

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

v.

PETER C. CALDERONE,
FREDRIC ANTHONY KENDLE,
SHERON WALLACE, and
LADI MALLOY TULANER

(Name and Address of Defendant)

RECEIVED
UNITED STATES MARSHAL

'04 AUG 27 A9:58

CRIMINAL COMPLAINT

CASE NUMBER:

NORTH DISTRICT OF CALIFORNIA
5 04 190

ORIGINAL FILED
AUG 27 2004
Richard W. Weidinger
Clerk, U.S. District Court
Northern District of California
San Jose, California

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 26, 2004 in Alameda county, in the Northern District of California defendant(s) did, (Track Statutory Language of Offense)

Conspire to commit an offense against the United States, namely (1) devised a scheme and artifice to defraud by means of false or fraudulent pretenses, representations or promises, for the purpose of executing such scheme or artifice, deposited or caused to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, and (2) devised a scheme or artifice to defraud, or for obtaining property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, in interstate or foreign commerce in the execution of a scheme or artifice to defraud property having a value of \$5,000 or more

in violation of Title 18 United States Code, Section(s) 371, 1341, and 2314

I further state that I am a(n) Special Agent with the FBI and that this complaint is based on the following
Official Title

facts:

See Attached Affidavit

Continued on the attached sheet and made a part hereof: Yes No

Approved
As To
Form:

[Signature]
AUSA: H. H. (Shashi) Kewalramani

[Signature]
Name/Signature of Complainant: FBI SA DOREEN MOORE

ORIGINAL WARRANT HELD BY
U.S. MARSHAL - SAN JOSE
NOTIFY ABOVE OFFICE ON ARREST
PLEASE MAKE RETURN OF THIS COPY

Sworn to before me and subscribed in my presence,

August 27, 2004
Date

at

San Jose, California
City and State

RICHARD SEEBORG
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

[Signature]
Signature of Judicial Officer

AFFIDAVIT

I, Doreen M. Moore, being duly sworn, depose and say:

A. Introduction and Agent Background

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI") and have been in this position since 1998. As a Special Agent of the FBI, I am authorized to investigate violations of laws of the United States, and I am a law enforcement officer with the authority to execute arrest and search warrants under the authority of the United States. I am currently assigned to the FBI's Cyber Crime Squad in the San Jose Resident Agency Office and have been with the Cyber Squad since 2003.

2. I have received training related to investigating theft and fraud schemes involving use of the internet. Additionally, I have experience in this regard, having been involved in numerous investigations related to fraud schemes utilizing the internet, mail schemes utilizing the internet, as well as investigations involving computer hacking.

3. I have been assisted in this investigation by several other FBI Special Agents in FBI's Cyber Crime Squad in the San Jose Resident Agency Office, including, Special Agent Lisa Miller, who has been employed by the FBI since 1997, and Special Agent Wade Luders, who has been employed by the FBI since 2004, and prior to that was employed in the high-technology industry for approximately seven years as a technical software consultant specializing in internet software installations and implementations for large companies across the United States.

4. This affidavit is respectfully submitted in connection with an investigation into an internet fraud scheme involving the attempted theft of precious metals by impersonating an executive from a Silicon Valley technology company. I submit this affidavit in support of a criminal complaint and arrest warrant for Peter C. Calderone, Fredric AnthonyKendle, Sheron Wallace, and Ladi Malloy Tulaner.

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1 **B. Relevant Statutes**

2 5. Title 18, United States Code, Section 371 provides:

3 If two or more persons conspire either to commit any offense against the United
4 States, or to defraud the United States, or any agency thereof in any manner or for
5 any purpose, and one or more of such persons do any act to effect the object of the
6 conspiracy, each shall be fined under this title or imprisoned not more than five
7 years, or both.

6 6. Title 18, United States Code, Section 1341 provides:

7 Whoever, having devised or intending to devise any scheme or artifice to defraud,
8 or for obtaining money or property by means of false or fraudulent pretenses,
9 representations, or promises, or to sell, dispose of, loan, exchange, alter, give
10 away, distribute, supply, or furnish or procure for unlawful use any counterfeit or
11 spurious coin, obligation, security, or other article, or anything represented to be
12 or intimated or held out to be such counterfeit or spurious article, for the purpose
13 of executing such scheme or artifice or attempting so to do, places in any post
14 office or authorized depository for mail matter, any matter or thing whatever to be
15 sent or delivered by the Postal Service, or deposits or causes to be deposited any
16 matter or thing whatever to be sent or delivered by any private or commercial
17 interstate carrier, or takes or receives therefrom, any such matter or thing, or
18 knowingly causes to be delivered by mail or such carrier according to the direction
19 thereon, or at the place at which it is directed to be delivered by the person to
20 whom it is addressed, any such matter or thing, shall be fined under this title or
21 imprisoned not more than 20 years, or both.

15 7. Title 18, United States Code, Section 2314 provides:

16 Whoever transports, transmits, or transfers in interstate or foreign commerce any
17 goods, wares, merchandise, securities or money, of the value of \$5,000 or more,
18 knowing the same to have been stolen, converted or taken by fraud; or
19 Whoever, having devised or intending to devise any scheme or artifice to defraud,
20 or for obtaining money or property by means of false or fraudulent pretenses,
21 representations, or promises, transports or causes to be transported, or induces any
22 person or persons to travel in, or to be transported in interstate or foreign
23 commerce in the execution or concealment of a scheme or artifice to defraud that
24 person or those persons of money or property having a value of \$5,000 or more; or
25 Whoever, with unlawful or fraudulent intent, transports in interstate or foreign
26 commerce any falsely made, forged, altered, or counterfeited securities or tax
27 stamps, knowing the same to have been falsely made, forged, altered, or
28 counterfeited; or
29 Whoever, with unlawful or fraudulent intent, transports in interstate or foreign
30 commerce any traveler's check bearing a forged countersignature; or
31 Whoever, with unlawful or fraudulent intent, transports in interstate or foreign
32 commerce, any tool, implement, or thing used or fitted to be used in falsely
33 making, forging, altering, or counterfeiting any security or tax stamps, or any part
34 thereof - Shall be fined under this title or imprisoned not more than ten years, or
35 both.

27 **C. Source of Information and Facts Supporting Probable Cause**

28 8. I have personally reviewed e-mails and other pertinent documentation provided to

1 me by Jim McMahon, Senior Director of Global Security, Applied Materials, Inc. ("Applied") in
2 Santa Clara, California; Gary Cummins, Security Manager, Johnson Matthey, Inc. ("JMI") in
3 West Chester, Pennsylvania; and Anne Brubaker, Sales Representative, JMI. I have also
4 reviewed other documents and information obtained in the course of this investigation, such as
5 responses pursuant to grand jury subpoenas. Finally, I have obtained information from FBI
6 Special Agents involved in the surveillance of the subjects in the course of the controlled
7 delivery conducted on August 26, 2004 in Fremont, California. Based on the investigation thus
8 far, I am aware of the following:

9 9. On July 20, 2004, the sales department at JMI received an e-mail from the e-mail
10 address of jrbronson@appliedmaterialsinc.com. In the e-mail, the sender identified himself as
11 "Joseph Bronson" ("Bronson"), Vice President of Applied. This e-mail address, however, does
12 not belong to Applied and was not sent by the real Joseph R. Bronson at Applied. The real
13 Joseph R. Bronson is an Executive Vice President at Applied and is Applied's Chief Financial
14 Officer. This information regarding Joseph Bronson can be found on Applied's website at
15 <http://www.amat.com/about/executives.html>. Applied's e-mail nomenclature is
16 name@amat.com and not name@appliedmaterialsinc.com.

17 10. JMI has offices in West Chester, Pennsylvania, and, amongst other things,
18 provides precious metals to companies who need them for their products. JMI had provided
19 precious metals to Applied in the past.

20 11. In this initial e-mail "Bronson" requested a quote from JMI for platinum products
21 related to the semiconductor industry that Applied was interested in purchasing, *i.e.* platinum
22 sputtering targets. In his e-mail, "Bronson" provided his contact address, 3050 Bowers Avenue,
23 Santa Clara, California, telephone number, (408) 476-2430, and facsimile number, (408) 904-
24 5656. This address is the legitimate address for Applied, however the telephone number and the
25 facsimile number do not belong to Applied.

26 12. According to information received during the course of the investigation, and as
27 previously submitted in a pen register application by the Assistant United States Attorney, the
28 telephone number (408) 476-2430 is a pre-paid, AT&T Wireless Service, cell phone. The

1 subscriber's name is listed as "John Apria." Similarly, the facsimile number, (408) 904-5656, is
2 a facsimile/voicemail account with J2 Global Communications, Inc., in Hollywood, California,
3 and there is no subscriber name, but the subscriber's address is in Athens, Georgia.

4 13. After negotiations over the price and quantity of the platinum products, on July
5 30, 2004, JMI received a four page facsimile from "Bronson" which consisted of the cover sheet,
6 a Purchase Order, a Trade Reference Sheet, and a Letter of Authorization. Each of the four pages
7 had the Applied logo on the top of the sheet and the fax header indicated that it was sent from
8 Applied Materials using the fax number (408) 904-5656. The Purchase Order requested that nine
9 platinum targets be delivered first and the three remaining platinum sputtering targets be shipped
10 later. Both the Purchase Order and the Letter of Authorization contained the signature of a person
11 purporting to be "Joseph Bronson". This signature is not the signature of the real Joseph R.
12 Bronson at Applied.

13 14. On August 4, 2004, Ms. Brubaker at JMI sent a two page facsimile to "Bronson"
14 at the fax number he previously provided, (408) 904-5656. The fax consisted of the cover sheet
15 and an Offer of Sale for 12 platinum sputtering targets. The estimated total for this order was
16 \$2,334,160.80. The Offer of Sale noted that the targets would be shipped in quantities of three
17 and that continuous batches of targets would be shipped upon receipt of payment for the previous
18 shipment. The Offer of Sale also noted that the estimated total was based on the metal prices for
19 that day and that the order will be billed at the metal prices prevailing on the day after shipment.

20 15. Ms. Brubaker received an e-mail from jrbronson@appliedmaterialsinc.com in
21 which "Bronson" agreed to accept partial shipment of the targets but requested that JMI send the
22 targets out in batches of four instead of three. "Bronson's" reason for this request was that the
23 manufacturing team was scheduled to manufacture four systems for a pending order. JMI agreed
24 to ship the targets in batches of four. This first batch of four platinum sputtering targets was
25 valued at more than \$800,000 - this value varies based upon the price of platinum on the day of
26 delivery.

27 16. On August 5, 2004, an employee from JMI contacted Applied regarding Applied's
28 order for the 12 platinum sputtering targets. After noting certain discrepancies in the information

1 provided by JMI, an executive administrator contacted Mr. McMahon, Applied's Security
2 Director. Mr. McMahon confirmed that Joseph R. Bronson had not placed this order with JMI
3 and attempted to contact "Bronson" at the contact number provided to JMI, (408) 476-2430.
4 After leaving a ruse message, "Bronson" called Mr. McMahon and confirmed that the (408) 476-
5 2430 number is "Bronson's" office number and that he has been with Applied for fifteen years.
6 "Bronson" also stated that any documents that needed to be sent to him could be faxed to (408)
7 904-5656.

8 17. On August 9, 2004, Ms. Brubaker received an e-mail from
9 jrbronson@appliedmaterialsinc.com in which "Bronson" provided JMI with the BAX Global
10 account number 013163172 to be used for the shipment of the platinum sputtering targets. BAX
11 Global is a freight forwarding company. "Bronson" requested that Ms. Brubaker provide him
12 with three to four days advance notice on the shipping so that he or his assistant can be present
13 for the delivery. On August 25, 2004, Ms. Brubaker provided "Joe Bronson" with a tracking
14 number for the package containing the fake platinum.

15 18. On August 25, 2004, a search warrant was obtained allowing the FBI to place a
16 location tracking device in the wooden crate used to send the fake platinum sputtering targets.

17 19. On August 26, 2004, the fake platinum sputtering targets, which would have been
18 worth over \$800,000 if the targets were real platinum, were received at BAX Global in Fremont,
19 California. The morning of August 26, 2004, a person called BAX Global customer service and
20 inquired about tracking number assigned to the fake platinum targets. That person inquired
21 whether the package could be delivered on Friday, August 27, 2004, or whether he could come
22 by BAX Global's office in Fremont, California and pick up the package. The person also
23 provided a different contact number associated with the delivery of the package.

24 20. At approximately 10:00 a.m., at BAX Global's Fremont office, a person presented
25 a Florida drivers license in the name of "Joseph Bronson" and stated that he was Joe Bronson
26 from Applied. A Task Force Agent, in an undercover capacity as a BAX Global employee, then
27 put the crate containing the fake platinum sputtering targets into "Joe Bronson's" car. "Joe
28 Bronson" was then observed driving to another location and transferring the crate with the

1 platinum sputtering targets into a Mercedes Benz, California License Plate No. 5GIP810, (the
2 "Mercedes") which was occupied by a male and female. That Mercedes Benz was observed
3 driving south on Interstate 5 towards Los Angeles.

4 21. After "Joe Bronson" transferred the platinum sputtering targets, he was arrested
5 and his true identity was determined to be Peter Christopher Calderone.

6 22. The Mercedes was followed to Los Angeles, California, the wooden crate
7 containing the fake platinum targets were transferred to a black Chevrolet Impala, California
8 License Plate No. 4R!M001 (the "Impala"). After a short period of time, the two occupants of
9 the Mercedes were arrested. They were later identified as Fredric Anthony Kendle and Sheron
10 Wallace. This Impala was then followed to a hardware store in Los Angeles, where a male was
11 seen opening the crate containing the fake platinum targets. At this point the male was arrested
12 and later identified as Ladi Malloy Tulaner.

13 **D. Conclusion**

14 23. Based on the facts set forth above, I believe probable cause exists that Peter
15 Christopher Calderone, Fredric Anthony Kendle, Sheron Wallace, and Ladi Malloy Tulaner
16 conspired to (1) commit mail fraud by devising an artifice and scheme to defraud and causing the
17 sputtering targets to be shipped by a commercial interstate carrier and (2) have property
18 transported in interstate commerce having a value of \$5,000 or more in the execution of a scheme
19 or artifice to defraud, in violation of 18 U.S.C. §§ 371, 1341, and 2314.

20 **E. Request To Seal The Complaint And Warrant**

21 24. I request that the criminal complaint, the arrest warrant, and the related
22 investigation, not be disclosed because the investigation is ongoing and there is reason to believe
23 that notification of the existence of the criminal complaint, arrest warrant and the relating
24 investigation would lead the others that are subjects of the investigation to refrain from conduct

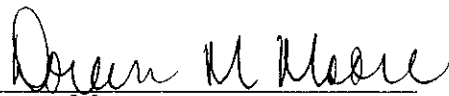
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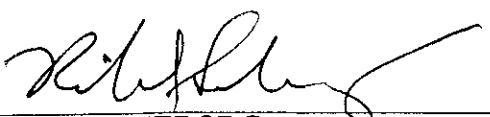
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1 which would seriously jeopardize the investigation by preventing the discovery of evidence of
2 criminal conduct.

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4 
5 Doreen Moore
6 Special Agent
7 Federal Bureau of Investigation

8 Sworn to and subscribed before me
9 on this 27th Day of August, 2004

10 
11 RICHARD SEEBORG
12 United States Magistrate Judge

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