
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon. Joseph A. Dickson
v. : Magistrate. No. 17-6542 (JAD)
ROY DEPACK, : **CRIMINAL COMPLAINT**
a/k/a "Ray Depack,"
a/k/a "Roy Soriano,"
a/k/a "John Soriano," and
LOUIS J. POBUTKIEWICZ, SR.


I, Jonathan W. Edds, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.

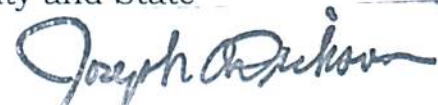

Jonathan W. Edds, Special Agent
Federal Bureau of Investigation

Sworn to before me, and
subscribed in my presence

April 11, 2017 at
Date

Honorable Joseph A. Dickson
United States Magistrate Judge
Name & Title of Judicial Officer

Newark, New Jersey
City and State


Signature of Judicial Officer

ATTACHMENT A

The Charge

(Conspiracy to Commit Mail and Wire Fraud)

From in or about mid-2014 through in or about April 2017, in Essex and Union Counties, in the District of New Jersey, and elsewhere, defendants

ROY DEPACK,
a/k/a "Ray Depack,"
a/k/a "Roy Soriano," and
a/k/a "John Soriano,"
and
LOUIS J. POBUTKIEWICZ, SR.

knowingly and intentionally conspired and agreed with each other and others to:

- a. devise and intend to devise a scheme and artifice to defraud the Corporate Victims, as described in Paragraph 1e through 1j of Attachment B, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and to do so by means of private and commercial interstate carriers, contrary to Title 18, United States Code, Section 1341; and
- b. devise a scheme and artifice to defraud the Corporate Victims, as described in Paragraph 1e through 1j of Attachment B, and to obtain money and property, by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and artifice to defraud, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, affecting financial institutions, contrary to Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Section 1349.

ATTACHMENT B

I, Jonathan W. Edds, am a Special Agent of the Federal Bureau of Investigation. My experience as a Special Agent has included the investigation of cases involving various financial frauds and other federal criminal violations of law. I have received training and have gained experience in interview and interrogation techniques, arrest procedures, obtaining electronically stored information through criminal process, search warrant applications, and the execution of searches and seizures. I have also received training and information and have gained experience concerning fraud investigations. I have knowledge of the facts set forth herein through my personal participation in this investigation and through oral and written reports from other federal agents or other law enforcement officers. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged. Where I assert a value or amount, I am asserting an approximate value or amount. Where statements of others are related herein, including statements that were consensually recorded, these statements are related in substance and part. Because this Criminal Complaint is being submitted for the limited purpose of establishing probable cause for the issuance of arrest warrants against the named defendants, I have not set forth every fact know to me or other law enforcement officers concerning this investigation. Rather, I have only set forth those facts that I believe are sufficient to that show probable cause exists to believe that the defendants have committed the offense set forth in Attachment A.

The Defendants and Other Parties:

1. At all times relevant to this Criminal Complaint:
 - a. Defendant Roy Depack, a/k/a "Ray Depack," "Roy Soriano," and "John Soriano," ("Depack") had no known domicile but resided in northern New Jersey, including hotels/motels in and around Essex and Union Counties, New Jersey.
 - b. Defendant Louis J. Pobutkiewicz, Sr. ("Pobutkiewicz") was a resident of Newark, New Jersey.
 - c. A co-conspirator ("Co-Conspirator One") operated an Italian restaurant (the "Restaurant") in Union County, New Jersey.
 - d. A co-conspirator ("Co-Conspirator Two") was a resident of Newark, New Jersey.
 - e. A company ("Company One"), headquartered in Ohio, was a mail-order company that sold equipment and supplies for food retailers and food service operators. Company One maintained call-in centers in the United

States that permitted members of the public to telephonically place orders for delivery throughout the United States. Company One, however, had no call-in centers in New Jersey.

f. A company ("Company Two"), headquartered in Georgia, was a publically traded company that provided a broad range of products and services to the public. Company Two maintained a fleet of delivery trucks, and these delivery trucks were located and operated throughout the United States. Company Two also maintained a hub/shipping center in Secaucus, New Jersey. Company Two maintained call-in centers in the United States that permitted members of the public to telephonically place orders for delivery throughout the United States. Company Two, however, had no call-in centers in New Jersey.

g. A company ("Company Three"), headquartered in Illinois, was a publically traded company that was a distributor of products used to maintain, repair, and operate facilities. These products included power and hand tools, ladders, motors, and janitorial supplies. Company Three also provided services, including inventory management and technical support. Company Three maintained distribution centers and branches throughout the United States. Company Three also maintained call-in centers in the United States that permitted members of the public to telephonically place orders for delivery throughout the United States. Company Three, however, had no call-in centers in New Jersey.

h. A company ("Company Four"), headquartered in Illinois, was a publically traded company that provided information technology hardware and software to the public, businesses, governments, and education and healthcare organizations in the United States and elsewhere. Company Four maintained call-in centers in the United States that permitted members of the public to telephonically place orders for delivery throughout the United States. Company Four, however, had no call-in centers in New Jersey.

i. A company ("Company Five"), headquartered in Wisconsin, was private company that provided janitorial supplies and shipping products, among other products, to the public. Company Six maintained a fleet of delivery trucks, and these delivery trucks were located and operated throughout the United States. Company Five maintained call-in centers in the United States that permitted members of the public to telephonically place orders for delivery throughout the United States. Company Five, however, had no call-in centers in New Jersey.

j. A company ("Company Six"), headquartered in New York, was a subsidiary of a publically traded company that provided industrial equipment and supplies to the public and businesses throughout North America. Company Six maintained call-in centers in the United States that

permitted members of the public to telephonically place orders. Company Six, however, had no call-in centers in New Jersey.

k. A company ("Shipping Company One") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

l. An individual was employed by Shipping Company One (the "Employee").

m. A company ("Shipping Company Two") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

n. A company ("Shipping Company Three") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

o. A company ("Shipping Company Four") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

p. A company ("Shipping Company Five") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

q. A company ("Shipping Company Six") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

r. A company ("Shipping Company Seven") was a commercial interstate shipper, as that term is used in Title 18, United States Code, Section 1341, and the company delivered parcels and other items to the public in interstate commerce.

Overview of the Scheme to Defraud: Manner and Means of the Conspiracy

2. It was part of the conspiracy that:

a. Depack and his co-conspirators devised and executed an interstate scheme to defraud Company One, Company Two, Company Three, Company Four, Company Five, and Company Six (collectively the "Victim Companies"). In furtherance of this scheme to defraud, Depack placed telephone phone calls, in interstate commerce, to the Victim Companies for the purpose of fraudulently obtaining merchandise. During these calls, Depack used fictitious or fraudulently obtained names and falsely claimed to be representatives of various companies (the "Purchasing Company" or "Purchasing Companies"). These Purchasing Companies generally had pre-existing business relationships, lines of credit, and/or accounts with the Victim Companies.

b. During these calls made to the Victim Companies and while posing as representatives of various Purchasing Companies, Depack placed and attempted to place orders for merchandise, including (i) electronic equipment, such as computers and iPads; (ii) commercial and residential appliances and kitchen equipment, such as stoves, refrigerators, and microwaves; (iii) janitorial and other industrial supplies; and (iv) tools, tool kits, and related accessories. During these fraudulent calls, Depack directed the Victim Companies to ship the merchandise to various addresses in Newark, Union, and Elizabeth, New Jersey, and New York. In the majority of instances, Depack demanded next day or overnight delivery.

c. At various times, the Victim Companies refused to ship the merchandise because the companies' employees knew or suspected that Depack's orders were fraudulent. When the Victim Companies refused to ship the merchandise, at times, Depack threatened to terminate business accounts and relationships with the Victim Companies. In other instances, Depack threatened to have employees fired or to institute lawsuits. In one instance during a recorded interstate telephone communication, Depack threatened physical violence against a Victim Company's employees. Specifically, after being advised that one of his fraudulent order had been rejected, Depack threatened to assault individuals at the company with a baseball bat.

d. After the merchandise was placed into the custody of a commercial or private interstate shipper for delivery, at various times, Depack, Pobutkiewicz, Co-Conspirator One, Co-Conspirator Two, and others took possession of the fraudulently obtained merchandise. In certain instances, Depack and Pobutkiewicz intercepted and attempted to intercept the delivery driver before the parcel could be delivered to the listed address.

e. After obtaining the fraudulent merchandise, Depack and his co-conspirators monetized the fraudulently obtained property by selling and attempting to sell the merchandise to other individuals or to pawn stores.

3. As a result of their scheme, the Victim Companies incurred actual and intended financial losses exceeding \$900,000.

Execution of the Scheme the Defraud

Company One

4. From between in or about late 2014 through in or about late 2016, Depack called Company One and fraudulently ordered various merchandise, such as food processors, pizza pans, slicers, microwaves, flatware, and related commercial kitchen equipment. Many of these fraudulently obtained items were shipped to or near the Restaurant.

5. In furtherance of his scheme to defraud Company One, Depack repeatedly called the company and fraudulently placed orders for merchandise. During these telephone calls, Depack falsely claimed to be a representative of various companies (i.e., the Purchasing Companies), and he used fictitious names, including "John Smith." Depack directed Company One to ship the merchandise to various locations in northern New Jersey, including to or near the Restaurant.

6. As described in Paragraph 26 below, during an interview with law enforcement, Depack admitted that, among other things, he fraudulently placed orders with Company One, that he used the name "John Smith" to place the fraudulent orders, that Co-Conspirator One told him what items to order, and that Depack made money through this scheme.

7. According to records and information provided by Company One, various shipping companies, and other information, Depack fraudulently ordered and attempted to order the following merchandise, among others, from Company One:

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
04/24/2014	Receptacle bins (2)	\$1,954.68 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 05/08/2014, and signed for by "J. Smith."
04/24/2014	Plastic benches (2)	\$868.52 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 05/08/2014, and signed for by "J. Smith."
04/28/2014	Walk-in freezer (1)	\$10,290.58 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 05/02/2014, and signed for by "John." Depack used telephone number 908-838-2650 to place this order. As described in Paragraphs 8,

1. "Actual" indicates that the merchandise was delivered and the company sustained a financial loss. The total amount of "actual loss" includes the cost of the merchandise, taxes, and shipping fees. "Attempted" indicates that the company canceled the order or the merchandise was not shipped. The total amount of the "attempted" loss may include the cost of taxes and shipping fees that the Victim Company anticipated as part of the transaction.

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				27, and 28c below, this number belongs to Depack.
04/30/2014	Toaster conveyor (1)	\$1,365.11 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith" and delivered by Shipping Company Two on or about 05/09/2014.
05/08/2014	Merchandise refrigerator (1)	\$7,811.35 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Three on or about 05/13/2014, and signed for by "Roy."
05/13/2014	Belgium waffle maker (1) Panini grills (2)	\$2,908.16 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 05/15/2014, and signed for by "J. Smith."
05/13/2014	Gas fryer (1)	\$2,607.64 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/04/2014, and signed for by "J. Smith."
05/14/2014	Counter refrigerator (2)	\$7,276 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				Shipping Company Two on or about 05/21/2014, and signed for by "J. Smith."
05/16/2014	Ice maker (1)	\$3,181.11 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Four on or about 05/19/2014, and signed for by "John Smith."
05/19/2014	Under counter refrigerator (1)	\$1,663.13 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 05/22/2014, and signed for by "John Smith."
05/19/2014	Cutting boards (2)	\$1,405.49 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/02/2014, and signed for by "John."
05/23/2014	Refrigerator (1)	\$6,519.75 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Two on or about 06/11/2014, and signed for by "J S.TH."

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
05/23/2014	Ice cuber (1) Microwave (1)	\$7,097.17 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Company Five on or about 05/29/2014, and signed for by "John Smith."
05/29/2014	Various items (insect control, bulbs, etc.)	\$2,509.06 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/02/2014, and signed for by "John."
05/29/2014	Refrigerator (1)	\$4,652.70 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/11/2014, and signed for by "Mr. J Smith."
05/29/2014	Booster chairs (2) High chairs (6)	\$1,342.95 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/11/2014, and signed for by "Mr. J Smith."
05/29/2014	Popcorn popper (2)	\$1,632.50 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				Shipping Company One on or about 06/05/2014, and signed for by "Smith."
06/03/2014	Hot water dispenser (1)	\$846.47 (Actual)	488 Chestnut Street, Union, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/06/2014, and signed for by "John Smith."
06/03/2014	Microwaves (5)	\$6,455.33 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/05/2014, and signed for by "Mr. J Smith."
06/04/2014	Food processor (1)	\$2,945.50 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," and delivered by Shipping Company Two on or about 06/10/2014. No signature.
06/04/2014	Drawers (2)	\$5,158.48 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Three on or about 06/23/2014,

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				and signed for by "John Smith."
06/10/2014	Food processors (3)	\$9,129.99 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," and delivered by Shipping Company Two on or about 06/18/2014. No signature.
06/12/2014	Food processors (2)	\$5,886.71 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/23/2014, and signed for by "John Smith."
06/17/2014	Refrigerator (1)	\$6,397.33 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/01/2014, and signed for by "John."
06/19/2014	Mega refrigerator (1)	\$5,348.47 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/11/2014, and signed for by "John Smith."
06/19/2014	Pizza prep table	\$5,449.36 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				Shipping Company Three on or about 06/20/2014, and signed for by "John Smith."
06/20/2014	Slicers (2)	\$7,906.62 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company One on or about 06/27/2014, and signed for by "John Smith."
06/20/2014	Microwaves (3)	\$3,796.95 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/24/2014, and signed for by "Mr. J Smith."
06/25/2014	Food processor (5)	\$5,963.87 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 06/27/2014, and signed for by "J Vasquez."
06/26/2014	Pizza dough boxes (8)	\$2,249.62 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/08/2014,

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				and signed for by "John Smith."
06/27/2014	Food processors (5)	\$5,963.87 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/02/2014, and signed for by "J. Smith."
06/30/2014	Assorted items, including risers for food displays	\$1,675.32 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/02/2014, and signed for by "J. Smith."
07/02/2014	Food processors (4)	\$5,76.62 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/08/2014, and signed for by "J. Smith."
07/02/2014	Blenders (5)	\$3,642.07 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/08/2014, and signed for by "J. Smith."
07/02/2014	Slicers (3)	\$7,803.51 (Actual)	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," and delivered by

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
				Shipping Company Six on or about 07/07/2014.
07/09/2014	Food carriers (3)	\$1,446.23	441 South Broad Street, Elizabeth, NJ	Order placed by "John Smith," delivered by Shipping Company Two on or about 07/11/2014, and signed for by "L. Larry."
9/23/2014	Food processors (4)	\$5,396.22 (Attempted)	151 Chestnut Street, Newark, NJ	Order placed by "Rob Davis" and provided the e-mail address: "RD041@AOL.COM" ²
9/24/2014	Placemats (15)	\$1,489.41 (Attempted)	151 Chestnut Street, Newark, NJ	Order placed by "Rob Davis."
9/26/2014	Pizza pans (6)	\$379.64 (Actual)	151 Chestnut Street, Newark, NJ	Order placed by "Rob Davis" and delivered by Shipping Company Two.

2. This e-mail address (rd041@aol.com) belongs to Depack. On or about February 11, 2017, Depack registered at a hotel in New Jersey under the name "Roy Depack" with an address of 92 Marne Street, Newark, New Jersey (Pobukiewicz's address). According to the hotel's records, Depack provided his e-mail address as rd041@aol.com. In addition, Depack stayed at another hotel in New Jersey. According to this hotel's records, Depack arrived on or about September 6, 2016, checked in under his true name, and provided his e-mail address as rd041@aol.com.

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
9/26/2014	Vegetable prep machine (2)	\$8,239.75 (Actual)	151 Chestnut Street, Newark, NJ	Order placed by "Rob Davis" and delivered by Shipping Company Two.
09/29/2014	Slicers (3)	\$7,803.51 (Attempted)	55 Main Street, Newark, NJ	Order placed by "Rob Davis" and delivered by Shipping Company Two.
10/01/2014	Dishwasher (1)	\$4,411.46 (Attempted)	55 Main Street, Newark, NJ	Order placed by "Rob Davis" and delivered by Shipping Company Seven.
10/02/2014	Slicer (2)	\$7,361 (Attempted)	55 Main Street, Newark, NJ	Order placed by "Rob Davis."
10/04/2014	Microwaves (4)	\$4,948.16 (Attempted)	55 Main Street, Newark, NJ	Order placed by "Rob Davis."
10/08/2014	Microwaves (4)	\$3,936.60 (Attempted)	55 Main Street, Suite 500, Newark, NJ	Order placed by "Mike Lipp."
11/23/2014	Food processors (2)	\$2,118.00 (Attempted)	100 Warwick Street, Suite 4, Newark, NJ	Order placed by "John Barn." See Paragraph 9 below related to the recorded conversation pertaining to this transaction.
02/3/2015	Slicers (2)	\$7,542.00 (Attempted)	98 Warwick Street, Newark, NJ	Order placed by "Mike Russell."
05/22/2015	Slicer (1)	\$5,877.00 (Attempted)	492 Chestnut	Order placed by "Joe."

Approximate Order Date	Item/Quantity	Loss Amount (Actual or Attempted) ¹	Delivery Address	Additional Information
			Street, Union, NJ	Depack used telephone number 551-655-0107 to place this order. As described in Paragraphs 26c and 27 below, this number belongs to Depack.
11/23/2015	Portable mixers (2)	\$1,338.00 (Attempted)	100 Warwick Street, Newark, NJ	Order placed by "John Barn."
08/22/2016	Mixers (2)	\$1,338 (Attempted)	20 Frontage Road, Newark, NJ	The caller who placed this order used telephone number 201-580-8667. The subscriber of this number is "Jhon Secada" at 55 Adams St., Newark, NJ. Depack used this name and address to establish over 100 different telephone numbers (see Paragraph 40 below).

8. On or about July 18, 2014, a representative of Company One called the individual claiming to be "John Smith" to check on the status of previously placed orders. According to Company One, the representative called "John Smith" at 908-839-2650. As described below in Paragraphs 27, and 28c, this telephone number belongs to Depack. Company One consensually

recorded this phone call. During this telephone phone call, the individual confirmed that he was "John Smith." During this investigation, Your Affiant has become familiar with Depack's voice. Based on my familiarity with Depack's voice, I recognize the voice of "John Smith" on this recorded call to be Depack's voice.

9. On or about November 23, 2014, Depack spoke with a representative of Company One to check on the status of an order for food processors. Company One consensually recorded this phone call. Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, the representative from Company One told Depack that the company could not ship the order until the company verified Depack's information. Depack attempted to deceive the representative by falsely claiming that a salesperson from Company One had already verified the information. Depack stated the company was "holding up our order." When the representative continued to refuse to ship the merchandise, Depack stated, "All right, well this is holding us up. And you can cancel this order right now, and we'll just go to a different company that we have accounts [with]. . . ."

Controlled Delivery in Newark, New Jersey (December 6, 2016)

10. On or about December 5, 2016, an individual, using the name "Diane Pearson" and fraudulently claiming to be a representative of a restaurant franchise located in and around Washington D.C., called Company One. The individual ordered cutlery and a food processor, valued at approximately \$1,654, and directed the merchandise be shipped next day to 101 Main Street, Newark, New Jersey, attention "Louis - Supervisor." Company One, believing that the order was fraudulent, shipped a box containing a broken toaster and garbage. Based on the evidence obtained during this investigation, including the information set forth in Paragraph 14 below, Your Affiant believes that the individual who placed this fraudulent order was Depack.

11. On or about December 6, 2016, federal agents conducted surveillance near 101 Main Street, Newark, New Jersey. At approximately 9:00am, Pobutkiewicz was observed lingering around the area of 101 Main Street, Newark, New Jersey for approximately one hour. Thereafter, at approximately 10:15am and in the same vicinity, Pobutkiewicz was observed meeting with Depack, who was wearing a green New York Jets jacket. Thereafter, Depack was observed entering a black Jeep driven by Co-Conspirator Two and departing the area.

12. According to records from Shipping Company Two, the parcel was delivered at approximately 9:55am. According to the driver for Shipping Company Two, an individual quickly exited a black vehicle approximately two

blocks away from 101 Main Street, asked the driver about the parcel, and then took possession of the parcel.

13. At approximately 10:00am, Pobutkiewicz was observed standing near 101 Main Street, empty handed. The same black Jeep, containing Depack in the passenger seat, was observed stopping near Pobutkiewicz. After the black Jeep departed, Pobutkiewicz was then observed with a black bag in his possession. Pobutkiewicz then walked, with the black bag in his possession, to his residence at 92 Marne Street, Newark, New Jersey.

14. On or about December 7, 2016, Depack called Company One. Company One consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call as Depack's voice. During this recorded call, Depack, attempting to use a female voice, stated the following, in substance and in part: (a) Depack identified himself as "Diane" from the restaurant company referred to in Paragraph 10 above; (b) Depack confirmed that he was calling about the order placed on December 5, 2016 (cutlery set and a food processor), but that he did not receive those items; (c) referring to the merchandise, Depack stated, "You want it back? Somebody put something in there they put it in there. . . . [The box contained a] broken machine. . . . [the box contained an] old broken toaster with some garbage in it, okay, so we're gonna sue right now, since we're a legit company [it will be] the biggest lawsuit ever!"; (d) Depack demanded replacement items, refused to give a telephone number, and threatened to sue Company One; (e) Depack stated he would contact his corporate lawyer to sue Company One; (f) Depack requested Company One to close the account, stating "you's [sic] guys are a fraud, a straight fraud, and I got this on recording, and that's all."

15. On or about Friday, February 24, 2017, Depack, using telephone number 973-536-9166, called Company One and left a voice message. Federal agents have obtained this voice message and retained it as evidence. Your Affiant recognizes the voice on this voice message to be Depack's voice. On the voice message, Depack, using the name "Lark Thomas" and fraudulently claiming to be a representative of a wholesale food distribution company located in Utah, directed the company to ship previously ordered merchandise to 51 Niagara Street, Newark, New Jersey. Depack stated, "I'm gonna be leaving the office That is a good order. Please send it out."

Company Two

16. Between in or about late 2014 and mid-2015, Depack called Company Two and fraudulently ordered various merchandise, such as commercial washers and dryers, tool kits, and other commercial use items. During these calls, Depack directed Company Two to ship merchandise to various addresses in Newark and Union, New Jersey and elsewhere. Furthermore, during these calls, Depack used numerous fictitious names and falsely claimed to be a representative of various companies (i.e., the Purchasing Companies), including hotel companies, a realty company, and a management company, among other companies.

17. According to records and information provided by Company Two and other information, Depack ordered and attempted to order the merchandise set forth below by calling Company Two's service centers (none of which locations were located in New Jersey). For each order set forth below, Company Two recorded the telephone call. Your Affiant has listened to each recording, and Your Affiant recognizes the voice on each call as Depack's voice. Therefore, Your Affiant asserts that Depack was the individual who placed each fraudulently order set forth below:

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
4/29/2015	Samsung 39" TVs (4) 70 pint dehumidifier with built-in pump (1)	\$2,347.58 1,999.20 (Actual)	98 Warwick Street, Newark, NJ	551-655-0107	The four televisions were delivered; the dehumidifier order was canceled by the company. Depack used the name "John Williams" to place the order and falsely claimed to a representative of a management company.
4/29/2015	Honda 4000 PSI pressure washer (1)	\$1,301.45 (Attempted)	98 Warwick Street, Newark, NJ	551-655-0107	Depack used the name "John" to place

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
					the order and falsely claimed to be a representative of a management company.
4/29/2015	Dewalt 18v 9 piece combo kits (3)	\$3,206.79 (Attempted)	98 Warwick Street, Newark, NJ	551-655-0107	Depack falsely claimed to be a representative of a management company
4/29/2015	Whirlpool front load coin op. washers (2) Whirlpool commercial coin op. gas dryers (2)	\$6,589.06 (Attempted)	488 Chestnut Street, Union, NJ	551-655-0107	Depack used the name "Joe Thompson" to place the order and falsely claimed to be a representative of a management company.
4/29/2015	70 Pint Dehumidifier with built-in pump (1)	\$332.36 (Attempted)	101 Warwick Street, Newark, NJ	551-655-0107	Depack used the name "Mike Jones" to place the order and falsely claimed to be a representative of a large hotel chain.
4/29/2015	JB 6CFM vacuum pump (1) 70 Pint Dehumidifier with built-in pump (1) Nutone ventilation fan (1)	\$821.67 (Attempted)	100 Warwick Street, Newark, NJ	551-655-0107	Depack used the name "Jamal Sanders" to place the order and falsely claimed to be a representative of a large hotel chain.

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
4/29/2015	Whirlpool front load coin op. washers (2) Whirlpool commercial coin op gas dryers (2)	\$5,726.94 (Attempted)	505 Chestnut Street, Union, NJ	551-655-0107	Depack used the name "Jamal Sanders" to place the order and falsely claimed to be a representative of a large hotel chain.
04/30/2014	Sharp 1000w commercial microwaves (4) Frigidaire white gas ranges (4)	\$3,379.40 (Actual)	1221 Magie Avenue, Union, NJ	551-655-0107	Depack used the name "Lou Barnes" to place the order and falsely claimed to be a representative of a realty group.
5/4/2015	Flush valves, TOTO electric (2) Toto compact urinals (2) 40lb asphalt patches (10) MOEN electric faucets (3) Whirlpool front load coin op. washers (2) Whirlpool commercial	\$9,498.10 (Attempted)	1221 Magie Avenue, Union, NJ	551-655-0107	Depack used the name "Lou Barnes" to place the order and falsely claimed to be a representative of a realty group. During this call, Depack acknowledged that he had received the four microwaves and four white gas ranges (ordered on or about 04/30/2014).

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
	coin op gas dryers (2)				
5/7/2015	Whirlpool front load coin op. washer (1) Whirlpool commercial coin op gas dryer (1) 40lb asphalt patches (10) Clorox Bleach 128 oz - 3 pack (4)	\$3,492.41 (Attempted)	505 Chestnut Street, Union, NJ	551-655-0107	Depack used the name "John Jones" to place the order and falsely claimed to be a representative of a realty group. During this call, Depack gave his phone as 551-655-0107.
5/12/2015	Whirlpool front load coin op. washer (1) Whirlpool commercial coin op. gas dryer (1) Clorox Bleach 128 oz - 3 pack (2)	\$3,294.53 (Attempted)	230 Oliver Street, Newark, NJ	551-655-0107	Depack used the name "Mike Foster" to place the order and falsely claimed to be a representative of a hospitality group.
5/19/2015	Whirlpool front load coin op. washer (1) Whirlpool commercial	\$2,998.03 (Attempted)	102 Warwick Street, Suite 3, Newark, NJ	551-655-0107	Depack, without disguising his voice, used the name "Hibbi Stanley" and falsely claimed to be a representative of

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
	coin op gas dryer (1)				a property management company. During this call, Depack gave his phone as 551-655-0107.
5/20/2015	Dewalt 18v 9 piece combo kits (3)	\$2,918.18 (Attempted)	102 Warwick Street, Suite 3, Newark, NJ	551-655-0107	Depack attempted to use a female voice with the name "Hibbi Stanley." Depack falsely claimed to be a representative of a property management company.
5/20/2015	Dewalt 18v 9 piece combo kits (2)	\$1,858.14 (Attempted)	100 Warwick Street, Suite 3, Newark, NJ	551-655-0107	Depack used the name "John Williams" to place the order and falsely claimed to be a representative of a property management company.
5/21/2015	Dewalt 18v 9 piece combo kits (2)	\$1,068.93 (Attempted)	100 Warwick Street, Suite 2, Newark, NJ	551-655-0107	Depack used the name "John Williams" to place the order and falsely claimed to be a representative of a property management company.

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
					During this call, Depack gave his phone as 551-655-0107.
5/22/2015	Dewalt 18v 9 piece combo kits (4)	\$3,890.91 (Attempted)	100 Warwick Street, Suite 200, Newark, NJ	551-655-0107	<p>Depack used the name "John" to place the order and falsely claimed to be a representative of a property management company.</p> <p>During the call, Company Two requested a verbal authorization from an individual previously on file with Company Two. Depack attempted to use a female voice to fraudulently approve the transaction.</p>
5/26/2015	55" TVs (3)	\$3,226.05 (Attempted)	488 Chestnut Street, Union, NJ	551-655-0107	Depack used the name "Mike Johnson" to place the order and falsely claimed to be a representative of a private equity firm.

Approximate Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Phone Number Used	Additional Information
6/8/2015	Payne 22K BTU ductless A/C condensers (2) Payne 22K BTU ductless A/C handlers (2)	\$3,492.48 (Attempted)	505 Chestnut Street, #100, Union, NJ	908-906-0022	Depack used the name "Mike Burns" to place the order. See Paragraphs 20-25 below for details related to this transaction.
6/8/2015	Dewalt 18v 9 piece combo kits (2)	\$2,052.35 (Attempted)	495 Chestnut Street, Union, NJ	908-906-0022	n/a

18. On or about May 26, 2015, Depack, using telephone number 551-655-0107, called Company Two. Company Two consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call as Depack's voice. During this call, Depack claimed to be a representative of a nation-wide restaurant chain specializing in poultry. After Depack made repeated but unsuccessful attempts to obtain access to this Purchasing Company's account information, Depack ended the call.

19. On or about May 26, 2015, Depack, using telephone number 551-655-0107, called Company Two. Company Two consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call as Depack's voice. During this call, Depack claimed to be a representative of a nation-wide diner chain. After Depack made several repeated but unsuccessful attempts to obtain access to this Purchasing Company's account information, Depack ended the call.

Controlled Delivery in Union, New Jersey (June 9, 2015)

20. In or about mid-2015, Company Two contacted law enforcement after it determined that it had been defrauded by the scheme.

21. On or about June 8, 2015, Depack placed two fraudulent orders with Company Two (see Chart, Paragraph 17, on or about June 8, 2015). Depack requested that the merchandise be shipped to 505 Chestnut St., #100, Union, New Jersey. The delivery was scheduled for on or about June 9, 2015.

22. On or about June 8 and 9, 2015, Depack called Company Two several times to check on the status of the order, to request a shipping tracking number, and to confirm that the merchandise would be delivered by June 9, 2015. Company Two recorded these phone calls, and Your Affiant recognizes the voice on each recorded call as Depack's voice.

23. On or about June 9, 2015, Depack again called Company Two to check on the time that the merchandise would be delivered. Company Two consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack. After a representative of Company Two advised Depack that the merchandise was on the truck and out for delivery, the representative asked Depack for a telephone number so the truck driver could contact Depack. Depack provided the following telephone number: 908-906-0022.

24. On or about June 9, 2015, at approximately 2:45 p.m., law enforcement officers established surveillance near 505 Chestnut Street, Union, New Jersey. Thereafter, law enforcement officers observed Company Two's delivery truck arrive at or near 505 Chestnut Street, Union, New Jersey. The officers then observed an individual, later identified as a relative of Co-Conspirator One ("Relative"), meet the driver and sign for the shipment. The officers then observed the Relative move the pallet, containing the fraudulently ordered merchandise, to the Restaurant (owned by Co-Conspirator One).³ The officers then observed Co-Conspirator One arrive at the location. The officers observed Co-Conspirator One and the Relative load the merchandise into a white van. The officers converged on these two individuals and arrested them.

25. Law enforcement interviewed Co-Conspirator One. This interview was audio and video recorded by law enforcement. During the interview, Co-Conspirator One stated the following, in substance and in part: (a) on June 9,

3. The Restaurant is located at 495 Chestnut St, Union, New Jersey. Depack used the Restaurant's address to place another fraudulent order with Company Two on or about June 8, 2015 (attempted shipment of two Dewalt 18 volt, 9 piece combo kits, valued at approximately \$2,052.35).

2015, Depack entered the Restaurant and asked if someone could accept a delivery for Depack; (b) Depack stated the delivery was destined for 505 Chestnut Street; (c) Co-Conspirator One asked his Relative to take the delivery for Depack in exchange for cash; (d) Co-Conspirator One stated that Depack is the "main person" and "[Depack] gets the stuff, he comes to you, if you wanna buy this, if he can get, he'll get it for you."; (e) during the interview, Co-Conspirator One permitted the interviewing detective to review Co-Conspirator One's cellular phone; on his phone, Co-Conspirator One identified that he had received phone calls from Depack at telephone number 551-655-0107; and (f) before the delivery, Co-Conspirator Two stated that Depack called Co-Conspirator One and stated the delivery was en route to the destination. During the custodial interview, Depack called Co-Conspirator One's cellular telephone.

Depack's Interview with the Police

26. On or about August 11, 2015, law enforcement officers interviewed Depack. This interview was audio and video recorded. After Depack was advised of and waived his Miranda rights, Depack stated the following, in substance and in part:

a. Depack was familiar with Company One because he had placed orders with Company One.

b. Depack placed telephone calls to Company One and used names of other companies to order products. Depack claimed that sometimes he would "make up" the names of the companies [i.e., the names of the Purchasing Companies]. Depack also admitted that he used fictitious names to place the orders, including the name "John Smith."

c. When asked what types of merchandise Depack had ordered from Company One, he replied, "Refrigerator, stuff like that. Ice-maker, that's it. . . ." Later during the interview, Depack claimed he did not remember ordering refrigerators but recalled ordering microwaves and ovens. Depack acknowledged that he had used the phone number "551 0107" [Depack did not provide the numbers 655] to place the orders, and he placed orders with Company One on approximately ten to fifteen occasions.

d. Depack also acknowledged that he had placed orders with Company Two.

e. Depack claimed he had merchandise shipped to or near a fast food restaurant on South Broad Street, Union, New Jersey. Depack acknowledged that he had merchandise shipped to 488 Chestnut Street, Union, New Jersey, which address Depack stated was across the street from

the Restaurant. Depack further admitted that he was physically present on two or three occasions when those deliveries were made.

f. Depack stated that he ordered these products for other people, including Co-Conspirator One. According to Depack, these individuals directed Depack to call Company One, and they told Depack what items to order. Depack claimed "[t]hey [[Co-Conspirator One] and another individual] basically told me what to do and what they need They did it. They needed this equipment and all that. I don't need none of that. . . . The only thing I did on the side was but all that stuff was for them."

g. Depack reported that he also sold the fraudulently obtained merchandise to another individual from a restaurant equipment store in Union County, New Jersey. Depack stated he sold the merchandise to this individual, and this individual knew the merchandise was stolen [thus Depack knew the merchandise was stolen]. Depack reported that he sold this individual approximately twenty to thirty items, including all the "slicers." Depack claimed that he received at least \$1,500 from this individual for at least one slicer.

h. Depack stated, "I did stuff like this to make some money on the side, you know I'm not going to lie to you." Depack also stated that he would receive approximately 25% of the gross amount for selling the fraudulently obtained merchandise.

i. When asked about the arrest of Co-Conspirator One and the Relative on or about June 9, 2015 as a result of the controlled delivery described above, Depack acknowledged that he called Co-Conspirator One after he was arrested. When asked about the merchandise ordered on or about June 8, 2015, Depack stated, "That was theirs. That was their stuff. They wanted that stuff. They needed it for something," or words to that effect. Depack admitted that he called Company Two, purportedly at Co-Conspirator One's direction, to order the merchandise.

j. At the conclusion of the interview, Depack stated, "I knew this was going to bite me in the ass"

Additional Evidence of Depack's Scheme to Defraud Company One and Company Two

27. As part of this investigation, law enforcement lawfully obtained the subscriber information associated with the phone number 551-655-0107. Depack used this telephone phone number to fraudulently order merchandise from Company One and Company Two. As described above, Depack admitted during his interview with the police that had had used this telephone phone number to fraudulently orders merchandise. Records from a telephone company revealed the following information related to the subscriber of this phone number:

Subscriber	Roy Depack Jr.
Start/Terminate	May 5, 2015 through June 18, 2015
Address	151 Chestnut Street, Newark, NJ ⁴
Secondary Phone Number	908-838-2650

28. As part of this investigation, federal agents lawfully obtained records from a company that sells prepaid debit and credit cards. These records revealed that on or about November 28, 2014, Depack engaged in a transaction with this company. As part of that transaction, Depack provided the following information:

- a. His social security number and date of birth [confirmed by Your Affiant as belonging to Roy Depack].
- b. An address of 102 Warwick Street, Apartment 3, Newark, New Jersey.⁵
- c. A phone number of 908-838-2650.⁶

29. The telephone number (908-838-2650) Depack provided to the prepaid debit/credit card company as part of that transaction corresponds to

4. Depack used this address as the delivery address for approximately three fraudulent orders placed with Company One on or about September 23, 24, and 26, 2014 (See Paragraph 7 above).

5. Depack used this address as the delivery address for approximately two fraudulent orders placed with Company Two on or about May 19 and 20, 2015. (See Paragraph 17 above).

6. Depack used this telephone number to call Company One on or about April 28, 2014 (See Paragraph 7). Company Two also called Depack at this telephone number (See Paragraph 8).

the "Secondary Phone Number" Depack provided to the telephone company when he obtained the 551-655-0107 number (see Paragraph 27).

30. On or about February 18, 2015, Depack applied for a driver's license with the New Jersey Motor Vehicle Commission. On the driver's license application, Depack listed his address as 102 Warwick Street, Apartment 3, Newark, Jersey. Depack has a "tear shaped" tattoo on the left side of his face near his eye, and this tattoo is visible in his driver's license photograph.

31. Federal agents also obtained records from a hotel located in northern New Jersey. These records revealed that Depack was a guest at this hotel in early December 2016 and again in mid-February 2017. On some of these "Guest Registration" forms, Depack reported his address as at 102 Warwick Street, Newark, New Jersey.

The Online Undercover

32. On or about November 26, 2016, Depack posted a picture of himself (face and upper torso)—i.e., a "selfie"—on a publically available social media platform. Depack took this picture of himself in what appears to be a hotel bathroom. Depack's profile on this online social media platform contained his picture with the name "Ray De Pack." Your Affiant has reviewed Depack's picture on file with the New Jersey Motor Vehicle Commission and has concluded that the individual identifying himself as "Ray De Pack" is Roy Depack.

33. On or before December 15, 2016, a federal agent, acting in an undercover capacity (the "UC"), contacted Depack over this publically available social media platform. After making online contact with Depack, Depack provided his telephone number to the UC: 201-852-2545. Thereafter, federal agents obtained records from a telephone company related to this number. According to the phone company, this telephone number was subscribed to by "Jhon Secada," 55 Adams Street, Newark, New Jersey.

34. On or about December 15, 2016, the UC and Depack engaged in a recorded telephone conversation. Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, when asked about his occupation, Depack replied that he owned his own business, and he engaged in the "export [and] import [of] stuff."

35. On or about December 12, 2016, Depack sent a series of text messages from telephone number 201-923-9837 to the UC. In these text message, Depack wrote, "Hi beautiful it is ray" and "Do u need some money." On or about December 12, 2016, Depack sent a video from telephone number 201-923-9837 to the UC.

36. On or about December 28, 2016, Depack sent a text message from telephone number 908-398-1986 to the UC. In this text message, Depack wrote: "Hi sexy this is ray. i changed my number ok." According to the telephone company, this number (908-398-1986) was subscribed to by "Jhon Secada," 55 Adams Street, Newark, New Jersey. On or about January 3, 2017, Depack sent a text message from telephone number 908-398-1986 to the UC. In this text message, Depack stated that he had an iPad as a gift for the UC. On or about January 8, 2017, Depack sent several text messages from telephone number 908-398-1986 to the UC. In these text messages, Depack stated, " I am at the [name of hotel] in newark" and "Come over."

37. In or about January 2017, Depack checked into a hotel in northern New Jersey. He registered under his true name, claimed his address as 102 Warwick Street, Newark, New Jersey, and listed his phone number as 908-398-1986. Depack also reported his e-mail address as rd041@aol.com.

38. On or about January 14, 2017, Depack sent a text message from telephone number 973-573-6032 to the UC. In this text message, Depack wrote: "It is ray. do u want to come over." On or about January 17 and 25, 2017, Depack texted pictures of his face and other body parts to the UC from telephone number 973-573-6032. Your Affiant has positively identified the individual in these pictures as Depack. According to records obtained from a telephone company, this telephone number (973-573-6032) was subscribed to by "Jhon Secada," 55 Adams Street, Newark, New Jersey.

39. In summary, Depack communicated with the UC as follows:

Item #	Telephone Number	Dates of UC Contact	Subscriber of Phone Number
1	201-852-2545	12/16/2016	Jhon Secada, 55 Adams Street, Newark, New Jersey
2	201-923-9837	12/16/2016-12/28/2016	Jhon Secada, 55 Adams Street, Newark, New Jersey
3	908-398-1986	12/28/2016 - 01/09/2017	Jhon Secada, 55 Adams Street, Newark, New Jersey
4	908-884-8920	01/10/2017 - 01/10/2017	Jhon Secada, 55 Adams Street, Newark, New Jersey
5	973-776-4016	01/12/2017 - 01/12/2017	Jhon Secada, 55 Adams Street, Newark, New Jersey
6	973-573-6032	01/14/2017 - 01/28/2017	Jhon Secada, 55 Adams Street, Newark, New Jersey

40. Based on records from a telephone company and other evidence developed during this investigation, since in or about May 2016, Depack has

used approximately 100 different telephone numbers subscribed to by "Jhon Secada," 55 Adams Street, Newark, New Jersey.

Other Phone Numbers Used by Depack

41. 908-884-7266:

a. On or before March 17, 2017, Depack left a voice message on a telephone belonging to a hotel located in northern New Jersey. Federal agents have obtained this voice message and retained it as evidence. Your Affiant recognizes the voice on this voice message to be Depack's voice. On this voice message, Depack complained about being kicked out of the hotel, allegedly for smoking in his room. In the voice message, Depack stated the following, in substance and in part:

My name is Roy Depack. I was in room . . . over there, for five and a half weeks. I came back yesterday and you's [sic] guys kicked me out, trying to say I was smoking I work for the federal government. If I don't get a call back, 908-884-7266, I will have the IRS up your ass over there. I will have everything audited. . . . You messed with the wrong person now, and yes, I work for the federal government. . . .

(1) According to records from a phone company, the 908-884-7266 phone number is subscribed to by "Jhon Secada," 55 Adams Street, Newark, New Jersey.

(2) Records from this hotel reveal that Depack stayed at this hotel for approximately several weeks, and he registered under his true name. During several different registrations, Depack also reported his address as 92 Marne Street, Newark, New Jersey (Pobutkiewicz's address) and 102 Warwick Street, Newark, New Jersey. Depack also reported his e-mail address as rd041@aol.com. In or about February 2017, Depack listed "Rick Mcullock" as a registered guest at this hotel. As described below, in or about January 2017, Depack used the name "Ricky McCulloch" to defraud Company Four.

42. 973-573-3494:

a. On or about February 13, 2017, Depack called a phone number belonging to a federal agency in New Jersey responsible for investigating and prosecuting federal crimes. Federal agents have obtained this voice message and retained it as evidence. In the voice message, Depack stated the following, in substance and in part:

Yeah, hi. My name is Roy Depack. You can reach me at 973-573-3494. I called the [a federal law enforcement agency] twice and

told them I can buy them hundreds of grams of heroin, hundreds of grams of cocaine, weed, even guns. Nobody gets back to me. I do have a couple municipal warrants that need to be taken care of. . . . If you can, give me a call, 973-573-3494

b. Your Affiant recognizes the voice on this voice message to be Depack's voice.

c. According to records from a phone company, the 973-573-3494 phone number is subscribed to by "Jhon Secada," 55 Adams Street, Newark, New Jersey.

Company Three

43. Beginning in or about late 2016, Depack and Pobutkiewicz conspired to defraud Company Three. In furtherance of the conspiracy, Depack fraudulently placed orders with Company Three and directed Company Three to ship the merchandise to various addresses in and around Newark, New Jersey and elsewhere. Thereafter, on certain occasions, Pobutkiewicz intercepted the deliveries and took possession of the fraudulently obtained merchandise.

44. On or about October 4, 2016, Depack, using the name "Greg Morgan" and fraudulently claiming to be a representative of a construction company located in Ohio, called Company Three. Company Three recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, Depack ordered two Dewalt cordless combination kits, valued at approximately \$2,286.36. Depack directed the merchandise be shipped to 94 Marne Street, Suite Two, Newark, New Jersey. Depack also requested Company Three to make the shipment "attention to a supervisor there, can you do that or no? First name is Louis, L-O-U-I-S, last name is Pub, P-U-B. . . ." Depack also changed the e-mail address on file for the construction company to thwart Company Three's ability to verify the fraudulent order.

45. On or about October 17, 2016, Depack, using the name "Karen Gabbard" and attempting to use a female voice, fraudulently placed an order with Company Three. Depack falsely claimed to be a representative of a Fortune 500 food company located in Arizona. Company Three recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, Depack ordered a cordless framing nail gun, valued at approximately \$563.20. Depack directed the merchandise be shipped next day to 91 Magazine Street, Suite One, Newark, New Jersey. Depack also requested Company Three to make the shipment attention to "Louis," the "supervisor there."

46. On or about November 2, 2016, an individual called Company Three, attempting to purchase a snow blower, valued at approximately \$1,682. The individual used a hotel business account that did not belong to him. During this call, the individual requested that Company Three deliver the snow blower to 90 Marne Street, Suite 1, Newark, New Jersey (which address is located in close physical proximity to Pobutkiewicz's residence). According to Company Three, the individual who placed this fraudulent order called the company using phone number 201-927-0305. This phone number was subscribed to by "Jhon Secada," at 55 Adams Street, Newark, New Jersey. Based on the evidence obtained during this investigation, Your Affiant believes that the individual who placed this fraudulent order was Depack.

47. On or about November 2, 2016, Depack called Company Three to check on the status of the order. Company Three recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. Company Three canceled the snow blower order because it determined it was fraudulent.

48. On or about November 3, 2016, an individual called Company Three, attempting to purchase a snow blower, costing approximately \$1,127.79. The individual used a business account that did not belong to him and requested that Company Three deliver the snow blower to 98 Magazine Street, Newark, New Jersey. According to Company Three, the order was placed from the following phone number: 201-927-0305. Based on the evidence obtained during this investigation, Your Affiant believes that the individual who placed this fraudulent order was Depack.

Controlled Delivery in Newark, New Jersey (November 23, 2016)

49. On or about November 21, 2016, Depack, using the name "Greg Pearson" and fraudulently claiming to be a representative of an electric distributor that operates in West Virginia, Kentucky, and Ohio, called Company Three. Company Three consensually recorded this call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, Depack ordered a "cordless combination kit," valued at approximately \$1,241.65. Depack directed the merchandise be shipped to 95 Magazine Street, Suite One, Newark, New Jersey. At the request of law enforcement, Company Three shipped the item.

50. On or about November 22, 2016, the Employee was conducting his assigned duties for Shipping Company One in Newark, New Jersey. The Employee's delivery truck contained a parcel containing Company Three's merchandise, as described in Paragraph 49 above, that Depack had fraudulently ordered. According to the Employee, on or about November 22, 2016, the Employee was stopped by an individual, later identified by the Employee as Pobutkiewicz, on the street in Newark, New Jersey, approximately

one block away from 95 Magazine Street, Newark, New Jersey. According to the Employee, Pobutkiewicz asked the driver if the truck contained a delivery for 95 Magazine Street, Newark, New Jersey. The Employee then delivered the parcel, containing the fraudulently ordered merchandise from Company Three, to Pobutkiewicz. After taking possession of the parcel, Pobutkiewicz stated that he expected to receive additional parcels. Pobutkiewicz gave his phone number to the Employee – i.e., Pobutkiewicz Cell Phone.

51. Later that day, on or about November 22, 2016, Depack, using the name “Greg Pearson” and fraudulently claiming to be a representative of the same electric distributor referred to in Paragraph 49 above, again called Company Three. Company Three recorded this call, and Your Affiant recognizes the voice on this recorded call to be Depack’s voice. During this call, Depack ordered a “welder” and “cordless combination kit,” valued at approximately \$2,502.30. Depack directed the merchandise be shipped to 95 Magazine Street, Suite One, Newark, New Jersey.

52. On or about November 22, 2016, Depack began using phone number 201-852-2545. According to records from a phone company, this phone number was subscribed to in the name “Jhon Secada” at 55 Adams Street, Newark, New Jersey. As described in Paragraphs 33 and 39 above, Depack gave this number (201-852-2545) to the UC on or about December 16, 2016.

53. On or about November 22, 2016, at approximately 8:16pm, Depack, using the 201-852-2545 phone, sent a text message to the Pobutkiewicz Cell Phone.

54. On or about November 23, 2016, federal agents conducted surveillance near 95 Magazine Street, Newark, New Jersey, in anticipation of the delivery of the fraudulently ordered merchandise Depack placed on November 22, 2016. The following events occurred on November 23, 2016 (based on surveillance, records from a telephone company pertaining to the Pobutkiewicz Cell Phone, and other sources of information):

a. Between approximately 5:44am and 8:17am, Depack (201-852-2545) and Pobutkiewicz (Pobutkiewicz Cell Phone) exchanged approximately sixteen text messages.

b. At approximately 8:57am, Pobutkiewicz called the Employee.

c. At approximately 9:20am, federal agents observed Depack and Pobutkiewicz standing together near 95 Magazine Street, Newark, New Jersey. Depack was wearing a green New York Jets jacket.

d. At approximately 10:38am, Depack departed the area in a car registered to and driven by Co-Conspirator Two.

e. At approximately 10:39am, the Employee called Pobutkiewicz. Federal agents consensually recorded this telephone call. During this recorded telephone call, the following conversation ensued, in substance and in part:

Employee: You call me?

Pobutkiewicz: Yeah, yeah, yeah. I called because I hadda, I'm supposed to be somewhere by 10:30. But I'm getting ready to leave now if you're busy, you know what I'm saying. They'll be nobody here.

Employee: I'll be there in ten minutes, if you want to wait. I'll be there 11 or so.

Pobutkiewicz: Alright, alright. I see you about 11 o'clock. If I leave, I'll call you. . . . Cause I gotta go up to the job and drop off some shit to these guys. We gotta get this shit done today.

f. At approximately 10:50am, Depack (201-852-2545) called Pobutkiewicz. The duration of this call was approximately 42 seconds.

g. At approximately 10:59am, Depack (201-852-2545) called Pobutkiewicz. The duration of this call was approximately 40 seconds.

h. At approximately 11:05am, Depack (201-852-2545) called Pobutkiewicz. The duration of this call was approximately 44 seconds.

i. At approximately 11:08am, federal agents observed Pobutkiewicz take the parcel from the custody of Shipping Company One and walk into an alley near 95 Magazine Street, Newark, New Jersey.

j. At approximately 11:10am, Pobutkiewicz called Depack (201-852-2545). The duration of this call was approximately 25 seconds.

k. According to records from Shipping Company One, the parcel was considered delivered at approximately 11:13am and was received by "Lou Mike."

55. On or about November 28, 2016, Depack, using the name "Stephen Butts" and fraudulently claiming to be a representative of an internet security company in Virginia, called Company Three. Company Three consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, Depack ordered a digital scale and a backpack gas blower, collectively valued at approximately \$2,242.55. Depack directed the merchandise be shipped next day to 92 Marne Street, Suite Two, Newark, New Jersey. Pobukiewicz resides at 92 Marne Street, Newark, New Jersey on the second floor.

56. On or about February 15, 2017, Depack called Company Three. Company Three recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this call, Depack, using the names "John Williams" and "John Burns," and purporting to be a representative of a rental company, ordered a digital caliper and a cordless nail gun, valued at approximately \$1,652.45. Depack directed the company to ship the merchandise, via next day delivery, to 220 Rahway Avenue, Elizabeth, New Jersey. Company Three did not ship the merchandise.

57. On or about February 19, 2017, Depack made a series of calls to Company Three. Company Three recorded these calls. Your Affiant recognizes the voice on each of these recorded calls to be Depack's voice.

a. On or about February 19, 2017, Depack, using the names "Ron" and "Rob," and claiming to be a representative of a food company, called Company Three and ordered another plasma cutter, valued at approximately \$1,892.99. Depack directed the company to ship the merchandise to 725 Garden Street, Elizabeth, New Jersey. Depack also requested that the plasma cutter be delivered by 8:00am the next day.

(1) Thereafter, on or about February 19, 2017, Depack, using the name "Ron," called Company Three to check on the status of the order.

(2) Later that day, Depack again called Company Three to check on the status of the order. During this call, Company Three told Depack that "Christy" from the food company (i.e., the Purchasing Company) had rejected the order. Thus, Company Three canceled this order because it determined it was fraudulent.

b. On or about February 19, 2017, Depack again called Company Three, attempting to use a female voice and claiming to be "Christy" from the same food company. During this call, Depack ordered a plasma cutter (the same one described in Paragraph 57(a) above), claiming that "we canceled one earlier." The order was valued at approximately \$1,892.99. Depack directed the company to ship the merchandise to 727 Garden Street,

Elizabeth, New Jersey. Depack requested that the plasma cutter be delivered by 8:00am the next day. In addition, Depack gave Company Three a fictitious e-mail, purportedly belonging to "Christy," to hinder Company Three's ability to determine the fraudulent nature of the order. Company Three did not ship the merchandise.

58. On or about February 20, 2017, Depack called Company Three to check on the status of a fraudulent order, namely, the attempted purchase of welding equipment, valued at approximately \$1,403, with a delivery address of 216 Rahway Avenue, Suite 1, Elizabeth, New Jersey (purportedly on behalf of a company located in Ohio). Company Three consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During the call, Depack identified himself as "John." After Depack was informed that the order had been rejected, Depack stated the following, in substance and in part:

We're done with this company. You can tell them all, and excuse my language, tell them all go f***k themselves [sic]. And when I come down there with a baseball bat, I'm gonna beat every one of them, okay. They, they, mess up, this is the third time they messed in six months on my company [sic] and I'm done with their games. . . . I'm gonna come down there with a Louisville Slugger. We're gonna see what their gonna do now, alright. Thank you.

Company Four

59. Beginning in or about late 2016, Depack, Pobutkiewicz, and Co-Conspirator Two conspired to defraud Company Four. In furtherance of the conspiracy, Depack fraudulently placed orders with Company Four and directed Company Four to ship the merchandise to various addresses in and around Newark, New Jersey and elsewhere. Thereafter, on certain occasions, Pobutkiewicz intercepted the deliveries and took possession of the fraudulently obtained merchandise.

60. On or about December 30, 2016, an individual called Company Four and placed an order for three Apple Care Three Year Protection Plans, valued at approximately \$434.22, and three Apple iMacs, valued at approximately \$6,277.73. The individual claimed to be a representative of a company located in Arkansas and directed Company Four to ship the merchandise to 109 Pennsylvania Avenue, Newark, New Jersey, in close proximity to Co-Conspirator Two's address. Delivery was scheduled for the next day, December 31, 2016, by Shipping Company One. According to records from Shipping Company One, these items were delivered on or about

December 31, 2016 and signed for by "X.[Co-Conspirator Two's last name]."7 Based on Depack's *modus operandi*, Your Affiant submits that Depack was the individual who fraudulently placed this order.

61. On or about January 4, 2017, an individual called Company Four and placed an order for one Apple Care Three Year Protection Plan, valued at approximately \$296.58. The individual, claiming to be a representative of a construction company located in Alabama, directed Company Four to ship the merchandise to 50 Main Street, Newark, New Jersey and to the attention of "Lou Pub." Delivery was scheduled for the next day, January 5, 2017, by Shipping Company One. According to Company Four's invoice for this order, the purchase order number was 216859. Based on Depack's *modus operandi*, Your Affiant submits that Depack was the individual who fraudulently placed this order.

62. On or about January 5, 2017, an individual called Company Four and placed an order for two Apple iPads, valued at approximately \$1,759.45. The individual claimed to be a representative of construction company located in Alabama and directed Company Four to ship the merchandise to 50 Main Street, Newark, New Jersey and to the attention of "Lou Pub." Delivery was scheduled for the next day, January 6, 2017, by Shipping Company Two. Based on Depack's *modus operandi*, Your Affiant submits that Depack was the individual who fraudulently placed this order.

63. Federal agents obtained video from a business located near 50 Main Street, Newark, New Jersey. The video captured events that occurred on or about January 5, 2017. The video revealed the following: On or about January 5, 2017, Pobutkiewicz was captured pacing and lingering near the intersection of Main Street and George Street, Newark, New Jersey. Thereafter, a truck from Shipping Company One and driven by the Employee stopped in close proximity to 50 Main Street, Newark, New Jersey.

64. According to the Employee, on or about January 5, 2017, he/she stopped the truck near 50 Main Street, Newark, New Jersey. According to the Employee, Pobutkiewicz was waiting near this location and approached the truck. Thereafter, according to the Employee, Pobutkiewicz inquired about a parcel from Company Four that was shipped from Illinois. Pobutkiewicz also stated that the purchase order number was 216859 (see Paragraph 61). The Employee noted that the parcel was being shipped to a construction company [the same one referred to in Paragraph 62 above] but to the attention "Luis Pub." The Employee asked Pobutkiewicz for his identification; however,

7. As described in Paragraph 84 below, on or about December 29, 2016, Co-Conspirator Two was detained by police officers in Elizabeth, New Jersey, after Co-Conspirator Two attempted to sell two digital scales, fraudulently obtained from Company Five, to a pawn store.

according to the Employee, Pobutkiewicz stated he did not have any identification. In addition, the Employee knew that the construction company did not maintain a business location at 50 Main Street, Newark, New Jersey. The Employee, therefore, did not give the parcel to Pobutkiewicz.

65. Federal agents obtained video from a business located near 50 Main Street, Newark, New Jersey. The video captured events that occurred on or about January 6, 2017. The video revealed the following: On or about January 6, 2017, Pobutkiewicz was captured pacing and lingering near the intersection of Main Street and George Street, Newark, New Jersey for approximately one hour. Thereafter, a truck from Shipping Company Two stopped in close proximity to 50 Main Street, Newark, New Jersey. At approximately 10:10am, Pobutkiewicz appears to be speaking on a cellular telephone. According to records from a telephone company, at approximately 10:10am, the Pobutkiewicz Cell Phone placed a call to 205-245-9449, a number used by Depack. Thereafter, Pobutkiewicz departed the area with the parcel in his possession.

66. On or about January 20, 2017, Depack called Company Four and left a voice message. Federal agents have obtained this voice message and retained it as evidence. Your Affiant recognizes the voice on this voice message to be Depack. On this voice message, Depack, using the name "Agustin" and purporting to be a representative of a supermarket chain company, ordered two Apple MacBook Pros and four Apple iPads. Depack directed the company to ship the merchandise, via next day delivery, to 165 Ferry Street, Newark, New Jersey. Company Four did not ship the merchandise.

67. On or before January 20, 2017, Depack created a fictitious e-mail account, purporting to belong to Agustin from the supermarket chain company referred to in Paragraph 66 above. An e-mail service provider provided the login history and internet protocol ("IP") addresses associated with this fictitious e-mail account. The login history reveals that this e-mail account was registered on or about January 20, 2017 from in or around Newark/Elizabeth, New Jersey. Thereafter, this e-mail account was accessed approximately four times on or about January 20, 2017 from in or around Newark/Elizabeth, New Jersey.

68. On or about January 20, 2017, Depack sent an e-mail, using this fictitious e-mail account, to Company Four. In this e-mail, Depack stated the following, in substance and in part [with spelling and grammar as in the original]:

. . . . This is Agustin . . . and i just place a order today but forgot to place a order for our new location. We need 2 of item 3968767 [Apple Mac Book Pro], 4 of item 4060021 [Apple iPad]. Dont need no apple care at this time. Also we need it for a Saturday delivery

by 10:30am to 165 Ferry st. Newark nj . . . I left early today for doctor appointment. . . Here is the po [Purchase Order] number pr001598. . . Please send me the order confirmation to my e-mail here. thank you . . . for you business.

69. On or about January 20, 2017, Depack again called Company Four and left a voice message. Federal agents have obtained this voice message and retained it as evidence. Your Affiant recognizes the voice on this voice message to be Depack's voice. On this voice message, Depack, using the name "Agustin," requested the next day delivery of two Apple MacBook Pros and four Apple iPads. On the voice message, Depack stated, "I left you an order with a PO number of pr001598, we need this order processed today . . . at the address that I left on your answering machine, which was 165 Ferry Street, Newark, New Jersey. . . ." Depack added, "I left the office 'cause I have a doctor's appointment but I need this order done today for them to receive it tomorrow for a Saturday delivery. . . ."

70. On or about February 24, 2017, Depack called Company Four and left a voice message. Federal agents have obtained this voice message and retained it as evidence. Your Affiant recognizes the voice on this voice message to be Depack's voice. On this voice message, Depack, using the name John and falsely claiming to be a representative of a food company in Utah (the same company referred to in Paragraph 72 below), stated the following, in substance and in part:

This is John from [food company] in Salt Lake City, Utah. I need to place an order for one of our New Jersey locations. Our system's not working properly so I'm giving you a call. Can you give me a call back at 973-536-9166.⁸ We need a couple cartridges of ink, and we need 2 iMacs for one of the stores immediately. I appreciate you give me a call back. Thank you.

71. On or about February 28, 2017, according to the Employee, while carrying out his/her duties with Shipping Company One, the Employee was approached in Newark, New Jersey by an individual wearing a green jacket, baseball cap, and with a tattoo on the left side of his face. Depack often wears a green New York Jets jacket and baseball caps. In addition, Depack has a "tear shaped" tattoo on the left side of his face. During this encounter, the Employee reported that the individual asked about a couple of packages from

8. As described in Paragraph 15 above, Depack used this telephone number 973-536-9166 to call Company One and leave a voice message. On that voice message with Company One, Depack used the name "Lark Thomas" and fraudulently claimed to be a representative of a wholesale food distribution company located in Utah. Depack directed Company One to ship merchandise to 51 Niagara Street, Newark, New Jersey

Company Four that were being shipped to 51 Niagara Street, Newark, New Jersey and to the attention of "Ricky McCulloch." Based on the investigation, including the information described in Paragraph 71(b) below, Your Affiant asserts that the individual who approached the Employee on or about February 28, 2017 was Depack. The Employee did not give the parcel to the individual.

a. On or about February 28, 2017, a representative of Shipping Company One called federal agents and stated that "John Soriano" was inquiring about several parcels destined for 51 Niagara Street, Newark, New Jersey. Depack has previously used the name "John Soriano." For example, on or about February 5, 2013, federal agents apprehended Depack in a hotel room in Springfield, New Jersey on an unrelated matter. At the time, Depack was registered at the hotel under the name "Ray Soriano," and Depack was in possession of credit cards and a check book in the name of "John Soriano." At the time, Co-Conspirator One had an interest in this hotel.

b. Thereafter, on or about February 28, 2017, at approximately 6:15pm, a representative of Shipping Company One called Depack over telephone number 801-750-8605 (with federal agents simultaneously listening to the conversation).⁹ This telephone call was consensually recorded. Your Affiant recognizes the voice on this recorded call to be Depack's voice. During this telephone call, Depack stated the following, in substance and in part: (i) "I don't appreciate, you know, we were suppose to have packages by 3pm, we call you's guys like at 315"; (ii) "this is the second the time they messed up packages on us"; (iii) "I told my sales manager . . . to resend the stuff [using Shipping Company Two instead]"; (iv) "The shipper requested the product back, they said it was fraud. Now, I got all this on recording. You's [sic] accused my company of fraud. Ok? That's a serious allegation. Especially the company [Company Four] that sending it did not do nuthin"; and (v) "I have it tape recorded on my iPhone . . . [and] I'm also giving it to my corporate attorneys tomorrow because, you know, that's a big allegation . . . someone over there's gonna get fired. . . ." When the representative of Shipping Company One asked Depack for his name, Depack replied, "my name is Ricky."

c. On or about February 28, 2017, according to records from a telephone company, Depack, using telephone number 801-750-8605, and Pobutkiewicz, using the Pobutkiewicz Cell Phone, were in repeated contact throughout the day. For example, on that date, Depack and Pobutkiewicz exchanged approximately six text messages and engaged in approximately three voice communications. In addition, on or about February 27, 2017, according to records from a telephone company, Depack, using telephone number 801-750-8605, and Co-Conspirator Two exchanged approximately four

9. According to records from a telephone company, this phone number 801-750-8605 is subscribed to in the name of "Jhon Secada" at 55 Adams Street, Newark, New Jersey.

text messages. (See footnote 11 related to Co-Conspirator Two's telephone number).

72. As part of this investigation, Company Four provided the following invoices and business records to federal agents. Based on Depack's *modus operandi*, together with the other evidence described herein, Your Affiant submits that Depack was the individual who fraudulently placed the orders below:

Approximate Order Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Additional Information
02/24/2017	Apple iMac (2) and 1 HP ink cartridge (1)	\$3,160.54 (Actual)	51 Niagara Street, Newark, NJ; C/O Ricky McCulloch	Shipped by Shipping Company Two (Priority Overnight). A food company in Utah was fraudulently billed.
02/27/2017	Apple Care Three Year Protection Plan (1)	\$320.48 (Actual)	51 Niagara Street, Newark, NJ; C/O Ricky McCulloch	Shipped by Shipping Company One (Next Day Air). A food company in Utah was fraudulently billed.
02/27/2017	HP ink cartridges (4); Apple laptop computer (1); Apple iPads (4); iPad cases (4)	\$6,373.04 (Actual)	51 Niagara Street, Newark, NJ; C/O Ricky McCulloch	Shipped by Shipping Company One (Next Day Air). A food company in Utah was fraudulently billed.

Approximate Order Date	Item / Quantity (#)	Loss Amount (Actual or Attempted)	Delivery Address	Additional Information
02/28/2017	Apple Care Three Year Protection Plan (1)	\$335.58 (Actual)	51 Niagara Street, Newark, NJ; C/O Ricky McCulloch	Shipped by Shipping Company Two (Overnight Delivery). A food company in Utah was fraudulently billed.
02/28/2017	HP ink cartridges (4); Apple laptop computer (1); Apple iPads (4); iPad cases (4)	\$6,385.06 (Actual)	51 Niagara Street, Newark, NJ; C/O Ricky McCulloch	Shipped by Shipping Company Two (Overnight Delivery). A food company in Utah was fraudulently billed.

73. Law enforcement obtained records from a pawn store in Newark, New Jersey. These records reveal that on or about February 25, 2017, Depack sold the following three items to the store: (a) two Apple iMacs; and (b) one ink toner. As part of this transaction, Depack provided his New Jersey driver's license number [confirmed by Your Affiant as belonging to Depack], his date of birth [confirmed], and an address of 102 Warwick Street, Apartment 2, Newark, New Jersey to the pawn store.

74. Federal agents obtained a video from a hotel where Depack was a registered a guest. The video shows that on or about March 17, 2017, Depack was present in the hotel's lobby area. Depack was wearing a green New York Jets jacket and a plain black baseball hat. The video shows that Depack entered the lobby with an Apple Mac Book box in his possession. According to a hotel employee, he/she overheard Depack engage in a conversation with a third party in the hotel lobby. The third party is visible on the video, and the video shows Depack talking and interacting with the third party. According to the hotel employee, he/she heard Depack tell the third party, in substance and in part, "If you're interested in the laptop, I can order [one] for you. I have access to a website and would sell for \$2,100. I've sold twenty-three. . . ."

75. On or about Friday, March 31, 2017, an individual called Company Four and placed an order for two Apple Mac Book Pros, valued at approximately \$5,685.73. The individual claimed to be a representative of an oil company located in Louisiana and directed Company Four to ship the merchandise, overnight delivery, to 79 Ferry Street, Apartment 2, Newark, New Jersey. Company Four shipped the merchandise; however, after determining that it was fraudulent, Company Four requested the merchandise back from the shipper (Shipping Company Two). Based on Depack's *modus operandi*, together with the information provided in Paragraph 76 below, Your Affiant submits that Depack was the individual who fraudulently placed this order.

76. On or about Friday, March 31, 2017, Depack again called Company Four and left a voice message. Federal agents have obtained this voice message and retained it as evidence. Your Affiant recognizes the voice on this voice message to be Depack's voice. On this voice message, Depack used the name "Joe Knight" and fraudulently claimed to be a representative of the same Louisiana oil company referred to in Paragraph 75 above. Depack claimed his company needed to place an "emergency" order for one Apple Mac Book Pro; three ink cartridges; and three iPads. Depack stated, in substance and in part: "They need this for Saturday delivery tomorrow because they need them for Monday morning for a program we're doing there. . . . We need it sent to 188 Ferry Street . . . Suite One, Newark, New Jersey . . . Put attention 'Louis' the supervisor there, sales department I'm working from home, this is Joe. . . ." Because Company Four determined that this order was fraudulent, Company Four neither created an invoice nor shipped the merchandise.

Company Five

77. Between in or about early 2014 and February 2017, Depack, Pobutkiewicz, and Co-Conspirator Two conspired to defraud Company Five. In furtherance of the conspiracy, Depack fraudulently placed orders with Company Five and directed Company Five to ship the merchandise to various addresses in and around Newark and Elizabeth, New Jersey and elsewhere.

78. In or about November 2014, an individual claiming to be "John Smith" and a representative of large food distributor, called Company Five over the span of several days. During these calls, the individual ordered approximately \$20,000 of merchandise. The individual directed the merchandise be shipped to 100 Warwick Street, Suite 500, Newark, New Jersey. Based on Depack's *modus operandi*, including the use of the name "John Smith" and the given shipping address (100 Warwick Street), Your Affiant submits that Depack was the individual who fraudulently placed these orders.

79. On or about October 29, 2015, an individual, falsely claiming to be a representative of a national chain specializing in donuts and coffee, called Company Five. The individual ordered nineteen National Football League ("NFL") jackets, including one large NFL New York Jets jacket in green. Your Affiant has reviewed the item number for this New York Jets jacket and compared it with the jacket available for sale on Company Five's website. This jacket listed in the invoice is consistent with the jacket worn by Depack. The total value of the order was approximately \$1,825.02 and was delivered to 234 Oliver Street, Apartment 2, Newark, New Jersey by Shipping Company Two (overnight delivery). Company Five reported that it sustained a financial loss because this order was fraudulent and not actually placed by the Purchasing Company. Based on Depack's *modus operandi*, Your Affiant submits that Depack was the individual who fraudulently placed this order. For example, Depack has used Oliver Street, in Newark, New Jersey to place other fraudulent orders (see Paragraph 17, fraudulent order placed on or about May 12, 2015).

80. On or about December 16, 2016, an individual, falsely claiming to be a representative of a medical laboratory company, called Company Five. The individual ordered two backpack vacuum cleaners and two digital (Adventurer Balance) scales, valued collectively at approximately \$3,693.91. The individual directed that the items be shipped (overnight/next day) to 440 South Broad Street, Elizabeth, New Jersey. According to Company Five, the merchandise was to be shipped by Shipping Company Two. Based on Depack's *modus operandi*, Your Affiant submits that Depack was the individual who fraudulently placed this order. According to records from Shipping Company One, it delivered a parcel on behalf of Company Five on or about December 17, 2016 to 440 South Broad Street, Elizabeth, New Jersey, and Co-Conspirator signed for the parcel.

81. According to records from a phone company, Depack, using telephone number 201-923-9837,¹⁰ called Company Five approximately three times on or about December 18, 2016, as follows:

Time	To	From	Duration
3:00pm	Company Five Call-in Center (not located in New Jersey)	201-923-9837	1:36
3:07pm	Company Five Call-in Center (not located in New Jersey)	201-923-9837	4:17

10. As described in Paragraph 35 above, Depack gave this number to the UC beginning on or about December 12, 2016.

Time	To	From	Duration
5:50pm	Company Five Call-in Center (not located in New Jersey)	201-923-9837	1:23

82. On or about December 28, 2016, an individual, falsely claiming to be a representative of a company in Arkansas (the same company referred to in Paragraph 80 above) called Company Five. The individual ordered two digital scales (Ohaus Adventurer Balance Scale - 420 grams x .001 gram), valued approximately \$3,865.40, and directed that the items be shipped (overnight/next day) to 771 Garden Street, Suite Three, Elizabeth, New Jersey. The merchandise was delivered on or about December 29, 2016 by Shipping Company Two. Based on Depack's *modus operandi*, including the given shipping address, Your Affiant submits that Depack was the individual who fraudulently placed this order.

83. On or about December 29, 2016, an individual, using the name "Ray" and falsely claiming to be a representative of a hotel, called Company Five. The individual ordered three vacuum cleaners and one digital scale (Ohaus Adventurer Balance Scale - 420 grams x .001 gram), valued collectively at approximately \$3,543.49, and directed the items be shipped (overnight/next day) to 725 U.S. Highway 1, Elizabeth, New Jersey, the address of the hotel that Depack caused to be billed. Company Five reported that these items were shipped as ordered and resulted in a financial loss. On or about December 29 and 30, 2016, Depack was a guest at this hotel. Based on Depack's *modus operandi*, together with the fact that Depack was a guest at the hotel at the time of the order and delivery, Your Affiant submits that Depack was the individual who fraudulently placed this order.

84. On or about December 29, 2016, police officers responded to a pawn store in Elizabeth, New Jersey. At the store, police officers met Co-Conspirator Two, who was attempting to sell two digital scales (Ohaus Adventurer Balance Scales), brand new and still in the shipping box. When questioned by the police, Co-Conspirator Two stated he purchased the items "off a truck" at a gas station in Newark, New Jersey for \$300 each. Co-Conspirator Two was attempting to sell the scales to the pawn store for \$400 each. The police determined that the two scales belonged to Company Five, and the scales were returned to Company Five (but now in the possession of federal agents and retained as evidence).

85. Federal agents interviewed the owner of the store. According to this store owner, a second male accompanied Co-Conspirator Two to the store; however, this second male did not enter the store. Furthermore, according to this store owner, when the police arrived, the second male fled. Federal agents also interviewed a store employee. According to the store employee, on or

about December 29, 2016, he/she received a call from a male individual. This male individual inquired about the two digital scales. According to the store employee, he/she told the male caller that the scales were at the police department. Thereafter, according to the store employee, the caller demanded that the scales be present at the store within one hour; otherwise, the caller would hit the employee "over the forehead" with a baseball bat, or words to that effect.

86. On or about December 28, 2016, the day before Co-Conspirator Two was detained by the police as he attempted to sell the fraudulently obtained scales, he was in repeated telephone communication with Depack, using telephone number 201-923-9837. As described in Paragraphs 35 and 39 above, on or about December 12, 2016, Depack, using telephone number 201-923-9837, sent text messages and a video to the UC. This number is subscribed to in the name of "Jhon Secada," 55 Adams Street, Newark, New Jersey. According to records from telephone company and other information, Depack, using telephone number 201-923-9837, was in contact with Co-Conspirator Two¹¹ on or about December 28, 2016 as follows:

Time	To	From	Type	Duration
9:59am	Co-Conspirator Two	201-923-9837	Voice	40 seconds
10:45am	Co-Conspirator Two	201-923-9837	Voice	42 seconds
10:46am	Co-Conspirator Two	201-923-9837	Text	0 seconds
11:12am	201-923-9837	Co-Conspirator Two	Voice	3 seconds
11:13am	201-923-9837	Co-Conspirator Two	Voice	18 seconds
1:31pm	Co-Conspirator Two	201-923-9837	Voice	2:28
1:43pm	Co-Conspirator Two	201-923-9837	Text	0 seconds
1:46pm	Co-Conspirator Two	201-923-9837	Voice	28 seconds
1:47pm	Co-Conspirator Two	201-923-9837	Text	0 seconds
1:48pm	201-923-9837	Co-Conspirator Two	Text	0 seconds
5:44pm	Co-Conspirator Two	201-923-9837	Text	0 seconds
5:44pm	Co-Conspirator Two	201-923-9837	Text	0 seconds

11. As described in Paragraph 84 above, Co-Conspirator Two was detained by police officers on or about December 29, 2016. During that interaction with police officers, Co-Conspirator Two provided his telephone number to the officers. On or about January 13, 2017, Co-Conspirator Two completed an application for a United States passport. On this application, he listed his telephone number, which number corresponds to the same number he gave to the police. Finally, on or about February 23, 2017, federal agents interviewed Co-Conspirator Two. During this interview, Co-Conspirator Two provided the same telephone number to federal agents that he had provided to the police and listed on his passport application.

87. According to records from a telephone company, from in or about November 2016 through in or about March 2017, Co-Conspirator Two's phone number has had approximately 671 communications with various telephone numbers used by Depack.

Company Six

88. Between in or about mid-2015 and March 2017, Depack, Pobutkiewicz, and Co-Conspirator Two conspired to defraud Company Six. In furtherance of the conspiracy, Depack fraudulently placed over 300 orders with Company Six and directed Company Six to ship the merchandise to various addresses in and around Newark and Elizabeth, New Jersey, New York City, New York, and elsewhere.

89. According to Company Six, on or about January 30, 2017, an individual called Company Six to place an order. Company Six reported that the individual called from telephone number 973-573-6032. As described in Paragraphs 38 and 39 above, Depack gave this number to the UC on or about January 14, 2017. According to Company Six, the individual, using the name "Molly Shemway" and purporting to be a representative of a publically traded audio company, ordered two Milwaukee tool kits, valued at approximately \$1,908.82. Furthermore, according to Company Six, the individual requested the items be shipped, next day delivery, to 11 East 30th Street, New York, New York. Based on Depack's *modus operandi*, including the telephone number used to place this order, Your Affiant submits that Depack was the individual who fraudulently placed this order. Company Six placed the merchandise into the possession of Shipping Company One; however, after detecting it was fraudulent, Company Six requested the merchandise be returned.

90. According to Company Six, on or about January 31, 2017, an individual called Company Six to place an order. Company Six reported that the individual called from telephone number 973-573-6032. As described in Paragraph 38, Depack gave this number to the UC on or about January 14, 2017. According to Company Six, the individual, using the name "Molly Shemway" and purporting to be a representative of a publically traded audio company, ordered three Dewalt tool kits, valued at approximately \$2,299.15. Furthermore, according to Company Six, the individual requested the items be shipped, next day delivery, to 11 East 30th Street, New York, New York. Company Six, believing the order was fraudulent, canceled the order. Based on Depack's *modus operandi*, including the telephone number used to place this order, Your Affiant submits that Depack was the individual who fraudulently placed this order.

Controlled Delivery in New York City (February 3, 2017)

91. According to Company Six, on or about February 1, 2017, an individual called Company Six to place an order. According to Company Six, the individual, using the name "John Cruz" and purporting to be a representative of a food distribution company, ordered two Milwaukee tool kits. According to Company Six, the individual requested the items be shipped, next day delivery, to 13 East 37th Street, Suite 6F, New York, New York. Company Six, believing the order was fraudulent, reported this information to federal agents.

92. After receiving this information from Company Six, federal agents conducted a controlled delivery and scheduled the delivery for on or about February 3, 2017. Company Six placed inexpensive light fixtures into two parcels instead of the Milwaukee tool kits.

93. On or about February 3, 2017, federal agents conducted surveillance near 13 East 37th Street, New York, New York (the "Delivery Location"). Federal agents observed the following:

a. At approximately 10:30am, federal agents observed Depack, Pobutkiewicz, and a third individual across the street from the Delivery Location. Depack was observed, photographed, and video recorded across the street from the Delivery Location. Depack was wearing a green New York Jets jacket and a baseball hat.

b. Between approximately 10:30am and approximately 11:15am, Depack was observed twice circling the block near the Delivery Location, repeatedly looking over his shoulder and peering into cars with tinted windows.

c. At approximately 11:15am, a federal agent, wearing a letter carrier's uniform and also wearing an audio and video recording device, approached the Delivery Location. Thereafter, Pobutkiewicz approached the undercover federal agent and took possession of the two parcels. This transaction was video and audio recorded. The label on the parcel indicated that it was shipped by Company Six for the food distribution company referred to in Paragraph 91 above, for "John Cruz," and with a delivery address of 13 East 37th Street, New York, New York. Federal agents took photographs of the parcel before it was delivered to Pobutkiewicz. During this controlled delivery, the following audio and video recorded conversation ensued between the undercover agent and Pobutkiewicz:

Pobutkiewicz: You got anything for [the food company referred to in Paragraph 91]?

UC: [Name of food company referred to in Paragraph 91]?

Pobutkiewicz : Yeah.

UC: Is it 6F or. . . .

Pobutkiewicz: Yeah.

UC: Yeah I got some stuff.

Pobutkiewicz: Alright perfect, I was just leaving.

UC: Oh, perfect timing.

* * * *

UC: Are you. . . You're John?

Pobutkiewicz: Yeah [referring to "John Cruz"; see Paragraph 91].

UC: Oh, okay John. Nice to meet you.

Pobutkiewicz: Same here. . . .

d. Approximately 11:15am, after Pobutkiewicz took possession of the two parcels, Depack quickly departed the area. Thereafter, federal agents observed the Delivery Location and observed one opened parcel laying on the ground containing the inexpensive light fixtures. The other parcel had not been opened. Pobutkiewicz left the Delivery Location without taking the parcel or its contents.

94. On or about February 8, 2017, an individual, falsely claiming to be a representative of an international manufacturer of combustion engines, called Company Six. The individual ordered two Milwaukee tool combination kits, valued at approximately \$1,875.95. The individual directed that the items be shipped (overnight/next day) to 309 Chestnut Street, Apartment 3, Newark, New Jersey, attention "Louis." According to Company Six, the merchandise was shipped by Shipping Company One. Based on Depack's *modus operandi*, together with this information set forth below in Paragraph 95, Your Affiant submits that Depack was the individual who fraudulently placed this order.

95. On or about February 9, 2017, Depack called Company Six to check on the status of a fraudulent order referred to in Paragraph 94 above. Company Six consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call to be Depack's voice. During the call, Depack provided the order number (related to the order set forth in Paragraph 94 above) and falsely stated that he was a representative of the international manufacturer of combustion engines described in Paragraph 94 above. During the call, Depack questioned whether the merchandise had been shipped. Depack stated the following, in substance and in part:

It was never shipped I hit the [Shipping Company One] thing and everything, on the tracking. It don't show . . . so it was never shipped. . . . When you hit the tracking number . . . okay? And it comes up, you know, blank with the [Shipping Company One] thing, it means it was never shipped. There's no status, that means it was never shipped. . . . [Shipping Company One] never had it. . . .

96. On or about February 9, 2017, Depack called Company Six. Company Six consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call as Depack's voice. During this recorded call, Depack, while attempting to use a female voice and using the name "Nancy," falsely claimed to be a representative of New Jersey company that manufactures, markets, and distributes food products. During this call, Depack ordered two Dewalt Premium Combination kits, valued at approximately \$1,497.78, Depack directed Company Six to ship the merchandise, next day air, to 165 Ferry Street, Suite 1, Newark, New Jersey. Depack requested that the shipment be sent to the "maintenance department there I need that to the supervisor there, attention Louis, L-O-U-I-S. . . ." Depack also changed the e-mail address on file for this food company to thwart Company Six's ability to verify the fraudulent order.

97. On or about February 20, 2017, Depack called Company Six, while attempting to use a female voice and claiming to be "Christy" from the same food company described in Paragraph 96 above. Company Six consensually recorded this phone call, and Your Affiant recognizes the voice on this recorded call as Depack's voice. During this call, Depack ordered two Milwaukee cordless combination tool kits, valued at approximately \$1,073.79. Depack directed the company to ship the merchandise to 106 Magazine Street, Newark, New Jersey. Depack requested that the items be delivered by 10:30am the next day. Depack further requested that the shipment be made to the attention of "Louis," the "supervisor's name over there." In addition, Depack gave Company Six a fictitious e-mail, purportedly belonging to "Christy," to hinder Company Six's ability to determine the fraudulent nature of the order. Company Six did not ship the merchandise.

98. On or about February 21, 2017, Depack repeatedly called Company Six to check on the status of the fraudulent order described in Paragraph 97 above. Company Six recorded these phone calls, and Your Affiant recognizes the voice on these recorded calls as Depack's voice. During one recorded call, Depack attempted to use a female voice and again claimed to be "Christy." During this call, Depack stated, "I wanna ask one question, okay, because we need it for our maintenance department, are we gonna receive that tomorrow?" After being told that the item had not been shipped, Depack exclaimed (in his attempted female voice), "Sometimes you's [sic] guys have orders on hold that we have to call in, is this order on a hold and I have to talk to someone again? . . . I don't have time to be on hold. What do you see in the computer? It's real simple. A to B. . . ." Thereafter, Depack again called Company Six to check on the status of the same order. During this recorded call, Depack did not attempt to disguise his voice. When the company representative attempted to verify Depack's information, the following conversation ensued, in substance and in part:

Listen, I give ya my account number. I'm the vice president. My name is Michael, okay. And that's all, all right. Christy . . . made . . . Listen to me for a second, Christy . . . made the order, okay. That's all you need to know. Because this is the fifth time I'm calling, and I'm not gonna keep giving my information . . . The address that it ship to? You want that too? Wow! 106 Magazine Street, Newark, New Jersey. . . .

After being told that the item was not shipped, Depack stated the following, in substance and in part:

I'm gonna ask for the CEO's name and all 'cause I need to get somebody fired over there. That's what I need to do . . . You have a great day, I don't need to talk to you. You're above, below my pay grade. . . .

Conclusion

99. In total, Depack and his co-conspirators caused and attempted to cause over \$900,000 in financial losses to the Victim Companies.

100. Based on the above, Your Affiant respectfully submits that sufficient probable cause has been set forth, establishing that Depack and Pobutkiewicz have committed and have conspired to commit the offense alleged in Attachment A.