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FILED

DEC 12 2002

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

CRO2-40234 CW

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 ANTHONY DAVENPORT,
14 JOHN PATRICK HAY, and
15 LINDA BRODERICK

16 Defendants.

No.

VIOLATIONS: 18 U.S.C. § 371 --
Conspiracy; 18 U.S.C. § 1343(1) -- Wire
Fraud; Criminal Forfeiture: 18 U.S.C.
§981(a)(1)(C)

OAKLAND VENUE

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18 INDICTMENT

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20 The Grand Jury charges:

21 BACKGROUND:

22 1. At all times relevant to this indictment, Home Depot, a home improvement retailer,
23 used Universal Product Code (UPC) labels, also known as "bar codes," as price tags.

24 These labels, which were stuck on merchandise or packaging, contained bars and
25 numbers. The numbers corresponded to a particular item of merchandise and its price.

26 2. At all times relevant to this indictment, whenever Home Depot processed a sale or
27 return of an item, a cashier scanned the UPC label which entered the data into a cash
28 register/computer. The cash register/computer then interpreted the bars and numbers and

INDICTMENT

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identified the item and its price.

1 3. At all times relevant to this indictment, all sales and return information entered
2 into Home Depot's local store's cash register/computer at the point of sale was stored on
3 the local store's server and then, at the end of the business day, transmitted via a wire,
4 specifically a T-1 line, to Home Depot's host computer in Atlanta, Georgia. In addition,
5 to receive authorization when processing a return, a cashier entered identity and/or receipt
6 information into a cash register/computer and this information was immediately
7 transmitted via a wire, to Home Depot's host computer in Atlanta, Georgia.

8 4. At all times relevant to this indictment, Home Depot sold the following items at
9 the following prices:

10 Price Pfister faucet model # H35-10WV for \$39.97;

11 Delta faucet model #520-WF for \$64.97;

12 Malibu light model # LV1076T for \$54.97;

13 Price Pfister faucet model number 8B98CMB for \$163;

14 Price Pfister faucet model number 8B98PMK for \$169;

15 Delta faucet model number 3530NP-24NP for \$199; and

16 Malibu light model # CL65315T for \$249.

17 COUNT ONE: 18 U.S.C. § 371 - Conspiracy

18 5. Beginning at date unknown but no later than and April 4, 2001, and continuing
19 until on or about June 12, 2002, in the Northern District of California and elsewhere, the
20 defendants

21 ANTHONY DAVENPORT,
22 JOHN PATRICK HAY, and
23 LINDA BRODERICK

24 knowingly conspired to commit an offense against the United States, in particular wire
25 fraud, a violation of Title 18 United States Code Section 1343.
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Means and Methods of the Conspiracy

1 6. The defendants carried out and attempted to carry out the conspiracy by doing the
2 following:

3 A. The defendants made UPC labels, which would fraudulently reflect the
4 following items at the following prices:

5 Price Pfister faucet model # H35-10WV for \$39.97;

6 Delta faucet model #520-WF for \$64.97; and

7 Malibu light model # LV1076T for \$54.97.

8 B. The defendants entered Home Depot stores and placed these fraudulent
9 UPC labels on more expensive faucets and lights such as:

10 Price Pfister faucets model # 8B98CMB;

11 Price Pfister faucet model # 8B98PMK;

12 Delta faucet model # 3530NP-24NP; and

13 Malibu light model # CL65315T.

14 C. The defendants then purchased these more expensive faucets and lights at
15 the lower prices reflected in the fraudulent UPC labels.

16 D. Next, the defendants removed the fraudulent UPC labels they had placed on
17 the expensive faucets and lights, revealing the authentic UPC label for the
18 item.

19 E. The defendants then returned the expensive items for the real price, making
20 a profit of the difference between the expensive price indicated on the
21 authentic UPC label and the inexpensive price indicated on the fraudulent
22 UPC label. When returning the expensive items, the defendant's received
23 Home Depot store credit cards rather than cash.

24 F. The defendant's either sold the store credit cards or used the store credit
25 card to make more fraudulent purchases.
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Overt Acts of the Conspiracy

7. In furtherance of the conspiracy, and to effect the object of the conspiracy, on June 13, 2002, the defendants possessed the UPC labels for the following :

Price Pfister faucet model # H35-10WV - \$39.97;

Delta faucet model #520-WF -- \$64.97;

Malibu light model # LV1076T -- \$54.97.

8. In furtherance of the conspiracy, and to effect the object of the conspiracy, the defendants made the purchases set out in the table below, each purchase being a separate overt act of the conspiracy:

Date	Home Depot In	Defendant Making the Purchase	Actual Item & Price of Item Purchased	Item & Price based on fraudulently affixed UPC label
May 30, 2002	Union City, CA	Hay	2 Malibu lights model # CL65315T-\$249 5 Price Pfister faucets with prices greater than \$39.97	2 Malibu lights model # LV1076T-\$54.97 5 Price Pfister faucets model # H35-10WV - \$39.97
May 31, 2002	Union City, CA	Hay	2 Malibu light model # CL65315T - \$249 5 Price Pfister faucets with prices greater than \$39.97 2 Delta faucets with prices greater than \$64.97	2 Malibu lights model # LV1076T- \$54.97 5 Price Pfister faucets model # H35-10WV - \$39.97 2 Delta faucets model #520-WF - \$64.97
May 31, 2002	Milpitas, CA	Hay	8 Price Pfister faucets with prices greater than \$39.97 3 Delta faucets with prices greater than \$64.97	8 Price Pfister faucets model # H35-10WV - \$39.97 3 Delta faucets model #520-WF -- \$64.97
June 2, 2002	Pittsburgh CA	Hay	2 Malibu lights model # CL65315T -249 5 Delta faucets with prices greater than \$64.97	2 Malibu lights model # LV1076T- \$54.97 5 Delta faucets model #520 - \$64.97
June 5, 2002	Milpitas, CA	Hay	6 Price Pfister faucets with prices greater than \$39.97	6 Price Pfister faucets model # H35-10WV - \$39.97

June 6, 2002	Union City, CA	Hay	2 Malibu lights model # CL65315T-\$249 6 Price Pfister faucets with prices greater than \$39.97	2 Malibu lights model # LV1076T \$54.97 6 Price Pfister faucets model # H35-10WV - \$39.97
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9. In furtherance of the conspiracy, and to effect the object of the conspiracy, the defendants made the returns set out in the table below, each return being a separate overt act of the conspiracy:

Date	Home Depot in	Defendant Making the Return	Items Returned
May 28, 2002	Salinas, CA	Davenport	5 Price Pfister faucets model # 8898PMK - \$169 2 Malibu lights model # CL65315T - -\$249
May 31, 2002	Union City, CA	Davenport	1 Price Pfister faucet model # 8898PBC -\$145 2 Price Pfister faucets model # 8898PMK -\$169 1 Delta faucet model # 474- \$179 2 Malibu lights model # CL65315T -\$249
June 1, 2002	Pittsburgh, CA	Davenport	1 Price Pfister faucet model # 8898PBC -\$145 1 Price Pfister faucet model # 8018CBL -\$149 2 Delta faucet model # 3530NP-24NP- \$199 2 Malibu lights model # CL65315T -\$249
June 5, 2002	Milpitas, CA	Davenport	1 Price Pfister faucet model # 8898CMB -\$163 2 Price Pfister faucets model # 8898PMK -\$169 2 Delta faucets model # 3530NP-24NP- \$199 2 Malibu lights model # CL65315T -\$249
June 10, 2002	Union City, CA	Hay Brodbeck	1 Price Pfister faucet model # 8898CMB -\$163 4 Price Pfister faucets model # 8898PMK -\$169 2 Malibu lights model # CL65315T -\$249
June 12, 2002	San Leandro, CA	Davenport	3 Price Pfister faucets model # 8898PMK -\$169 2 Malibu lights model # CL65315T -\$249

10. In furtherance of the conspiracy, and to effect the object of the conspiracy, the defendants had the checks set out below deposited into their bank accounts, each deposit being a separate overt act of the conspiracy:

Date Check Posted	Bank Account #	Amount	Payor	Payee
Feb. 5, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,000	Shan English and Kim Minter English	Linda Broderick
Mar. 5, 2002	Linda Broderick's Bank of America account # 003670749976	\$2,750	CM Investments Joint Venture	Linda Broderick
Mar. 6, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,200	Cecil M. Parsons	Linda Broderick
Mar. 7, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,130	James D. Dees	Linda Broderick
Mar. 7, 2002	Andrew P. Bagnely and Julie M Carter's Wells Fargo account # 549-2897821	\$3,570	James D. Dees	Julie Carter
Mar. 8, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,415	B. Glenn Stephens	Linda Broderick
Mar. 21, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,265	J. Dennis Dee and Sharon C. Dees	Linda Broderick
Mar. 27, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,523	J. Dennis Dee and Sharon C. Dees	Linda Broderick
April 1, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,990	Shan English and Kim Minter English	Linda Broderick
April 2, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,300	J. Dennis Dee and Sharon C. Dees	Linda Broderick
April 5, 2002	Linda Broderick's Bank of America account # 003670749976	\$2,750	Shan English and Kim Minter English	Linda Broderick

1	April 10, 2002	Linda Broderick's Bank of America account # 003670749976	\$4,897	Calls for Caring, Inc.	Linda Broderick
2	April 17, 2002	Linda Broderick's Bank of America account # 003670749976	\$7,030	J. Dennis Dees and Sharon C. Dees	Linda Broderick
3	April 18, 2002	Linda Broderick's Bank of America account # 003670749976	\$3050	CM Investments Joint Venture	Linda Broderick
4	May 1, 2002	Linda Broderick's Bank of America account # 003670749976	\$4727	J. Dennis Dees and Sharon C. Dees	Linda Broderick
5	May 3, 2002	Linda Broderick's Bank of America account # 003670749976	\$5189	Calls For Caring Inc.	Linda Broderick
6	May 10, 2002	Linda Broderick's Bank of America account # 003670749976	\$5786	Calls For Caring Inc.	Linda Broderick
7	May 15, 2002	Linda Broderick's Bank of America account # 003670749976	\$5000	Calls For Caring Inc.	Linda Broderick
8	May 20, 2002	Linda Broderick's Bank of America account # 003670749976	\$4300	Calls For Caring Inc.	Linda Broderick
9	May 21, 2002	Linda Broderick's Bank of America account # 003670749976	\$5250	Calls For Caring Inc.	Linda Broderick
10	May 28, 2002	Linda Broderick's Bank of America account # 003670749976	\$5550	J. Dennis Dees and Sharon C. Dees	Linda Broderick
11	May 4, 2002	Linda Broderick's Bank of America account # 003670749976	\$6430	J. Dennis Dees and Sharon C. Dees	Linda Broderick

12 All in violation of Title 18 United States Code Section 371.

13 COUNTS TWO - SEVEN: 18 U.S.C. § 1343 - Wire Fraud

14 11. On or about May 30, 2002, in the Northern District of California, the defendant
15 JOHN PATRICK HAY,
16 as described above in paragraphs 6A-E, which together with the allegations in paragraphs
17 1-5, are incorporated herein by reference, knowingly devised a scheme and artifice to
18 defraud and to obtain money and property by means of false and fraudulent pretenses and
19 representations, and, for the purpose of executing such scheme, caused to be transmitted

20 INDICTMENT

1 from a Home Depot Store in Northern California to Home Depot in Atlanta, Georgia, the
2 following wire communications in interstate commerce as set out below.

Count	Date of Communication	Home Depot store that sent the Wire Communication	Information Contained in Wire Communication
Two	May 30, 2002	Union City, CA	2 Malibu lights model # LV1076T-\$54.97 5 Price Pfister faucets model # H35-10WV - \$39.97
Three	May 31, 2002	Union City, CA	2 Malibu lights model # LV1076T- \$54.97 5 Price Pfister faucets model # H35-10WV - \$39.97 2 Delta faucets model #520-WF - \$64.97
Four	May 31, 2002	Milpitas, CA	8 Price Pfister faucets model # H35-10WV - \$39.97 3 Delta faucets model #520-WF - \$64.97
Five	June 2, 2002	Pittsburgh CA	2 Malibu lights model # LV1076T- \$54.97 5 Delta faucets model #520 - \$64.97
Six	June 5, 2002	Milpitas, CA	6 Price Pfister faucets model # H35-10WV - \$39.97
Seven	June 6, 2002	Union City, CA	2 Malibu lights model # LV1076T \$54.97 6 Price Pfister faucets model # H35-10WV - \$39.97

16 All in violation of Title 18, United States Code, Section 1343.
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FORFEITURE : (18 U.S.C. § 981(a)(1)(C); 28 U.S.C. 2461(c); 18 U.S.C. 982 (b)(1))

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12. The allegation contained in Counts One through Seven above are hereby realleged and incorporated herein.

13. As a result of the offenses alleged above the defendants

ANTHONY DAVENPORT,
JOHN PATRICK HAY, and
LINDA BRODERICK

shall forfeit to the United States all property constituting and derived from proceeds traceable to said offenses.

14. If, as a result of any act or omission of the defendants, any of said property

- A. cannot be located upon the exercise of due diligence;
- B. has been transferred or sold to or deposited with , a third person;
- C. has been placed beyond the jurisdiction of the court;
- D. has been substantially diminished in value; or
- E. has been commingled with other property which without difficulty cannot be subdivided;

any and all interest the defendants have in any other property (not to exceed the value of property constituting and derived from proceeds traceable to said offenses) shall be forfeited to the United States; all a violation of Title 18 United States Code Section 981(a)(1)(C); Title 28 United States Code Section 2461(c); and Title 18 United States

Code Section 982 (b)(1).

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DATED:

12-12-02

A TRUE BILL.

[Signature]
FOREPERSON

KEVIN V, RYAN
United States Attorney

[Signature]
CHARLES B. BURCH
Criminal Chief,

(App'd as to form: *[Signature]*)
AUSA Schmidt