

COUNT TWO
(Identity Theft)

2. From at least in or about September 2012 up to and including at least October 2014, DON LICHTERMAN, the defendant, knowingly transferred, possessed, and used without lawful authority, a means of identification of another person with the intent to commit, and to aid and abet, any unlawful activity that constitutes a violation of Federal law, to wit, LICHTERMAN used the name of another person with the intent to commit the offense charged in Count One of this Complaint.

(Title 18, United States Code, Sections 1028(a)(7) and 2)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I am currently employed as a Special Agent with the FBI, and have participated in the investigation of this case. This affidavit is based upon my personal knowledge, my review of documents and other evidence, and my conversations with other law enforcement officers and other individuals. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions and statements of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

The Civil Litigation

4. Based on my review of records maintained by the United States District Court for the Southern District of New York and my conversations with agents from the United States Marshals Service, I have learned, among other things, the following:

a. On or about May 5, 2014, a civil complaint was filed against DON LICHTERMAN, the defendant, along with various business entities of which LICHTERMAN is the principal (the "Defendant Entities") for, among other things, copyright infringement (the "Copyright Case").

b. On or about May 14, 2014, LICHTERMAN filed a civil lawsuit against the plaintiffs in the Copyright Case (the "Copyright Plaintiffs") in the United States District Court for

the Southern District of New York, alleging, among other things, that the Copyright Plaintiffs slandered and defamed LICHTERMAN (the "Defamation Lawsuit"). The Defamation Lawsuit claimed that the Copyright Defendants had posted false information about LICHTERMAN on a blog (the "Blog"). The complaint in the Defamation Lawsuit identified the website URL on which the allegedly defamatory information was posted (the "Defamation URL").

c. On or about August 5, 2014, the Defamation Lawsuit was dismissed.

d. On or about August 8, 2014, LICHTERMAN filed 29 separate motions for reconsideration of the court's order dismissing the Defamation Lawsuit. LICHTERMAN attached to several of these motions emails relating to the lawsuit ("Defamation Lawsuit Emails"). The Defamation Lawsuit Emails had purportedly been sent from an individual who was identified as LICHTERMAN's lawyer ("Lawyer-1"). Lawyer-1's email address used the domain name "SunsetCorporationAmerican.com" (the "Lawyer-1 Email Address"). Sunset Corporation America is one of the Defendant Entities.

The Forged Order

5. Based on my conversations with employees of the company that created and maintain the Blog (the "Blog Company"), and my review of records maintained by the Blog Company, I have learned, among other things, the following:

a. On or about September 3, 2014, an email was sent to the Blog Company from an email address with the domain name sunsetcorporationamerica.com (the "September 3 Email"). The subject of the September 3 Email was "Court Order." The September 3 Email attached a purported order of the United States District Court for the Southern District of New York (the "Order").

b. The Order directed the Blog Company to delete certain posts about LICHTERMAN from the Blog, including information posted on the Defamation URL. The Order stated that it had been issued by a judge of the Southern District of New York (the "Southern District Judge"). Affixed to the Order was the signature of the Clerk of Court of the Southern District of New York ("Clerk of Court").

c. On or about the morning of September 10, 2014, an email was sent to the Blog Company from the Lawyer-1 Email Address (the "September 10 Morning Email"). The September 10 Morning Email stated, among other things: "A Court order had been sent to you two times in the last week, however, we have NOT heard back from you about it. If it is NOT complied to by today, we will have no other choice but to include you in that law suit."

d. On or about the evening of September 10, 2014, an email was sent to the Blog Company from the Lawyer-1 Email Address (the "September 10 Evening Email"). The September 10 Evening Email stated, among other things: "This is the final warning and final time we contact your company about this issue and we have no other choice but to sue your organization. . . . Its been made rather clear that you're the ONLY company that is acting in illegal and corrupt ways by NOT complying to the court order."

e. Attached to the September 10 Evening Email was a letter from Lawyer-1 stating, among other things, that Lawyer-1 represented DON LICHTERMAN, the defendant, and the Defendant Entities (the "Lawyer Letter"). The Court Order was also attached to the September 10 Evening Email.

f. On or about September 15, 2014, an email was sent to the Blog Company from the Lawyer-1 Email Address (the "September 15 Email"). The September 15 email stated, in sum and substance, that the Blog Company had failed to comply with the Order, and that Lawyer-1 was "filing criminal charges with the District Attorney's and with the Attorney General for you not complying to their court order." The Order was attached to the September 15 Emails.

g. On or about October 6, 2014, an email was sent to the Blog Company from the email address don.lichterman@sunsetdaily.com (the "October 6 Email"). The October 6 Email stated, among other things: "You have been issued court orders and you refuse to comply. This is a US Court from a superior Court Judge and again, you ignore it."

h. On or about October 9, 2014, an email was sent to the Blog Company from the Lawyer-1 Email Address (the "October 9 Email"). The October 9 Email stated "Please see attached that will arrive via fedex Today." The October 9 Email attached, among other things, the Order.

i. On or about October 9, 2014, the Blog Company received a Federal Express package (the "FedEx Package"). The FedEx package contained, among other things, the Order. The sender listed on the FedEx package was LICHTERMAN.

The Defendant's Forgery and Identity Theft

6. Based on my review of records maintained by the United States District Court for the Southern District of New York, I have learned, among other things, the following:

a. The Southern District Judge never issued the Order.

7. Based on my conversations with Lawyer-1 and my review of records maintained by Lawyer-1, I have learned, among other things, the following:

a. Lawyer-1 did not represent LICHTERMAN in connection with the Defamation Lawsuit or any related issues regarding the Blog.

b. The Lawyer-1 Email Address has never belonged to Lawyer-1. Lawyer-1 has never seen the Lawyer-1 Email Address.

c. Lawyer-1 did not write or send the Defamation Lawsuit Emails. Lawyer-1 did not authorize anyone else to send the Defamation Lawsuit Emails.

d. Lawyer-1 did not write or send the September 10 Morning Email, the September 10 Evening Email, the Lawyer Letter, the September 15 Email, or the October 9 Email. Lawyer-1 did not authorize anyone else to send these emails.

e. Lawyer-1 has never seen the Order.


8. Based on my review of records maintained by an Internet service provider (the "Service Provider"), I have learned, among other things, the following:

a. The September 3 Email, September 10 Morning Email, the September 10 Evening Email, the Lawyer Letter, the September 15 Email, the October 6 Email, and the October 9 Email all were sent using a certain dynamic Internet Protocol ("IP") Address (the "IP Address").

b. The IP Address is maintained by the Service Provider.

c. The customer account assigned to the IP Address during the time period relevant to this Complaint is subscribed to by DON LICHTERMAN, the defendant.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of DON LICHTERMAN, the defendant and that he be imprisoned or bailed, as the case may be.

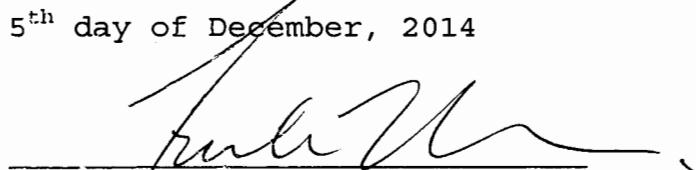


RICHARD P. SMYTHE, JR.

Special Agent

Federal Bureau of Investigation

Sworn to before me this
5th day of December, 2014



HONORABLE FRANK MAAS

United States Magistrate Judge
Southern District of New York