

UNITED STATES DISTRICT COURT **FILED**

EASTERN DISTRICT OF CALIFORNIA

SEP 06 2011

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

UNITED STATES OF AMERICA
v.

KINDE DURKEE,

CRIMINAL COMPLAINT

CASE NUMBER: 2:11mj274 DAD

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. From on or about September 1, 2010 through September 2, 2011, in the Eastern District of California and elsewhere, defendant did, (Track Statutory Language of Offense)

- ▶ Devise and intend to devise a material scheme and artifice to defraud Jose Solorio and the Solorio for Assembly 2010 campaign and to obtain money from them by means of materially false and fraudulent pretenses, representations, and promises; and that, for the purpose of executing and attempting to execute the aforementioned scheme and artifice to defraud, did knowingly cause to be sent or delivered by the Postal Service or any private or commercial interstate carrier, items of mail according to the directions thereon,

in violation of Title 18, United States Code, Section 1341. I further state that I am a Special Agent with the Federal Bureau of Investigation Service and that this complaint is based on the following facts:

- ▶ See attached affidavit of FBI Special Agent Reginald L. Coleman

Continued on the attached sheet and made a part of this complaint: X [Signature]

Signature of Complainant Reginald L. Coleman
Special Agent
Federal Bureau of Investigation

Sworn to before me, and signed in my presence
September 2, 2011

at Clarksburg, California

Date

City State

Hon. Dale A. Drozd
United States Magistrate

[Signature]

Name of Judge Title of Judge

Signature of Judge

AFFIDAVIT

I, Reginald L. Coleman, being duly sworn, depose and state as follows:

BACKGROUND

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI) and have been so employed for nearly 13 years. I am presently assigned to the Public Corruption Squad in the Sacramento Field Division.

2. The information contained in this affidavit comes from information supplied to me by FBI SA Jason Jones and FBI Forensic Accountant (FA) Laurelea Williams, as well as my review of bank records.

3. I am informed by FBI SA Jason Jones that he has been investigating KINDE DURKEE for possible violations of Title 18, United States Code, Section 1341.

4. For the reasons stated herein, I respectfully assert that there is probable cause to believe that between September 1, 2010 and continuing to the present, in the State and Eastern District of California, KINDE DURKEE did devise and intend to devise a material scheme and artifice to defraud Jose Solorio and the Solorio for Assembly 2010 campaign, and to obtain money from them by means of materially false and fraudulent pretenses, representations, and promises; and that, for the purpose of executing and attempting to execute the aforementioned scheme and

artifice to defraud, did knowingly cause to be sent or delivered by the Postal Service or any private or commercial interstate carrier, items of mail according to the directions thereon, in violation of Title 18, United States Code, Section 1341.

FACTS

5. According to FBI SA Jones, the investigation of KINDE DURKEE stemmed from a referral by the Fair Political Practices Commission (FPPC) to federal law enforcement. The FPPC reported that based on its investigation, it appeared that KINDE DURKEE, through her firm DURKEE & Associates (D&A), which is located in Burbank, CA, had misappropriated money from her clients' bank accounts and had filed false disclosure reports to hide the misappropriations. Some of the disclosure reports were submitted to the California Secretary of State through the mail.

6. I am informed by FBI SA Jones that Grant Beauchamp is a Program Specialist in the Enforcement Division of the FPPC who has conducted financial investigations into KINDE DURKEE and D&A. FBI SA Jones has further informed me that according to Mr. Beauchamp, KINDE DURKEE operated D&A, and that D&A specialized in providing accounting and campaign reporting services to political committees, including political candidate campaign committees, and non-profit organizations. Mr. Beauchamp said that Ms. DURKEE is normally the committee treasurer for the political campaign committees for which she provides her services. As such, she

signed and submitted campaign disclosure forms for state officials to the California Secretary of State as required by state law.

7. I am also informed by FBI SA Jones that Mr. Beauchamp also reported that it appeared from his review of documents, including bank records, that DURKEE transferred money from her clients' bank accounts to her firm's bank accounts without her clients' knowledge or authorization. It also appeared that DURKEE refunded a portion of the misappropriated money when needed to cover checks or when misappropriations had been detected.

8. I am informed by FA Williams that bank records reviewed by the FBI establish that Ms. DURKEE appears to have signature authority over more than 400 bank accounts, including those for political campaigns, and that substantial sums of money have been routinely moved out of client campaign committees into D&A accounts or into other client campaign committee accounts. FBI SA Jones has informed me that a review of disclosure forms that Ms. DURKEE has apparently signed and submitted to the California Secretary of State for these campaign committees reveals that many of these transactions - both the expenditure and receipt of funds - are not reflected as required on the relevant forms.

9. FA Williams has informed me that bank records reviewed by her establish that money transferred by DURKEE from client

accounts to her business accounts have been used to pay her personal expenses, including mortgage payments and American Express charges, as well as business expenses. The records also indicate that Ms. DURKEE has taken more money out of the committee accounts than she has reported on the disclosure forms.

10. Ms. DURKEE was interviewed by FBI agents, including FBI SA Jones, on September 1, 2011. During the course of that interview, Ms. DURKEE admitted that she had been misappropriating her clients' money for years and that forms she filed with the state were false.

Solorio for Assembly 2010

The Deposit of \$300,000

11. Your affiant has reviewed bank records and schedules for bank records for D&A at City National Bank and First California Bank. Those records reveal that on approximately October 1, 2010, a cashier's check made payable to Solorio for Assembly 2010 in the amount of \$300,000 was deposited into an account for D&A, number xxxx83658, at City National Bank. The deposit of the check brought the balance in the xxxx83658 account to approximately \$308,027. The source of the \$300,000 cashier's check appears from bank records to be from a money market account in the name of Solorio for Assembly 2010 held at First California Bank.

12. A number of checks were issued from the D&A account,

number xxxx83658, into which the \$300,000 was deposited:

- one for \$125,000 dated September 30, 2010 and payable to the Committee to Re-Elect Loretta Sanchez, which was apparently signed by KINDE DURKEE;

- one for \$32,000 dated September 30, 2010 and payable to Merchants Account and was deposited into D&A account number xxx1251, which was apparently signed by KINDE DURKEE;

- one for \$21,000 dated October 4, 2010 and payable to D&A, which was apparently signed by KINDE DURKEE;

- one for \$25,000 dated October 4, 2010 and payable to D&A, which was apparently signed by KINDE DURKEE; and

- one for \$15,000 dated October 4, 2010 and payable to Durkee Merchants Account and was deposited into D&A account number xxx1251, which was apparently signed by KINDE DURKEE.

The Transfer of \$32,000

13. The check to D&A for \$32,000 was deposited on September 30, 2010 into a D&A account at First California Bank, account number XXX1251, bringing the balance to \$40,693. A number of checks were then issued from the account, including one dated September 30, 2010 and made payable to D&A for \$36,000, which was apparently signed by KINDE DURKEE. This check caused the account number xxx1251 to have a negative balance.

14. The \$36,000 check was deposited on September 30, 2010 into a D&A account at First California Bank, account number

xxx0865. From there, \$30,000 was withdrawn in the form of a check apparently signed by KINDE DURKEE made payable to D&A and marked for "payroll." The \$30,000 check was deposited into First California Bank account number xxx9123. The deposit covered overdrafts including checks to Peter Froelich for \$2,176.08, Adrian Grier for \$1,476.72, and Matt Lemcke for \$1,697.78, and Lydia Almanza \$1,172.50. Your affiant is informed by FA Williams that there is evidence these individuals work as account executives for D&A since she has seen signatures in their names on checks from campaign accounts to D&A, and/or their names appear in the staff directory on the website for D&A.

15. In other words, it appears DURKEE used some of the \$300,000 Solorio for Assembly 2010 check to make her payroll.

The Transfer of \$25,000

16. The \$25,000 check to D&A referenced above was subsequently deposited into First California Bank, account number xxx0865, on approximately October 4, 2010. This brought the balance in that account to approximately \$37,084. From that account, two withdrawals were made to pay American Express, one in the amount of \$16,854.76 and another in the amount of \$679.03.

17. A review of a bill for American Express reveals that the payment for \$16,854.76 paid for a bill which included charges from a variety of entities, including:

Union 76;

Amazon.com (gift cards);
Baskin Robbins;
Ulta (cosmetics);
Turners Outdoorsman;
Valero;
Deckert Surgical;
Ariel's Grotto at Disneyland;
TIVO, Inc.;
Virgin America (for \$3,984.80); and
Bixby Animal Clinic.

18. A review of a bill for American Express reveals that the payment for \$679.03 paid for a bill which included charges to a variety of entities, including Long Beach Aquarium, QVC, Costco, and Crocs.

The Deposit of \$377,181.24

19. Your affiant has reviewed bank records and schedules for bank records for D&A at City National Bank and First California Bank. Those records reveal that on approximately October 8, 2010, a cashier's check made payable to Solorio for Assembly 2010 in the amount of \$377,181.24 was deposited into an account for D&A, number xxxx83658, at City National Bank. The check brought the balance in the account to approximately \$415,458. The source of the cashier's check for \$377,181.24 appears to be from a money market account in the name of Solorio

for Assembly 2010 held at First California Bank.

20. A number of checks were issued from the D&A account, number xxxx83658, into which the \$377,181.24 was deposited:

- one for \$45,000 dated October 7, 2010 and payable to D&A, which was apparently signed by KINDE DURKEE;

- one for \$45,000 dated October 7, 2010 and payable to Committee to Re-Elect Loretta Sanchez;

- one for \$60,000 dated October 8, 2010 and payable to Beth Krom for Congress;

- one for \$40,000 dated October 8, 2010 and payable to Susan Davis for Congress;

- one for \$25,000 dated October 11, 2010 and payable to Merchants Account and was deposited into D&A account number xxx1251, which was apparently signed by KINDE DURKEE;

- one for \$25,000 dated October 11, 2010 and payable to Merchants Account and was deposited into D&A account number xxx1251, which was apparently signed by KINDE DURKEE; and

- one for \$5,000 dated October 11, 2010 and payable to D&A, which was apparently signed by KINDE DURKEE.

The Transfer of \$45,000

21. The check to D&A for \$45,000 dated October 7, 2010 was deposited into a D&A account at First California Bank, account number XXX0865 on the same date, bringing the balance to \$33,172. A number of checks were issued from the account, including one

dated September 30, 2010 (which cleared on October 7, 2010) and was made payable to Belmont Village for \$4,950. According to Google, Belmont Village is a chain of assisted living facilities. In the memo portion of the check to Belmont Village, there is a notation on it reading "Norma Durkee." I am informed by FBI SA Jones that during the course of the interview with Ms. DURKEE on September 1, 2011, Ms. DURKEE admitted that she helped to pay expenses at an assisted living facility for her mother.

22. Another check issued from account number xxx0865 was one to D&A in the amount of \$25,000 and dated October 7, 2010. The check has a notation "payroll" in the memo portion of the check. The \$25,000 deposit was deposited into First California Bank Account xxx9123 covered overdrafts including checks to Lydia Almanza for \$1,172.50, James Adamo for \$1,110, Timothy Watson for \$1,574.12, and Laura Maccallum for \$1,395.82. Your affiant is informed by FA Williams that there is evidence these individuals work as account executives for D&A since she has seen signatures in their names on checks from campaign accounts to D&A, and/or their names appear in the staff directory on the website for D&A. In other words, it appears DURKEE used some of the \$25,000 of the \$377,181.24 Solorio for Assembly 2010 check to make her payroll.

The Transfer of Two \$25,000 Checks

23. The two \$25,000 checks to the Merchants Account referenced above were subsequently deposited into D&A account

number xxx1251 at First California Bank on approximately October 12, 2010. The deposit of these two checks covered a negative balance and were also used to make payments to Democratic Foundation of Orange County - Voter Guide (\$13,000) and National Popular Vote (\$5,000).

The Deposit of \$50,000 from Shallman Communications

24. About one week after \$377,181.24 was deposited into the D&A account at City National Bank, number xxxx83658, a check for \$50,000 on the account of Shallman Communications was deposited into that same account. This latter check brought the balance to \$220,458.06.

25. A number of checks or debits were issued from that account:

- one check for \$6,000 dated October 13, 2010 and payable to D&A, which was apparently signed by KINDE DURKEE;
- a debit for \$50,010 dated October 14, 2010 to purchase an official check (\$10 fee) made payable to the United States Treasury;
- a check for \$20,000 dated October 14, 2010 and payable to D&A Merchants, which was apparently signed by KINDE DURKEE; and
- a check for \$10,000 dated October 14, 2010 and payable to D&A, which was apparently signed by KINDE DURKEE.

The check for \$50,000 made payable to the United States

Treasury appears to be a tax payment by KINDE DURKEE. I am informed by FBI SA Jones that Ms. Durkee admitted to the agents that she had personal and business tax problems.

The Transfer of \$6,000

26. Bank records reveal that the \$6,000 check referenced above was subsequently deposited into account number xxx0865 at First California Bank on October 13, 2010. Bank records further reveal that a \$5,500 check dated September 29, 2010 (which cleared on October 13, 2010) and apparently signed by KINDE DURKEE was issued from that account and was made payable to MDC Realty Service. I am informed by FA Williams that other records reveal that KINDE DURKEE had a loan on her business office with MDC Realty Service. FBI SA Jones has informed your affiant that Ms. DURKEE admitted during the interview on September 1, 2011 that she paid all of her mortgages on her personal and business property out of her D&A business accounts.

The Transfer of \$20,000

27. Bank records reveal that the \$20,000 check to D&A Merchants referenced above was subsequently deposited into account number xxx1251 at First California Bank on October 14, 2010. That check covered a negative balance and was also used to make a payment to American Express in the amount of \$1,284.59. FA Williams informed your affiant that this appears to be a payment for a processing fee to American Express.

Interview with Assemblymember Jose Solorio

28. On September 2, 2011, your affiant spoke with Assemblymember Jose Solorio. He informed your affiant that he was not aware of the checks for \$300,000 and \$377,181.24 that were withdrawn from his money market account, and he did not authorize those withdrawals from that account.

Interview of KINDE DURKEE

29. According to FBI SA Jones, Ms. DURKEE informed him that she used the D&A business accounts to pay for her daily living expenses, including clothes, food, entertainment, and mortgages.

Reports filed with the California Secretary of State

October 11, 2010

30. The state disclosure form for Solorio for Assembly 2010 that was apparently signed by KINDE DURKEE and filed on approximately October 11, 2010 for the period of time July 1, 2010 to September 30, 2010 reported that there was cash-on-hand in the amount of \$729,135.56. According to bank records for Solorio for Assembly 2010, however, the actual balance as of September 30, 2010 was only \$33,175.81. The report contained no mention of the two cashier's checks in the amount of \$300,000 and \$377,181.24. This report was delivered by the Postal Service or a private or commercial interstate carrier to the California Secretary of State's office in Sacramento.

31. This report was subsequently amended by filings made on

November 5, 2010, November 15, 2010, and November 18, 2010. In none of those amended reports was there any mention of the two cashier's checks in the amount of \$300,000 and \$377,181.24. All three reports were delivered by the Postal Service or a private or commercial interstate carrier to the California Secretary of State's office in Sacramento.

October 21, 2010 *re/over*

32. The state disclosure form for Solorio for Assembly 2010 that was apparently signed by KINDE DURKEE and filed on approximately October 21, 2010 for the period of time October 1, 2010 to October 16, 2010 reported that there was cash-on-hand in the amount of \$747,712.73. According to bank records for Solorio for Assembly 2010, however, the actual balance as of October 15, 2010 was only \$63,216.88. The report contained no mention of the two cashier's checks in the amount of \$300,000 and \$377,181.24. The report was delivered by the Postal Service or a private or commercial interstate carrier to the California Secretary of State's office in Sacramento.

33. This report was subsequently amended by the filings made on November 5, 2010, November 15, 2010, and November 18, 2010 referenced above. As noted, in none of those reports was there any mention of the two cashier's checks in the amount of \$300,000 and \$377,181.24. And, as noted, all three reports were delivered by the Postal Service or a private or commercial

interstate carrier to the California Secretary of State's office in Sacramento.

February 2, 2011

34. The state disclosure form for Solorio for Assembly 2010 that was apparently signed by KINDE DURKEE and filed on approximately February 2, 2011 for the period of time October 17, 2010 to December 31, 2010 reported that there was cash-on-hand in the amount of \$744,886.80. According to bank records for Solorio for Assembly 2010, however, the actual balance as of December 31, 2010 was only \$62,407.60. The report contained no mention of the two cashier's checks in the amount of \$300,000 and \$377,181.24. The report was delivered by the Postal Service or a private or commercial interstate carrier to the California California Secretary of State's office in Sacramento.

August 4, 2011

35. The state disclosure form for Solorio for Assembly 2010 that was apparently signed by KINDE DURKEE and filed on approximately August 4, 2011 for the period of time January 1, 2011 to June 30, 2011 reported that there was cash-on-hand in the amount of \$688,186.54. According to bank records for Solorio for Assembly 2010, however, the actual balance as of June 30, 2011 was \$7,076.38, and on July 29, 2011 was only \$26,446.83. The report contained no mention of the two cashier's checks in the amount of \$300,000 and \$377,181.24. The report was delivered

by the Postal Service or a private or commercial interstate carrier to the California Secretary of State's office in Sacramento.

CONCLUSION

36. For the reasons stated above, I respectfully assert that there is probable cause to believe that between September 1, 2010 and continuing to the present, in the State and Eastern District of California, KINDE DURKEE did devise and intend to devise a material scheme and artifice to defraud Jose Solorio and the Solorio for Assembly 2010 campaign, and to obtain money from them by means of materially false and fraudulent pretenses, representations, and promises; and that, for the purpose of executing and attempting to execute the aforementioned scheme and artifice to defraud, did knowingly cause to be sent or delivered by the Postal Service or any private or commercial interstate carrier, items of mail according to the directions thereon, in

///

///

///

///

///

///


///

///

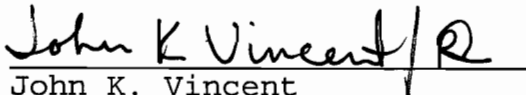
violation of Title 18, United States Code, Section 1341.

I ask that this complaint be filed and that an arrest warrant issue for KINDE DURKEE in this matter.

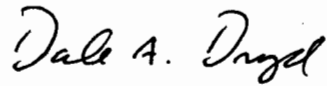
DATED: September 2, 2011


Reginald L. Coleman
Special Agent
Federal Bureau of Investigation

Approved as to form:


John K. Vincent
Assistant U.S. Attorney

Sworn and Subscribed to me on
September 2, 2011


DALE A. DROZD
United States Magistrate Judge