu items for children, to its \$1 million grand prize promotional games. With respect to McDonald's promotional games, such as the "Monopoly Game" at McDonald's, and "Who Wants to be a Millionaire" game at McDonald's, Simon contracts with a secure printing company, Quebecor World<sup>1</sup>, to produce the game pieces for both in-store, low-value prizes and high-value game prizes. The low-value prizes generally consist of food items and

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<sup>1</sup>Formerly known as Dittler Brothers (Dittler). I will refer to Quebecor as Dittler .

relatively low-value cash prizes. The high-value prizes include vehicles, vacations, and high-value cash prizes of up to \$1 million. In producing and distributing the game pieces, Simon is responsible for insuring the integrity of the games.

5. Following the secure production of the high-value game pieces, the high-value game pieces are taken into joint custody by an employee of Simon and an employee of a nationally recognized public accounting firm. These two individuals are then tasked with the duty to see that the high-value game pieces are legitimately placed into the proper distribution channels.<sup>2</sup>

### **The Scheme to Defraud**

6. The following facts will be supported with appropriate attribution to follow; however, they are being provided in this summary fashion to merely orient the Court in its review of this supporting affidavit. During my investigation, I have established that an employee of Simon embezzles the winning game pieces, rather than causing the winning high-value game pieces to be placed into the proper public distribution channels. After embezzling the high-value game pieces, the Simon employee provides the winning game pieces to friends/associates, who act as recruiters. These recruiters then recruit individuals who falsely and fraudulently represent that they are legitimate winners of the McDonald's game. Before or after the "winners" receive prize checks from either Simon or McDonald's, the "winners" transfer a portion of the proceeds of the fraud to their recruiters, who in turn, provide a portion of the proceeds from the fraud to the Simon

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<sup>2</sup>Because of the covert nature of this investigation, I have been unable to determine the exact manner in which the high-value game pieces are distributed.

employee.

### **Source Information**

7. Over approximately the last year, an individual that wishes to remain confidential (source), reported that a group of individuals had fraudulently obtained the high-value game pieces from McDonald's promotional games. The source advised that beginning in 1995 to 1998<sup>3</sup>, high-value McDonald's game prizes had been awarded to members of a conspirator's family, and/or associates, some of whom reside in South Carolina, Virginia, Massachusetts, and Jacksonville, Florida.

8. The source further reported that in 1995, C1<sup>4</sup> met an individual by the name of Dominic (last name unknown- LNU). C1 was living in Charleston, South Carolina, at the time and was the owner/operator of an <sup>4</sup>adult men's club. Dominic LNU told C1 that Dominic was selling winning game pieces for the 1995 McDonald's Monopoly game promotion and C1 purchased a winning game piece for a 1996 Dodge Viper. C1 presented the game piece to a local McDonald's in Statesboro, Georgia, and won a 1996 Dodge Viper.

9. I was further advised by the source that Dominic then recruited C1 to help Dominic locate individuals that would be willing to purchase game pieces from the

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<sup>3</sup>The source did not provide the specific calendar years that the "winners" claimed their prizes. I compared the names of past winners provided by the source with information provided by McDonald's and thereby identified the calendar years the individuals identified by the source won. This will be explained in more detail below.

<sup>4</sup>In order to protect the identities of individuals involved in this fraud which are not being charged in this complaint, alpha-numeric identifiers will be used.

McDonald's Monopoly promotions. Dominic told C1 that he was obtaining the pieces from an individual who resided in Atlanta, Georgia and had ties to Hilton Head, South Carolina. This individual was known to Dominic and C1 as "Uncle Jerry." Uncle Jerry was obtaining the game pieces from an individual with ties to the company that was printing the pieces in Atlanta, Georgia.

10. The source also advised me that shortly after conferring with Dominic, Dominic died (no further information) and C1 began dealing directly with Uncle Jerry. C1 was married to an individual by the name of C2. In 1996, C1 recruited his father-in-law, C3, who resides in Jacksonville, Florida. C3 was provided with an opportunity to purchase the \$1 million grand prize and did in fact "win" a \$1 million McDonald's prize in 1996. The source further advised me that C3 receives the \$1 million grand prize in \$50,000 installments over a twenty year period. For his role in the fraud, Uncle Jerry would receive money from the "winners" in various ways. Some of the ways Uncle Jerry received money from "winners" are as follows:

A. In the case of a \$1 million winner, the first \$50,000 installment made by McDonald's would be passed on to Uncle Jerry in cash.

B. In some instances, Uncle Jerry would require that the money be paid before he would release the winning game piece(s). In these instances, some of the winners would mortgage their homes in order to come up with the money to purchase the winning game piece(s) from Uncle Jerry.

11. I was further advised by the source that from 1996 to 1998, C1 recruited other family members, friends, and associates to win the high-value prizes. In 1996, C1

recruited C4, a car salesman from Charleston, South Carolina, to win a high-value cash prize. In 1996, C1 recruited his brother-in-law, C5, to win a high-value prize in a McDonald's promotional game. In 1997, C1 recruited another brother-in-law, C6, to win a high-value prize in a McDonald's promotional game. In 1997, C2 recruited a Jacksonville, Florida, resident, C7, to win a high-value prize in a McDonald's promotional game. The source advised that although C7 lived in Jacksonville, Florida, C7 represented to McDonald's that he/she lived in South Carolina. In 1998, C1 recruited C9 to win \$200,000 in a McDonald's game in Massachusetts for C8. The source advised that C9 represented himself/herself to be the winner because C8 did not want to win the game in his/her name.

#### **Corroboration of Source Information**

12. Over the last year, while working with McDonald's representatives, I was provided a list of game winners from 1995 to the present. The winners list substantially corroborated the source's information. Specifically, using the information provided by McDonald's, I was able to corroborate the following facts:

A. C1 won a 1996 Dodge Viper in the 1995, "Monopoly Game" at McDonald's.

B. C3 won \$1 million in the 1996 "Deluxe Monopoly Game" at McDonald's. Additionally, in August, 2001, I caused a McDonald's representative, Amy Murray, to telephone C3 in Jacksonville, Florida. At my direction, Amy Murray questioned C3 regarding how he/she won the McDonald's game. C3 told Ms. Murray that he/she won the prize in Litchfield, New Hampshire, where he/she was living for a year. Based upon

my review of public source documents, specifically property and electric records, which show that C3 has had and continues to have electricity to a private residence he/she owns in Jacksonville, Florida, since before 1996, I believe C3 provided false and misleading information to Amy Murray regarding the circumstances surrounding his/her winning the McDonald's game.

C. C4 won \$1 million in the 1996 "When the USA Wins, You Win" game at McDonald's, associated with the 1996 Summer Olympics.

D. C5 won \$100,000 in the 1996 "Disney's Masterpiece Collection Trivia Challenge at McDonald's."

E. C6 won a \$1 million prize in a McDonald's Monopoly game in 1997.

F. C7 won a \$1 million prize in McDonald's Monopoly game in 1997. In addition to reviewing the information provided by McDonald's, I caused a Federal Grand Jury subpoena to be served upon C7's financial institution in Jacksonville, Florida. I reviewed the documentation provided by the financial institution and discovered that C7 negotiated his/her \$50,000 McDonald's checks in Jacksonville, Florida, in 1997, 1998, 1999, and 2000. Furthermore, in August 2001, Amy Murray advised me that she contacted C7 by telephone in August 2001 and was advised by C7 that he/she claimed to have been living in South Carolina for a year at the time he/she won the 1997 McDonald's Monopoly game. Additionally, McDonald's provided me copies of the \$50,000 checks that have been mailed to C7 between 1997 and 2000. The address for C7 on the 1997, 1998, and 1999, checks were all in South Carolina. The address for C7 on the 2000 check was in Jacksonville, Florida. Furthermore, the source advised me that C7 was employed in

Jacksonville, Florida, in 1997. Therefore, based upon these facts, I believe C7 provided false and misleading information to Amy Murray regarding the circumstances surrounding his/her winning the McDonald's game.

G. In 1998, C9 won a \$200,000 Better Homes and Garden cash prize in Northborough, Massachusetts. Additionally, at my direction, an FBI agent in Boston, Massachusetts, advised me that he reviewed property records in Massachusetts which reflected that in January of 1998, C8 purchased a home in Northborough, Massachusetts.

#### **Initial Identification of Jerry Jacobson**

13. As stated above, the source advised me that C1 received the winning game pieces from an individual known to the source as "Uncle Jerry." During my meetings with McDonald's representatives, I asked that they contact Simon to determine what procedures Simon uses to insure the integrity of the high-value game pieces in McDonald's promotions. Thereafter, I was advised by Robert Holm, Director of McDonald's Global Security Services, that he (Holm) contacted Simon and learned the general method and individuals involved in distributing the high-value game pieces. Based upon Mr. Holm's personal knowledge and the information that he learned from Simon, Mr. Holm advised me of the following:

A. Virtually all aspects of the McDonald's promotions are handled by Simon. Jerry Jacobson, an employee in Simon's security department, has been responsible for placing winning high-value game pieces into circulation since at least



1995.<sup>5</sup> Generally, each promotional game has two \$1 million prizes. The \$1 million prizes can be won either by collecting game pieces or by collecting an instant winner piece. Until the most recent game, the instant winner, \$1 million prize, was distributed through Sunday newspaper inserts. The collectible winning game piece is attached to drink cups, fry boxes, and other packaging materials. In addition to the \$1 million prizes, McDonald's gives away other less valuable prizes, including vehicles, cash, and food prizes.

B. Simon contracts with Dittler Brothers (Dittler), which has an office in Atlanta, Georgia, to print the game pieces. Dittler makes two print runs. The first run is for the low-value prizes. These game pieces are affixed to Sunday newspaper inserts and food packaging materials. They are then sent to the regional publishers that place the inserts into the Sunday newspapers and to McDonald's regional distributors where the packaging materials are then sent to stores across the country.

C. Dittler then performs a high-value prize run. This is when the \$1 million prize pieces are printed. In order to insure the integrity of the game, Simon contracts with a top five public accounting firm, to monitor the distribution of the high-value prizes. For at least the past five years, the same accountant has been assigned to the McDonald's/Simon account and is a resident of the Greater Atlanta area. During the printing process, a Dittler representative, the accounting firm representative, and the Simon representative (Jerry Jacobson), jointly control the high-value game pieces.

D. Once the printing process is completed, Dittler relinquishes control

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<sup>5</sup>After learning that Jerry Jacobson was the individual responsible for distributing the winning game pieces, I was able to identify Jerry Jacobson as Jerome P. Jacobson of Lawrenceville, Georgia.

over the high-value game pieces to Jacobson and the accountant. Jacobson and the accountant then travel to regional publishers and distribution centers. At these sites, Jacobson and the accountant are suppose to place the winning pieces randomly among the other inserts and packaging materials.

14. Based upon the information provided by the source and the information provided by Mr. Holm, especially the fact that one of the two individuals entrusted with the high-value winning game pieces is named Jerry Jacobson, I suspected that Jerry Jacobson was, in fact, the individual referred to by the source as "Uncle Jerry," and more importantly the individual who was embezzling the winning game pieces from the McDonald's promotional games. My suspicion regarding Jerry Jacobson's identity and involvement was later confirmed through my investigation, which I will describe below.

#### **2001 Promotional Games**

15. McDonald's representatives have advised me that this year, 2001, McDonald's has had two promotional games which could be played in the United States and several foreign countries. The first promotion ran in April of 2001, and was the "Who Wants to be a Millionaire" promotion. The second promotion began on July 11, 2001, with a scheduled ending date August 9, 2001. The second promotion was the highly publicized "Monopoly Game" at McDonald's.

#### **April-May 2001 "Who Wants to be a Millionaire"**

##### **Ronald E. Hughes**

16. On April 27, 2001, Robert Holm, director of McDonald's Global Security Services, advised me that an individual by the name of Ronald E. Hughes claimed to be

a \$1 million prize winner. Following Hughes redeeming his winning game piece, Amy Murray, Senior Manager of McDonald's USA Marketing, called Hughes. During Murray's call to Hughes, Hughes claimed to live in Germantown, Tennessee, and to be a life-long resident of Tennessee. Hughes also claimed to have obtained the winning game piece at a McDonald's drive-thru in the Germantown, Tennessee area. Hughes told Ms. Murray that he did not want to be involved in any promotional activities because he had just gone through a divorce and was depressed. My personal investigation, and investigation conducted at my direction, has been able to refute Hughes's claim of being a lifelong Tennessee resident.

17. First, I reviewed computerized public source records which draw information from credit bureaus. These records identify a residence for Hughes in South Carolina. Further, I conducted a computer search of Tennessee driver's licenses and discovered that on March 19, 2001, just one month before becoming a "winner," Hughes obtained a Tennessee driver's license. I also caused a subpoena to be served on the telephone number provided by Hughes to McDonald's as his point of contact in Tennessee. From the subpoenaed records, I learned that on March 22, 2001, Hughes obtained the telephone service at the residence he provided to McDonald's. The subpoenaed records also reflected that Hughes had additional telephone service at an address in South Carolina that was established in June of 1994, and a business listing in South Carolina that was established in December of 1998. Therefore, based upon these facts and facts that I will set forth below in my summarization of wire-tap evidence, I believe that Hughes provided false and misleading information to Ms. Murray regarding his "winning" the

McDonald's promotion. I further believe that the reason that Hughes provided false and misleading information is that, as set forth below, there had already been a winner (B1) from the same area in South Carolina in which Hughes resides, and having another winner at that location would raise suspicion.

18. Shortly after learning that Hughes had claimed to be a winner, a Court Order was issued authorizing the installation of a pen register and trap and trace device for Hughes's telephone in Tennessee. After just a few days, I was told by technical agents within the Jacksonville Division of the FBI that Hughes's Tennessee telephone was merely being used as a call forwarding device. I was also told that the telephone number that Hughes's calls were being forwarded to was a mobile telephone with a South Carolina area code. Upon receiving the mobile telephone number in South Carolina, I secured a Federal Grand Jury subpoena and learned that the mobile telephone was subscribed to by Hughes with an Anderson, South Carolina address. Additionally, subpoenaed records reflected that Hughes obtained that mobile telephone on April 16, 2001.

19. During this time frame, I received telephone toll records for the mobile telephone subscribed to by Hughes, described immediately above, and a mobile telephone and home telephone of Jerry Jacobson. An analysis of toll records obtained through Federal Grand Jury subpoenas established a link between Ronald E. Hughes and Jacobson, in that both Hughes and Jacobson were calling a telephone subscribed to by Linda Baker, a resident of Westminster, South Carolina.

**Brenda S. Phenis**

20. On May 30, 2001, Mr. Holm, a McDonald's Security representative, notified

me that an individual by the name of Brenda Phenis had claimed a \$500,000 prize in the McDonald's Monopoly game and lived in Asheville, North Carolina. As a result of this information, I reviewed computerized public source records which draw information from credit bureaus. These records identified an address for Phenis in Westminster, South Carolina. In fact, the computer database gave Phenis's address as the same address for Linda Baker, the same individual whose telephone received calls from both Hughes and Jacobson. My analysis of telephone toll records identified common links between Phenis's North Carolina phone number, that she provided McDonald's, Jacobson's telephone numbers, and Hughes's mobile telephone number, in that Phenis's, Jacobson's, and Hughes's telephones were in contact with a telephone subscribed to by Linda Baker.

### **Wire-tap Evidence**

21. On July 2, 2001, a Court Order was obtained from United States District Court, Middle District of Florida, Jacksonville Division, authorizing the wire intercept and monitoring of the following telephone numbers: (1) Jacobson's mobile telephone (Atlanta, Georgia); (2) Baker's mobile telephone (Fair Play, South Carolina); and (3) Baker's residence, (Westminster, South Carolina).

22. As a result of these three wire-taps, incriminating conversations have been obtained on all three telephones. From my review of these Court authorized intercepted telephone calls, I have established that: (1) there is frequent and sustained communications between the subjects about the progress of the game, game payments, and distribution of the proceeds of the fraud; (2) Jerry Jacobson is the central figure in the

embezzlement of the game pieces and the coordination of the redemption of the game pieces; (3) Jerry Jacobson uses friends or associates to act as recruiters and arrange for individuals to fraudulently represent that they are legitimate winners; and (4) Jacobson, through his recruiters, advises the winners on how to deal with McDonald's. Additionally, the wire-taps have established that Jacobson and at least one of his recruiters, already have plans to corrupt an upcoming McDonald's game in early 2002.

23. Based upon the information learned from the three wire-taps discussed above, a court order was obtained for a fourth wire-tap.<sup>6</sup> The fourth wire tap was obtained for a mobile telephone, subscribed to by Andrew Glomb. A general summary and interpretation of the evidence gained through these four Court authorized intercepted telephone calls is set forth below.

### **Organizational Structure**

24. In order to fully understand the scheme, I have included a diagram of the basic organizational structure identified from my investigation, to date. This diagram is attached as Exhibit A.

### **The Baker Winners**

25. From my investigation, I have identified four winners who have obtained winning high-value game pieces from the same recruiter, Dwight Baker, who is Linda Baker's husband. I believe three winners obtained their winning game pieces directly from Dwight Baker. Wire-tap evidence establishes that John Davis, a July 2001 winner of \$`1

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<sup>6</sup>The fourth wire-tap (Glomb)authorization was obtained in an application for a thirty-day extension for the first three wire-taps, with the addition of a fourth wire-tap.

million in the Monopoly game, obtained his winning game pieces through an April 2001 winner, Ronald E. Hughey, who recently assumed recruiter duties.

26. From the intercepted telephone calls, I have established and believe that: (1) Dwight Baker (Linda Baker's husband) is a recruiter and obtains winning game pieces from Jerry Jacobson; (2) Linda Baker (Dwight Baker's wife) is aware of the fraud and has joined in the conspiracy by assisting Baker with obtaining the proceeds of the fraud from Brenda S. Phenis; (3) Brenda S. Phenis knows that her winning game piece was provided to her by Dwight Baker, who obtained it from another individual, and the game piece was fraudulently obtained; (4) Ronald E. Hughey knows that his winning game piece was provided to him by Dwight Baker, who obtained it from another individual, and the game piece was fraudulently obtained; (5) Ronald E. Hughey recruited a winner from Texas, John F. Davis, who claimed a \$1 million prize in the Monopoly game in July, 2001; and (6) that a portion of the winnings is disbursed to the recruiter (Dwight Baker) and to Jerry Jacobson.

27. As discussed above, Dwight Baker, working with Jerry Jacobson, recruited two of the recent winners discussed above, that is, Ronald E. Hughey and Brenda S. Phenis. Hughey won \$1 million in April, 2001, and Phenis won \$500,000 in May, 2001. I was advised by Mr. Holm, McDonald's representative, that winners are generally paid within four (4) weeks of the winning game piece being verified. However, in this case, because the first three wire-taps were in the application process, I requested that McDonald's delay sending the checks to Hughey and Phenis until after court authorization had been obtained to intercept the conversations over the three subject telephones.

McDonald's continued their assistance to the FBI by agreeing to delay the checks. This intentional delay in issuing these checks proved very fruitful, as it caused Dwight Baker, Brenda S. Phenis, Ronald E. Hughey, and Jerry Jacobson, to discuss over the intercepted telephones, mechanisms to receive the delayed checks from McDonald's.

### **Summary of Intercepted Telephone Calls**

28. On July 3, 2001, at 9:19 a.m., Dwight Baker called Brenda Phenis (subsequent intercepted telephone calls established that Brenda Phenis is Linda Baker's sister, and therefore, is Dwight Baker's sister-in-law). During this telephone call, Phenis told Dwight Baker that the check had not arrived. Dwight Baker directed Phenis to look for the check that day and then return home. Other intercepted telephone calls have established that Phenis rented an apartment in Asheville, North Carolina, where she told McDonald's that she lived when she won the \$500,000 prize. As established in later conversations, this reference was to Phenis receiving the McDonald's check for \$500,000 from her winning ticket in May, 2001.

29. Later that day, Ronald E. Hughey called Dwight Baker. Dwight Baker asked Hughey if he "ever got anything from these folks." I believe that Dwight Baker was asking Hughey if he (Hughey) had been paid by McDonald's. Hughey told Dwight Baker that he had not been paid. Dwight Baker told Hughey to "check on it by Friday. I'm going to meet him (Jacobson) Saturday morning for breakfast and if it hadn't come, I mean, he, he'll [(Jacobson)] tell me what I need to do."

30. As described above, and through other intercepted conversations, I know that Brenda Phenis resides in South Carolina and fraudulently used a North Carolina



address to claim her \$500,000 prize from McDonald's. On July 12, 2001, Dwight Baker, had several conversations with Brenda Phenis about placing a caller identification "block" on Phenis' home telephone number in South Carolina when she called McDonald's and/or Simon Marketing to inquire about the status of her check. I believe that Baker and Phenis wanted to "block" the originating telephone number of the call, in order to avoid detection by McDonald's that she was not calling from Asheville, North Carolina. These and other intercepted telephone calls confirm my belief that Dwight Baker is a recruiter, that is, an individual who locates individuals who are willing to fraudulently claim prizes for a share of the prize money. These telephone calls also establish Brenda Phenis as one of the individuals recruited by Dwight Baker on behalf of Jerry Jacobson to fraudulently claim a prize.

31. As set forth above, I believe that Ronald E. Hughey resides in South Carolina, but traveled to Memphis, Tennessee, to claim the \$1 million prize. On July 3, 2001, during an intercepted telephone conversation between Ronald E. Hughey and Dwight Baker, Hughey told Dwight Baker, in substance, that he needed to go to Memphis, Tennessee, but that he had been too sick. This conversation was in reference to Dwight Baker asking Ronald E. Hughey, in substance, if he had received anything from McDonald's.

32. On or about July 21, 2001, a telephone call was intercepted between Dwight Baker and B1, a \$1 million winner in 2000. This and later intercepted telephone conversations establish another relationship between Dwight Baker (recruiter) and another game winner.

33. Intercepted telephone calls establish that Jerry Jacobson has had numerous conversations with Dwight Baker in which Jacobson and Dwight Baker have discussed the most expeditious means for Phenis and Hughey to receive their winnings from McDonald's. These telephone calls are summarized, in substance, below:

A. On July 5, 2001, Dwight Baker, had several telephone conversations with Jerry Jacobson. During the course of this conversation, Jacobson told Baker that Phenis needed to insist on "something in writing" so Baker could make a "legal issue" out of McDonald's not sending Phenis the \$500,000.

B. On July 7, 2001, Jerry Jacobson had a telephone conversation with Dwight Baker, in which, I believe Jacobson gave Baker advice about how to receive payment from McDonald's. It appeared that Jacobson was not satisfied with the manner in which Phenis was handling her contacts with McDonald's. Jacobson wanted Baker to call McDonald's directly, pose as Phenis' son, and be more aggressive in demanding the money from McDonald's. Jacobson instructed Baker, that "once you get it, get that letter [(from McDonald's)] then I'd give them a call back and say, you know, I'm her son, and this is, this is not the way your thing reads." Baker responded, "that's right." Jacobson then said, "and uh, what is it, do we need an attorney or do I need to call the home office, or let someone there explain to me why, or do I need to call Burger King."

34. After Brenda Phenis received the \$500,000 check from McDonald's on or about July 14, 2001, Dwight and Linda Baker had several intercepted telephone conversations relating to their concern that Phenis stole the check and traveled to California. During these conversations, the Bakers discussed their financial relationship

with Jacobson regarding the scheme to defraud. A portion of these conversations are summarized in substance below:

A. On July 18, 2001, Linda Baker had a telephone conversation with a relative, who stated that he was told by Phenis that a "regional manager" of McDonald's knows Dwight Baker and made sure that he (Dwight Baker) received a \$500,000 prize from McDonald's. The relative further explained that Phenis told him that she (Phenis) was given the winning ticket by Dwight Baker and that he (Dwight Baker) let Phenis claim the prize, provided that Phenis distributed the \$500,000 by giving Dwight Baker \$90,000 and the "guy" (Jacobson) \$70,000. It was further understood that Phenis would be responsible for paying the taxes due on the \$500,000 and that Phenis would receive \$90,000. Phenis agreed to this arrangement.

B. Immediately after the telephone conversation described above, Dwight Baker called Linda Baker. Dwight Baker asked Linda Baker who she had been talking to on the telephone. Linda Baker told Dwight Baker that she had been talking to the relative described above. Dwight Baker advised her that she should not talk on the telephone to this relative about the matter. Linda Baker told Dwight Baker that the relative explained to her that Phenis was going to take everything but Dwight Baker's \$90,000 and "that guy's" \$70,000 and then move. Dwight Baker told Linda Baker that he would tell Phenis, unless Phenis gave him the whole \$500,000 check, that he would "raise his hand" and the U.S. Marshall's would come for Phenis. Dwight Baker also stated that he "sterilized" the North Carolina apartment, so that there is no evidence that he (Dwight Baker) had been there. Dwight Baker then stated, "I want it all, no if, ands, or butts about it. She has no f[---

Jing power over me." Linda Baker then told Dwight Baker that he had no power over Phenis because the check was in Phenis' name. Dwight Baker then stated, "Jerry, Jerry, I mean if he knew, that, that, uh, it was going down this way, he would absolutely report it stolen and that they threatened him with his wife and his children to get it."

C. Approximately one hour later, Linda Baker, called the relative back. Linda Baker told this relative that the money was never Phenis', but that Phenis was only the "front man." Linda Baker said that the only reason that Dwight Baker brought Phenis into this was that Dwight Baker needed someone with a different name. Linda Baker then told the relative that if Phenis does not cooperate, the "ticket will be reported stolen" and Phenis will be arrested for a "felony" theft of \$500,000 and "she will go to jail." Linda Baker told the relative that Dwight Baker had "sterilized" the apartment and that there was "no paper trail."

D. Later that evening, a family member of Dwight and Linda Baker called Dwight Baker. The family member told Dwight Baker that he had learned that Aunt Brenda (Phenis) had recently won some money arranged by Dwight Baker and some "guy." The "guy" was to get \$70,000, Dwight Baker \$90,000, and Phenis \$90,000. Dwight Baker was to pay the "tax" on this money, but Phenis did not feel comfortable with this "tax" arrangement. Phenis wanted to cash the check and pay the taxes herself. Dwight Baker told the family member that the "guy fronted the thing," and that within a certain amount of time he, Dwight Baker, had to deliver \$70,000 to him in a "brown paper bag." I believe this "guy" is Jerry Jacobson. Dwight Baker told the family member that the whole check was his and that he told Phenis that she could earn \$90,000 if she would "redeem it, keep

her mouth shut" and allow the taxes to be paid through her personal income tax filings.

E. On July 20, 2001, FBI agents surveilled the Indianapolis, Indiana, airport and were able to locate Linda and Dwight Baker, Brenda Phenis, and another family member. From intercepted telephone calls, I believe that Phenis had returned from negotiating the \$500,000 McDonald's check in California. FBI agents observed the Bakers and Phenis leave the airport and meet at a nearby hotel. Later that day, a telephone conversation was intercepted, in which Linda Baker told Dwight Baker that she would not arrive in Asheville, North Carolina, by 5:00 p.m. that day. The telephone call established that Linda Baker, Brenda Phenis and a family member were all driving together from Indianapolis, Indiana to Asheville, North Carolina, in order to reach a Wachovia Bank to deposit Phenis' check in a bank account. Linda Baker said that if she could not reach the Wachovia Bank by 5:00, she would deposit the check on Monday morning.

#### **Surveilled Meetings between Jacobson and Baker**

35. Jerry Jacobson met with Dwight Baker on July 5, 2001, and was surveilled by the Atlanta Division of the FBI. During intercepted conversations before and after the meeting, Jacobson and Baker discussed how Phenis and Hughey were to get paid, as well as how they planned to fraudulently transfer the winning game piece from the upcoming McDonald's Monopoly promotion.

36. Dwight Baker and Jerry Jacobson met again on July 22, 2001. This meeting was surveilled by the Atlanta and Columbia Divisions of the FBI. Jacobson and Baker met at a secluded lot in the Fair Play, South Carolina, area. Due to the secluded nature of the area, the surveillance could only place the two subjects driving into the same secluded

area. I believe that at this meeting, Baker made a payment to Jacobson for the game winning pieces that were converted by Hughey and Phenis and provided Baker with the new winning game piece to the Monopoly game.

**2001 "Monopoly Game at McDonald's"  
Dwight Baker/Ronald E. Hughey - Recruiter  
\$1 Million Winner - John F. Davis**

37. On July 11, 2001, McDonald's began their 2001 "Monopoly Game at McDonald's." As part of this promotion by McDonald's, there were two \$1 million prizes that could be won. I believe, based on intercepted conversations and surveillance of the subjects, that these \$1 million prizes were fraudulently claimed by conspirators of this scheme to defraud McDonald's and its customers. The intercepted conversations, in substance, that formulate this belief are summarized as follows:

A. On July 10, 2001, Ronald E. Hughey (a \$1 million winner of the 2001, "Who Wants to be a Millionaire" prize promotion), called Dwight Baker. Dwight Baker told Hughey that he wanted to have someone fly in on the weekend of July 21st and July 22rd to pick up this thing. Hughey said he would call and have it ready. Based upon this call and other intercepted calls, I believe that this conversation involves Baker providing instructions to Hughey to arrange the new winner of the 2001 Monopoly Game at McDonald's. I believe that Jacobson was planning to furnish the winning game piece to Baker who would then furnish the winning game piece to Hughey's contact.

B. On July 15, 2001, at 8:15 p.m., Jerry Jacobson called Dwight Baker. Jacobson told Baker that they needed to meet next Saturday morning (July 21, 2001) to take care of this other deal. Jacobson stated he was going to be in Lake Toxaway, North

Carolina, with his wife. Jacobson said he would drive down and meet Baker either at Baker's house or at the Edgewater property. Baker said he needed to contact the "other fella" to make sure every thing is in line and would talk to Jacobson Tuesday or Wednesday.

C. On July 16, 2001, Jerry Jacobson called Dwight Baker. Jacobson asked Baker if he had talked to (Hughey) about the upcoming weekend. Jacobson told Baker that "we need to make the transfer this weekend." I believe that Jacobson was referring to providing the winning game piece to Dwight Baker, who would then provide the winning game piece to Hughey.

D. Later that evening, Dwight Baker called Jerry Jacobson. Baker told Jacobson that he did not think that he would be able to "get everything converted by Saturday for you." Jacobson asked Baker if he would be "able to get part of it." Baker said that Hughey had flown to the "city by the Mississippi River" on Friday and had deposited the check. Hughey then had to "convert it, uh, write it from there to here and then he's got to wait for things to clear." I believe that Baker is referring to Hughey flying to Memphis and depositing the check from McDonald's, cashing the check, and then providing the proceeds to Jacobson, through Baker, in cash. Jacobson said, "I got to have some kind of deposit." Baker asked Jacobson, "My word's not good enough, huh." Jacobson said, "Your word is good. Are you willing to back it up, though." Baker said, "Yeah, I'll back it up. Yeah, uh, no question, uh, even if I have to take it from mine here in the next day or two." Jacobson and Baker then discussed what I believe was the "transfer" of the winning game piece. Jacobson told Baker that it was the "timing, now, that I'm concerned about."

Baker said that Hughey had the "guy" flying in on Sunday. Jacobson said, "as long as he, as long as, he follows the rule ... (unintelligible) ... the postmark." McDonald's representatives have advised me that winning game pieces are mailed by the winner to the redemption center in California. I have also reviewed the official rules of the game that are available at McDonald's restaurants and I learned that winning game pieces must be received at the redemption center for verification by a certain date. Therefore, I believe that Jacobson is referring to the need to have the winning game piece mailed by the new winner by the redemption deadline.

E. Later that same evening, Ronald E. Hughey called Dwight Baker. Hughey said he needed to "talk to my man in Texas." Hughey further stated that the "man in Texas" wanted to meet Hughey in Memphis. Baker said, "[w]e feel like you need to receive it by about the 27th." Hughey said, "I'll just drive it (the winning game piece) to Memphis or something." Baker said he was going to "hook up with the old boy (Jacobson) on Saturday" and they could meet anytime after that. After this telephone call, but prior to being notified by McDonald's of the new winner, I reviewed pen register information from Ronald E. Hughey's home telephone and discovered that the only telephone numbers from Texas that Hughey was in contact with were telephones subscribed to by John F. Davis, Granbury, Texas. Therefore, I believed that the new winner would be John F. Davis of Granbury, Texas.

F. On July 20, 2001, Jerry Jacobson called Dwight Baker. Baker told Jacobson that he was staying the night in Corbin, Kentucky. Jacobson and Baker planned to meet at lot number 13 in Fair Play, South Carolina on Sunday, July 22, 2001, at 10:00



a.m. As discussed above, this meeting was surveilled by FBI agents. However, due to the secluded nature of the meeting place, FBI agents were only able to observe Baker and Jacobson entering and exiting this area. FBI agents were unable to determine if anything was passed between Jacobson and Baker.

G. On July 21, 2001, Ronald E. Hughey called Dwight Baker. Baker told Hughey that he, Dwight Baker, was to meet with "him" in the morning and that "he would like to see, he'd like to see him get it about the 27th." I believe that Baker's reference to "him" is Jerry Jacobson and that the new \$1 million winner, who had been recruited by Hughey would be John F. Davis, and that Hughey needed to get the \$1 million piece to his new recruit, Davis, by the 27th of July. On July 22, 2001, several hours after meeting with Jacobson, FBI agents surveilled Baker driving a vehicle from Baker's Westminster, South Carolina residence to Hughey's Anderson, South Carolina residence. At this meeting, I believe that Baker provided Hughey with a new \$1 million winning game piece.

38. On July 30, 2001, Amy Murray, McDonald's representative, called and told me that someone had claimed to be a \$1 million winner in the Monopoly promotion. Because of the information I had developed regarding the new winner being recruited by Ronald E. Hughey, I asked Ms. Murray if the new winners name was John F. Davis. Ms. Murray confirmed that indeed, John Davis, was the name of the new winner. I then asked Ms. Murray if John F. Davis was from Granbury, Texas. Ms. Murray advised that Davis was in fact from Granbury, Texas. Therefore, based on the source information, surveillance, intercepted telephone calls and other investigation, I was able to identify John F. Davis as the winner of the McDonald's Monopoly promotion before he claimed the

prize. Further, I believe that his claim of being a legitimate winner is fraudulent.

39. On July 31, 2001, I was told by Amy Murray, McDonald's representative, that she had telephonically contacted John F. Davis. Davis told Ms. Murray that on July 24, 2001, he had obtained one of the winning game pieces from a McDonald's restaurant in Waxahachie, Texas. Davis claimed to have received the other game piece on July 26, 2000, in another McDonald's restaurant in Beaumont, Texas. After realizing that he had collected both game pieces needed to become a \$1 million winner, Davis contacted the redemption center where he claimed to have legitimately won the \$1 million prize.

#### **The Glomb Winners**

40. From my investigation, I have identified six winners who I believe have obtained winning high-value game pieces from the same recruiter, Andrew Glomb. Wire-tap evidence establishes that Michael L. Hoover, a July 2001 winner of \$1 million in the Monopoly game, obtained his winning game piece from Andrew Glomb.

41. On July 9, 2001, Jerry Jacobson received a telephone call from an unidentified male, whose telephone number was captured as a result of court authorized pen register/trap and trace devices. The unidentified male and Jacobson agreed to meet in the Atlanta airport. This telephone call was suspicious in nature. Therefore, I obtained a Federal Grand Jury subpoena for the telephone toll records of the unidentified male.

42. On July 10, 2001, I received toll records for the telephone associated with the unidentified male described above. These records reveal that the telephone number was a mobile telephone subscribed to by Andrew Glomb, Fort Lauderdale, Florida. My

analysis of the subpoenaed telephone toll records and pen register information reveal that:

A. From March 2000 through August 2001, there were at least one hundred and four (104) telephone calls between Jacobson's telephone and Glomb's telephone.

B. From July 1999 through July 2001, there were at least thirty eight (38) telephone calls between Glomb's telephone and a telephone associated with G1, a \$1 million winner in 1999.

C. From July 1999 through February 2000, there were at least six (6) telephone calls between Glomb's telephone and a telephone associated with G2, a \$1 million winner in 1999.

D. From May 1999 through July 1999, there were at least six (6) telephone calls between Glomb's telephone and telephones associated with G3, a \$1 million winner in 1999.

E. From February 1999 through August 10, 2001, there were at least one hundred and thirteen (113) telephone calls between Glomb's telephone and telephones associated with G4, a \$1 million winner in 2000.

F. From December 1999 through August 7, 2001, there were at least fifty one (51) telephone calls between Glomb's telephone and telephones associated with G5. My check of computerized public source records of G5 identified that G6 is a relative of G5. From my review of records of winners provided to me by McDonald's, I know that G6 is a \$1 million winner from the 2000 "Monopoly Game" at McDonald's. Additionally, on August 7, 2001, an intercepted telephone conversation revealed a conversation in which

Glomb and G5 were making dinner plans. My investigation has determined that conspirators have recruited family members to fraudulently claim to be legitimate winners of the McDonald's promotions, such as Dwight Baker recruiting his sister-in-law, Brenda Phenis, to fraudulently claim to be a legitimate winner of a McDonald's promotion. The fact that G6 is a relative of G5 and G5 has had frequent contact with Glomb, a recruiter, leads me to the conclusion that G6 fraudulently obtained the winning game piece and falsely claimed to be a winner of a McDonald's promotion.

**2001 "Monopoly Game at McDonald's"**  
**Andrew Glomb**  
**Michael L. Hoover - \$1 Million Winner**

43. On July 12, 2001, during an intercepted telephone conversation, Jerry Jacobson received a call from Andrew Glomb. Jacobson told Glomb, in substance, that Jacobson would meet him in ten minutes.

44. On July 16, 2001, Jerry Jacobson received a telephone call from Glomb. Glomb asked Jacobson if there was anything he needed to know before "blast-off." Jacobson said no, and that it was time. Glomb asked if it should be done today or tomorrow. Jacobson said to do it today. Upon hearing this conversation, I believed that Jacobson had provided a winning game piece to Glomb and that he had recruited a winner that would claim a prize from McDonald's.

45. Later that afternoon, Jacobson and Glomb had a discussion regarding the redemption process and the new winner. Jacobson was concerned about leaving the winning game piece with the new winner. Jacobson asked Glomb if he was concerned that

the new winner would say anything to his friends. Glomb said, "You know what, out of everybody, this one's, uh, you know, you ain't got to worry about nothing." I believe that Glomb is talking about previous winners that were recruited by him.

46. On July 20, 2001, Robert Holm, Director of McDonald's Global Security Services, told me that Michael L. Hoover, Westbury, Rhode Island, had claimed a \$1 million prize from the ongoing 2001 "Monopoly Game" at McDonald's. Holm advised me that Hoover provided McDonald's with a telephone number where he could be contacted.

47. I reviewed toll records and pen register information for Glomb and discovered that from April 1999 through August 11, 2001, there were thirty six (36) telephone calls between Glomb and the telephone number that Hoover provided McDonald's.

48. On August 3, 2001, FBI agents, posing as a production crew hired by McDonald's, videotaped what Hoover believed to be a promotional video. During the video, Hoover provided an explanation as to how he received the winning game piece from the McDonald's Monopoly promotion. Hoover claimed that he was on the beach in Westerly, Rhode Island. Hoover said that he was reading his *People* magazine and had fallen asleep on the beach. While he was asleep, Hoover's *People* magazine got wet. Hoover then purchased another *People* magazine. Inside the *People* magazine was the \$1 million instant win prize from McDonald's.

49. Before and after the promotional video was videotaped, Glomb had intercepted telephone calls with Jerry Jacobson in which Glomb and Jacobson discussed the promotional video. In fact, on August 7, 2001, Glomb, during an intercepted telephone call, asked Jacobson if there was anything new. Jacobson said, "no." Glomb then

responded, "they did the photo shoot and everything on Friday." I believe that Glomb was referring to the above described promotional video that occurred on Friday, August 3, 2001. Jacobson stated, "I saw where that was signed off on." Glomb said that he had not seen anything yet. I believe Glomb was referring to having seen something on television. Jacobson said that Glomb may not see the promotion on television, because it may only be run locally. Jacobson then said, "But you know something, I don't give a damn. He did what he needed to do and that was it."

### **Execution of the Scheme to Defraud**

50. While cooperating in this investigation, McDonald's provided me with copies of checks drawn on the McDonald's account and payable to winners of their high-value prizes. For example, I was provided with copies of the following checks:

#### **C3**

A. A McDonald's check, dated June 4, 1997, in the amount of \$50,000, payable to C3, bearing a Jacksonville, Florida, address.

B. A McDonald's check, dated June 6, 1998, in the amount of \$50,000, payable to C3, bearing a Jacksonville, Florida, address.

C. A McDonald's check, dated May 26, 1999, in the amount of \$50,000, payable to C3, bearing a Jacksonville, Florida, address.

D. A McDonald's check, dated May 26, 2000, in the amount of \$50,000, payable to C3, bearing a Jacksonville, Florida, address.

#### **C7**

E. A McDonald's check, dated April 26, 2000, in the amount of \$50,000,

payable to C7, bearing a Jacksonville, Florida, address.

51. On August 15, 2001, I spoke with Gloria Santona, Senior Vice-President, General Counsel, McDonald's, who advised me that the five (5) checks listed in paragraph #50, were all individually mailed in the U.S. mail from the McDonald's Headquarters in Oak Brook, Illinois, to the Jacksonville, Florida, address on the checks, on or about the dates of the checks. Additionally, Ms. Santona advised me that the five (5) checks listed in paragraph #51 were all made in connection with the McDonald's promotional games won by C3 and C7.

### **G6**

52. In June, 2001, while cooperating in this investigation, McDonald's provided me with a copy of a check drawn on the McDonald's account and payable to G6, in connection with his/her claim to be a legitimate winner in the 2000 Monopoly game at McDonald's. The check, provided to me by Rob Holm, which I have reviewed, is a McDonald's check, dated May 30, 2000, in the amount of \$490,907.00, payable to G6, bearing an Orlando, Florida, address. On August 15, 2001, I spoke with Gloria Santona, McDonald's who advised me that this check, payable to G6, was mailed in the U.S. mail from the McDonald's Headquarters in Oak Brook, Illinois, to the Orlando, Florida, address on the check, on or about the date of the check.

### **The Federal Criminal Offense**

53. From my experience and training, I know that the elements of the federal offense of mail fraud, Title 18, United States Code, Section 1341, are:

A. First, that the defendant knowingly devised or participated in a scheme

to defraud or obtain money by means of false pretenses, representations or promises;

B. Second, that the defendant did so knowingly and with the intent to defraud; and

C. Third, that for the purposes of carrying out the scheme or attempting to do so, the defendant used or caused the use of the United States Mails or a private or commercial interstate carrier.

54. From my experience and training, I know that the elements of the federal offense of conspiracy, Title 18, United States Code, Section 371, are:

A. First, that two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful plan;

B. Second, that the Defendant, knowing the unlawful purpose of the plan, willfully joined in it;

C. Third, that one of the conspirators during the existence of the conspiracy knowingly committed at least one method or overt act; and

D. That such "overt act" was knowingly committed in an effort to carry out or accomplish some object of the conspiracy.

55. I believe, based upon the facts stated above, that there is probable cause to establish that:

A. Jerome P. Jacobson, a/k/a Jerry Jacobson;

B. Noah Dwight Baker, Sr., a/k/a Dwight Baker;

C. Linda Baker;

D. Ronald E. Hughey, a/k/a Ronnie Hughey, Ron Hughey;



E. Brenda S. Phenis;

F. Andrew Glomb, a/k/a A.J. Glomb;

G. Michael L. Hoover; and

H. John F. Davis;

are guilty of violating of the federal offense of conspiracy, Title 18, United States Code, Section 371.

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RICHARD J. DENT, Special Agent  
Federal Bureau of Investigation

Sworn and subscribed  
to before me this \_\_\_  
day of August, 2001.

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UNITED STATES MAGISTRATE JUDGE