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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
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SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Anthony J. Pavone
Joseph E. DiPrima,

Defendants.

CR-19-00454-PHX-DLR (JZB)

INDICTMENT

- VIO: 18 U.S.C. § 1349
(Wire Fraud Conspiracy)
Count 1
- 18 U.S.C. §§ 1343 and 2
(Wire Fraud)
Count 2
- 18 U.S.C. § 371
(Identity Theft Conspiracy)
Count 3
- 18 U.S.C. §§ 1028(a)(7), 2326 and 2
(Misuse of Personal Information/
Telemarketing Sentencing
Enhancement)
Counts 4-10
- 18 U.S.C. §§ 1028A, 2326 and 2
(Aggravated Identity Theft/
Telemarketing Sentencing
Enhancement)
Counts 11-17
- 18 U.S.C. § 981(a)(1)(C) and 21
U.S.C. § 2461(c)
(Forfeiture)
Counts 1-2
- 18 U.S.C. §§ 982(a)(2)(B) and
1028(b)(5)
(Forfeiture)
Counts 4-10

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1 THE GRAND JURY CHARGES:

2 At all times material to this indictment, within the District of Arizona and elsewhere:

3 **INTRODUCTION**

4 The Defendants and Their Business

5 1. Defendants ANTHONY J. PAVONE and JOSEPH E. DIPRIMA operated
6 an enterprise called Hybar Media (“Hybar”), with a principal place of business in Phoenix,
7 Arizona.

8 2. Hybar, through PAVONE and DIPRIMA, was principally engaged in the
9 purchase, sale, and management of personal identifying information used by telemarketers
10 seeking customers for their products.

11 Background of the Telemarketing Industry

12 3. Telemarketers use personal identifying information of individuals who are
13 willing to listen to their pitches in order to sell products by telephone.

14 4. To find prospective customers, telemarketers often buy compilations of the
15 personal identifying information of individuals who fit the telemarketers’ desired
16 demographic profiles.

17 5. The personal identifying information of a specific potential customer—such
18 as a name, address, and phone number—is called a “lead.”

19 6. A document containing the personal identifying information of numerous
20 people is called a “lead list.” These lists are often comprised of people who have previously
21 responded to telephone or mail mass-marketing campaigns.

22 7. The individuals and/or entities that compile and organize these leads lists are
23 called “list managers.”

24 8. The individuals and/or entities that sell leads and lead lists to telemarketers
25 are known as “lead brokers.”

26 9. One specialized type of lead is called a “sweepstakes lead.” Sweepstakes
27 leads are generated from mass mailings that advertise potential winnings in lotteries or
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1 drawings and notify the recipients that they may have won, or are likely to win, prizes and
2 cash payouts.

3 10. In order to claim their putative prizes, the recipients are asked to mail in an
4 attached slip of paper, on which the recipients are required to list personal information,
5 such as a name, phone number, and address. These slips of paper are known as “hard copy
6 leads” or “hand write leads.”

7 11. The entities that mail these sweepstakes mailings will receive the hard copy
8 leads returned from the individuals who mail them in. Once they receive the hard copy
9 leads, the sweepstakes mailers will often sell them to lead brokers.

10 12. The lead brokers, in turn, sell the hard copy leads to other brokers or to
11 telemarketers.

12 Overview of the Scheme

13 13. From in or about July 2013 through in or about April 2016, both dates being
14 approximate and inclusive, PAVONE and DIPRIMA, together with others, obtained the
15 personal information of thousands of people without the consent of these individuals and
16 used this personal information to create counterfeit hard copy sweepstakes leads, which
17 they then sold as authentic hard copy sweepstakes leads to their clients.

18 Purposes of the Scheme

19 14. The purposes of the scheme were to (a) enrich PAVONE and DIPRIMA and
20 their co-conspirators using the personal information of thousands of people without their
21 consent to create counterfeit hard copy sweepstakes leads and selling those counterfeit hard
22 copy sweepstakes leads as authentic hard copy sweepstakes leads; and (b) conceal the true
23 nature of the hard copy sweepstakes leads that they sold to clients.

24 Execution of the Scheme

25 15. It was part of the scheme that in order to generate the counterfeit hard copy
26 leads, defendants PAVONE and DIPRIMA purchased databases of personal identifying
27 information from Supplier-1, a list manager in Montreal, Quebec, Canada.

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1 16. Supplier-1 managed large amounts of data for direct mailing and
2 telemarketing campaigns. Supplier-1 had access to the names of hundreds of thousands of
3 people who had responded to certain direct mail campaigns. These responses were
4 generated from a wide variety of mailings that pitched a range of products and services.
5 Most of the names to which Supplier-1 had access belonged to people who had never
6 responded to a sweepstakes mailing.

7 17. In total, PAVONE and DIPRIMA purchased the personal identifying
8 information of tens of thousands of people from Supplier-1. The majority of this personal
9 identifying information belonged to people who had not responded to a sweepstakes
10 mailing.

11 18. It was further part of the scheme to defraud that upon receiving the databases
12 of names and personal identifying information from Supplier-1, defendants PAVONE and
13 DIPRIMA created and directed others to create counterfeit hard copy leads that looked like
14 real responses to actual sweepstakes mailings.

15 19. These counterfeit hard copy leads contained spaces into which the basic
16 personal identifying information of the putative respondent—like name and address—was
17 printed. The slips also included blanks onto which the respondent was to handwrite certain
18 additional personal identifying information, such as a phone number, a signature, and/or a
19 notation about whether the respondent had a credit card. The counterfeit hard copy leads
20 were not authentic responses to any mailings. None of the individuals named on the leads
21 had actually written any information thereon. The individuals whose names and personal
22 identifying information PAVONE and DIPRIMA caused to be printed on these leads had
23 no knowledge that PAVONE and DIPRIMA were using their names and personal
24 identifying information.

25 20. It was further part of the scheme to defraud that defendants PAVONE and
26 DIPRIMA utilized a network of employees and associates in Arizona and elsewhere to
27 handwrite the necessary personal identifying information onto the counterfeit hard copy
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1 leads. Much of this handwriting work occurred at Hybar's offices in Phoenix, Arizona.
2 Depending on the exact template used, PAVONE and DIPRIMA's employees and
3 associates would add, for example, a phone number, a forged signature, or the initials of
4 the putative respondent.

5 21. It was further part of the scheme to defraud that defendants PAVONE and
6 DIPRIMA sold these counterfeit hard copy sweepstakes leads to their clients as authentic hard
7 copy sweepstakes leads. These counterfeit hard copy sweepstakes leads were to be used by
8 telemarketers to contact the people named thereon.

9 **COUNT 1**

10 **Conspiracy to Commit Wire Fraud**

11 [18 U.S.C. § 1349]

12 22. Paragraphs 1 through 21 are incorporated by reference as if set forth fully
13 herein.

14 23. From in or about July 2013 through in or about April 2016, both dates being
15 approximate and inclusive, within the District of Arizona and elsewhere, defendants
16 ANTHONY J. PAVONE and JOSEPH E. DIPRIMA, together with others, did knowingly
17 and intentionally combine, conspire, and agree to commit wire fraud, that is, to knowingly
18 and willfully and with the intent to defraud, and to obtain money and property from their
19 clients by means of materially false and fraudulent pretenses, representations, and
20 promises, and for the purpose of executing such scheme and artifice, to transmit and cause
21 to be transmitted, by means of wire communication in interstate and foreign commerce,
22 writings, signs, signals, pictures, and sounds, contrary to Title 18, United States Code,
23 Section 1343.

24 **Purposes of the Conspiracy**

25 24. The grand jury incorporates by reference paragraph 14 as if set forth fully
26 herein as a description of the purposes of the conspiracy.

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1 Manner and Means

2 25. The grand jury incorporates by reference paragraphs 15 through 21 as if set
3 forth fully herein as a description of the manner and means of the conspiracy.

4 Overt Acts

5 26. In furtherance of the conspiracy, and in order to accomplish the object and
6 purpose of the conspiracy, the co-conspirators committed and caused to be committed, in
7 the District of Arizona and elsewhere, the following overt acts:

- 8 a. On or about February 26, 2016, PAVONE and DIPRIMA communicated
9 by text message about their plan to convert a list of Medicare customers
10 into counterfeit hard copy – or “HC” – sweepstakes leads. PAVONE
11 wrote to DIPRIMA, “So we can clean them up even more and try to use
12 them for hc? What are they?” DIPRIMA responded to PAVONE,
13 “Medicare customers.” DIPRIMA then added, “I don’t know about
14 making them into hardcopy just yet. I don’t think they’re that good but I
15 will know when the other three tests come back.” PAVONE responded,
16 “If they come back good holy shit.” PAVONE then wrote to DIPRIMA,
17 “That’s huge if we can sell all those.”
- 18 b. On or about February 29, 2016, DIPRIMA and PAVONE continued to
19 communicate by text message about their plan. DIPRIMA wrote, “Jason
20 said the test worked!! That’s 3 for 3.. We just made \$150,000 N.. That’s
21 saying I’m only going to get a dollar apiece and that’s bullshit. I plan on
22 mailing these too. Only in this business.”
- 23 c. On March 1, 2016, DIPRIMA sent an email to a Hybar employee in
24 which he directed the employee to make counterfeit hard copy leads from
25 the Medicare customer list. DIPRIMA wrote, “Yes, Use them for HC,
26 But it’s a new file so DO NOT send them by themselves , Mix them in
27 slowly in batches of 100.”

1 All in violation of Title 18, United States Code, Section 1349.

2 **COUNT 2**

3 **Wire Fraud**

4 [18 U.S.C. §§ 1343 and 2]

5 27. Paragraphs 1 through 21 are incorporated by reference as if set forth fully
6 herein.

7 28. From on or about July 2013 through on or about April 2016, within the
8 District of Arizona and elsewhere, defendants ANTHONY J. PAVONE and JOSEPH E.
9 DIPRIMA, aided and abetted by others, did knowingly and intentionally devise a scheme
10 and artifice to defraud, and to obtain money and property by means of materially false and
11 fraudulent pretenses, representations, and promises, knowing that the pretenses,
12 representations, and promises were false and fraudulent when made.

13 **Purposes of the Scheme and Artifice**

14 29. The grand jury incorporates by reference paragraph 14 as if set forth fully
15 herein as a description of the purposes of the scheme and artifice.

16 **The Scheme and Artifice**

17 30. The grand jury incorporates by reference paragraphs 15 through 21 as if set
18 forth fully herein as a description of the scheme and artifice.

19 **Use of the Wires**

20 31. On or about March 1, 2016, PAVONE and DIPRIMA, in the District of
21 Arizona and elsewhere, for the purpose of executing the aforesaid scheme and artifice to
22 defraud, and attempting to do so, did knowingly transmit and cause to be transmitted, by
23 means of wire communications in interstate and foreign commerce, certain writings, signs,
24 signals, pictures, and sounds, namely, an email chain in which PAVONE and DIPRIMA
25 provided directions to a Hybar employee regarding the creation of a group of counterfeit
26 hard copy sweepstakes leads.

27 All in violation of Title 18, United States Code, Sections 1343 and 2.

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1 COUNT 3

2 **Conspiracy to Commit Identity Theft**

3 [18 U.S.C. § 371]

4 32. Paragraphs 1 through 21 are incorporated by reference as if set forth fully
5 herein.

6 33. From on or about July 2013 through on or about April 2016, within the
7 District of Arizona and elsewhere, defendants ANTHONY J. PAVONE and JOSEPH E.
8 DIPRIMA, did willfully, that is, with the intent to further the objects of the conspiracy, and
9 knowingly combine, conspire, and agree with other individuals known and unknown, to
10 commit certain offenses against the United States, namely to knowingly and intentionally
11 transfer and possess, without lawful authority, means of identification of other people with
12 the intent to commit, and to aid and abet, and in connection with, an unlawful activity that
13 constituted one or more felonies under applicable State law, to wit: Forgery under Arizona
14 Revised Statute § 13-2002, Criminal Possession of a Forgery Device under Arizona
15 Revised Statute § 13-2003, Criminal Simulation under Arizona Revised Statute § 13-2004,
16 Identity Theft in the Second Degree under New York Penal Law § 190.79, and Scheme to
17 Defraud in the First Degree under New York Penal Law § 190.65, all in violation of Title
18 18, United States Code, Section 1028(a)(7).

19 Purposes of the Scheme and Artifice

20 34. The grand jury incorporates by reference paragraph 14 as if set forth fully
21 herein as a description of the purposes of the conspiracy.

22 Manner and Means

23 35. The grand jury incorporates by reference paragraphs 15 through 21 as if set
24 forth fully herein as a description of the manner and means of the conspiracy.

25 Overt Acts

26 36. The grand jury incorporates by reference paragraph 26 as if set forth fully
27 herein as a description of the overt acts committed in furtherance of the conspiracy.

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1 All in violation of Title 18, United States Code, Sections 371 and 1028(a)(7).

2 **COUNTS 4-10**

3 **Identity Theft**

4 [18 U.S.C. §§ 1028(a)(7), 2326(2)(A), 2326(2)(B), and 2]

5 37. Paragraphs 1 through 21 are incorporated by reference as if set forth fully
6 herein.

7 38. On or about each of the dates identified below, all dates being approximate
8 and inclusive, within the District of Arizona and elsewhere, defendants ANTHONY J.
9 PAVONE and JOSEPH E. DIPRIMA, together with others, and attempting to do so, did
10 knowingly and intentionally transfer and possess, without lawful authority, means of
11 identification of other people, to wit: the personal information of each individual identified
12 in the following table, with the intent to commit, and to aid and abet, and in connection
13 with, an unlawful activity that constituted one or more felonies under applicable State law,
14 to wit: Forgery under Arizona Revised Statute § 13-2002, Criminal Possession of a Forgery
15 Device under Arizona Revised Statute § 13-2003, Criminal Simulation under Arizona
16 Revised Statute § 13-2004, Identity Theft in the Second Degree under New York Penal
17 Law § 190.79, and Scheme to Defraud in the First Degree under New York Penal Law §
18 190.65, and in connection with the conduct of telemarketing and targeting and victimizing
19 10 or more persons over the age of 55, and as a result, did obtain things of value aggregating
20 \$1,000 and more during a one-year period.

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Count	Initials	Date
22 4	H.L.	June 28, 2014
23 5	L.B.	December 4, 2014
24 6	J.H.	December 4, 2014
25 7	G.L.	March 7, 2016
26 8	I.S.	March 8, 2016

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9	J.J.	March 9, 2016
10	E.F.	March 9, 2016

All in violation of Title 18, United States Code, Sections 1028(a)(7), 2326(2)(A), 2326(2)(B), and 2.

COUNTS 11-17

Aggravated Identity Theft

[18 U.S.C. §§ 1028A(a)(1), 1028A(b), 1028A(c)(5), 2326(2)(A), 2326(2)(B), and 2]

39. Paragraphs 1 through 21 are incorporated by reference as if set forth fully herein.

40. On or about each of the dates identified below, all dates being approximate and inclusive, within the District of Arizona, defendants ANTHONY J. PAVONE and JOSEPH E. DIPRIMA, together with others, during and in relation to the crimes charged in Counts One and Two, and attempting to do so, did knowingly and intentionally transfer and possess, without lawful authority, means of identification of other people, to wit: the personal information of each individual identified in the following table, knowing that the means of identification belonged to other persons, and in connection with the conduct of telemarketing and targeting and victimizing 10 or more persons over the age of 55.

Count	Name	Date
11	H.L.	June 28, 2014
12	L.B.	December 4, 2014
13	J.H.	December 4, 2014
14	G.L.	March 7, 2016
15	I.S.	March 8, 2016
16	J.J.	March 9, 2016
17	E.F.	March 9, 2016

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2 All in violation of Title 18, United States Code, Sections 1028A(a)(1), 1028A(b),
3 1028A(c)(5), 2326(2)(A), 2326(2)(B) and 2.

4 CRIMINAL FORFEITURE ALLEGATIONS AS TO COUNTS ONE AND TWO

5 41. The United States hereby gives notice to the defendants that, upon their
6 conviction of the offenses charged in Counts One and Two, the government will seek
7 forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title
8 28, United States Code, Section 2461(c), which require any person convicted of such
9 offenses to forfeit any property, real or personal, constituting, or derived from, proceeds
10 obtained directly or indirectly as a result of such offenses, including but not limited to a
11 money judgment in the amount of \$700,000, in that such sum in aggregate is property
12 representing the amount of proceeds obtained as a result of the offenses.

13 CRIMINAL FORFEITURE ALLEGATIONS AS TO
14 COUNTS FOUR THROUGH TEN

15 42. The United States also gives notice to the defendants that, upon their
16 conviction of the offenses charged in Counts Four through Ten, the government will seek
17 forfeiture in accordance with: (a) Title 18, United States Code, Section 982(a)(2)(B), which
18 requires any person convicted of such offense to forfeit any property constituting, or
19 derived from, proceeds obtained directly or indirectly as a result of such offense; and
20 (b) Title 18, United States Code, Section 1028(b)(5), which requires any person convicted
21 of such offense to forfeit any personal property used or intended to be used to commit the
22 offense, including but not limited to a money judgment in the amount of \$700,000.

A TRUE BILL

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s/

FOREPERSON OF THE GRAND JURY
Date: April 23, 2019

ROBERT ZINK
Acting Chief
Fraud Section, Criminal Division
U.S. Department of Justice

s/

TIMOTHY A. DUREE
PHILIP B. TROUT
Trial Attorneys
Criminal Division, Fraud Section
U.S. Department of Justice