

FILED
 UNITED STATES DISTRICT COURT
 ALBUQUERQUE, NEW MEXICO

FEB 09 2016

MATTHEW J. DYKMAN
 CLERK

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAY L. SMITH, a.k.a. "Lee Smith," and
TAMARA PHILLIPS, a.k.a. "Tammi
Phillips," a.k.a. "Tammi,"

Defendants.

CRIMINAL NO. 16-464 WJ

Count 1: 21 U.S.C. § 846: Conspiracy;

Counts 2 and 3: 21 U.S.C. § 856(a):
 Maintaining a Drug-Involved Premises;
 and 18 U.S.C. § 2: Aiding and Abetting;

Count 4: 18 U.S.C. § 1956(h): Conspiracy
 to Launder Monetary Instruments.

The Grand Jury charges:

Count 1

From on or about February 22, 2010, and continuing to on or about February 9, 2016, in the District of New Mexico, and elsewhere, the defendants, **RAY L. SMITH** and **TAMARA PHILLIPS**, and others both known and unknown to the Grand Jury, unlawfully, knowingly and intentionally combined, conspired, confederated, agreed, and acted interdependently with each other and with other persons whose names are known and unknown to the Grand Jury to commit an offense against the United States, specifically, distribution of a Schedule I controlled substance and a controlled substance analogue, contrary to 21 U.S.C. §§ 841(a)(1) and (b)(1)(C); 21 U.S.C. §§ 813 and 802(32).

Overt Acts

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts, among others, were committed in the District of New Mexico, and elsewhere:

- a. On or about February 22, 2010, Ray Lee Smith ("Smith") incorporated Smokin Body Jewelry as a business in the State of New Mexico, designating its place of business as 1822

7th Street in Las Vegas, New Mexico, and assigning himself as the company's President and Tamara Phillips ("Phillips") as its Secretary.

b. On or about April 1, 2011, Smith incorporated Smokin Body Jewelry's location in Tucumcari, New Mexico.

c. On or about February 22, 2013, Smith incorporated "LKT, LLC," with its principal place of business in Raton, New Mexico.

d. On or about February 23, 2013, Smith purchased 215 Clayton Road in Raton, New Mexico, in order to house another Smokin Body Jewelry location.

e. On or about March 5, 2015, Smith purchased the property located at 853 South Ty Road in Kingman, Arizona.

f. On or about March 24, 2015, Smith formed a limited liability company in Arizona in order to operate Smokin Body Jewelry in that state.

g. On April 22, 2015, at the direction of Phillips and Smith, an employee of the Raton, New Mexico location of Smokin Body Jewelry sold compounds containing controlled substances, compounds containing analogues of controlled substances, and drug paraphernalia to a customer.

h. On April 22, 2015, while working for Phillips and Smith, an employee of the Raton, New Mexico location of Smokin Body Jewelry informed a customer that the store sold "Spice," and that spice was the best-selling item at the store.

i. On or about May 2015, at the direction of Phillips and Smith, a website for Smokin Body Jewelry marketed the upcoming opening of a new store location in Arizona.

j. In May 2015, Smith and Philips began operating a Smokin Body Jewelry location at 853 South Ty Road in Kingman, Arizona.

k. On June 8, 2015, at the Kingman, Arizona location of Smokin Body Jewelry, Phillips personally sold compounds containing analogues of controlled substances and drug paraphernalia to a customer.

l. On June 9, 2015, at the Kingman, Arizona location of Smokin Body Jewelry, Phillips personally sold compounds containing analogues of controlled substances and drug paraphernalia to a customer.

m. On September 1, 2015, at the direction of Phillips and Smith, an employee of the Raton, New Mexico location of Smokin Body Jewelry sold compounds containing controlled substances, compounds containing analogues of controlled substances, and drug paraphernalia to a customer.

n. On September 1, 2015, at the direction of Phillips and Smith, an employee of the Las Vegas, New Mexico location of Smokin Body Jewelry sold compounds containing controlled substances and compounds containing analogues of controlled substances to a customer.

o. On September 1, 2015, Phillips called an employee of the Las Vegas, New Mexico location of Smokin Body Jewelry to monitor inventory of drug paraphernalia used to store controlled substances and analogues.

p. On or about September 22, 2015, Smith purchased 417 Beale Street in Kingman, Arizona, for the purpose of operating Smokin Body Jewelry there.

q. On September 28, 2015, at the direction of Phillips and Smith, an employee of the Raton, New Mexico location of Smokin Body Jewelry negotiated the sale of approximately \$3,000 worth of compounds containing controlled substances and analogues to a customer.

r. On September 29, 2015, at the direction of Phillips and Smith, an employee of the Raton, New Mexico location of Smokin Body Jewelry sold \$1,687.46 worth of compounds containing analogues of controlled substances to a customer.

s. On September 29, 2015, at the direction of Phillips and Smith, an employee of the Las Vegas, New Mexico location of Smokin Body Jewelry sold \$1,566.91 worth of compounds containing controlled substances and compounds containing analogues of controlled substances to a customer.

t. On November 15, 2015, an employee of the Las Vegas, New Mexico location of Smokin Body Jewelry discussed, with Phillips, that day's sale of items including compounds containing controlled substances and analogues of controlled substances.

u. On November 17, 2015, Smith and Phillips discussed paying an individual to clean snow from the Raton, New Mexico location of Smokin Body Jewelry by paying the individual in compounds containing either controlled substances or analogues of controlled substances.

v. On November 18, 2015, Smith asked Phillips to instruct Smokin Body Jewelry employees to deposit store revenues into Smith's personal accounts.

w. On November 25, 2015, an employee of the Las Vegas, New Mexico location of Smokin Body Jewelry called Phillips to state that the Las Vegas store received a call from a concerned mother regarding the overdose death of that mother's child.

x. On November 27, 2015, Phillips asked an employee of the Las Vegas location of Smokin Body Jewelry to investigate missing compounds containing controlled substances or their analogues from a storage facility that Phillips and Smith used to store bulk synthetic cannabinoids.

y. On December 7, 2015, in discussions with an employee of the Smokin Body Jewelry store in Kingman, Arizona, Phillips instructed that employee that the store could not sell synthetic cannabinoids at less than \$10 per gram, and that Smith would be unwilling to sell too large a quantity at once, regardless of whether the buyer planned to resell it or use it.

z. On January 18, 2016, an employee of the Kingman, Arizona location of Smokin Body Jewelry called Smith to alert him of the supposed presence of federal agents investigating nearby stores.

aa. On February 1, 2016, Smith called a Bank of America representative in order to seek an unsecured line of \$50,000 in credit for Smokin Body Jewelry store operations.

bb. On February 4, 2016, Smith discussed with Phillips that he wanted to make the business grow without the sale of synthetic cannabinoids, but that it was hard because that item is what customers want.

cc. On February 4, 2016, after discussing their reliance on synthetic cannabinoid sales and once referring to it as "spice," Smith sought revenue figures from the Smokin Body Jewelry stores.

dd. On February 4, 2016, Smith and Phillips discussed the business of selling synthetic cannabinoids, how they have made money on it, and have faith in the quality of what they are selling.

ee. On February 8, 2016, while discussing the preparation of synthetic cannabinoids, Smith and Phillips discussed who would have to make which brands and that they should wait until a child was asleep so that the child would not complain about the smell of synthetic cannabinoid production.

In violation of 21 U.S.C. § 846.

Count 2

From on or about February 23, 2013, and continuing to on or about February 9, 2016, in Colfax County, in the District of New Mexico, the defendants, **RAY L. SMITH** and **TAMARA PHILLIPS**, knowingly opened, leased, rented, used, and maintained a place, 215 Clayton Road, Raton, New Mexico, for the purpose of manufacturing, distributing, and using a controlled substance and controlled substance analogue, and managed and controlled said place and knowingly and intentionally rented, leased, profited from, and made available for use said place for the purpose of unlawfully manufacturing, storing, distributing, and using said controlled substance and controlled substance analogue.

In violation of 21 U.S.C. § 856(a), and 18 U.S.C. § 2.

Count 3

From on or about February 22, 2010, and continuing to on or about February 9, 2016, in San Miguel County, in the District of New Mexico, the defendants, **RAY L. SMITH** and **TAMARA PHILLIPS**, knowingly opened, leased, rented, used, and maintained a place, 1822 7th Street, Las Vegas, New Mexico, for the purpose of manufacturing, distributing, and using a controlled substance and controlled substance analogue, and managed and controlled said place and knowingly and intentionally rented, leased, profited from, and made available for use said place for the purpose of unlawfully manufacturing, storing, distributing, and using said controlled substance and controlled substance analogue.

In violation of 21 U.S.C. § 856(a), and 18 U.S.C. § 2.

Count 4

From on or about February 22, 2010, and continuing to on or about February 9, 2016, in the District of New Mexico and elsewhere, the defendants, **RAY L. SMITH** and **TAMARA**

PHILLIPS, knowingly combined, conspired, agreed, and acted interdependently with each other and with other persons known and unknown to the grand jury to commit offenses against the United States in violation 18 U.S.C. § 1956, to wit: to knowingly conduct and attempt to conduct financial transactions affecting interstate commerce and foreign commerce, which transactions involved the proceeds of specified unlawful activity, that is, distribution of controlled substances and controlled substance analogues, knowing that the transactions were designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, contrary to 18 U.S.C. § 1956(a)(1)(B)(i).

FORFEITURE ALLEGATION

Counts 1 through 3 of this indictment are incorporated as part of this section of the indictment as if fully re-alleged herein for the purpose of alleging forfeiture to the United States pursuant to 21 U.S.C. § 853.

Upon conviction of any offense in violation of 21 U.S.C. §§ 846 or 856, the defendants, **RAY L. SMITH** and **TAMARA PHILLIPS**, shall forfeit to the United States pursuant to 21 U.S.C. § 853 any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of each offense for which the defendant is convicted, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of the offense(s) of conviction.

Count 4 of this indictment is incorporated as part of this section of the indictment as if fully re-alleged herein for the purpose of alleging forfeiture to the United States pursuant to 18 U.S.C. § 982(a)(1).

Upon conviction of any offense in violation of 18 U.S.C. § 1956, the defendants, **RAY L. SMITH** and **TAMARA PHILLIPS**, shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(1) all property, real and personal, involved in such offense, or conspiracy to commit such offense, for which the defendants are convicted, and all property traceable to such property.

The property to be forfeited to the United States includes, but is not limited to, the following:

1. MONEY JUDGMENT

A sum of money representing property constituting, or derived from proceeds obtained, directly or indirectly, as a result of the offenses of conviction.

2. PERSONAL PROPERTY

- a. 2015 Ford Truck, bearing New Mexico plate "NDK091," VIN # 1FT8W3BT8FEA16338;
- b. 2014 Toyota Prius, bearing New Mexico plate "MZR912," VIN # JTDZN3EU6E3323075;
- c. 2013 Raptor Travel Trailer, bearing New Mexico plate "39704RVB;"
- d. 2010 Jeep Wrangler, bearing New Mexico plate "NLX351," VIN # 1J4BA3H15AL217946;
- e. Southwest Capital Bank, Account # 7490135;
- f. Southwest Capital Bank, Safety Deposit Box 827E;
- g. State Employees Credit Union, Savings Account # 3001717220;
- h. State Employees Credit Union, Checking Account # 3001717230;
- i. State Employees Credit Union, 12-month Certificate # 3002349050;
- j. State Employees Credit Union, 7-month Certificate # 3002426570;
- k. First National Bank of New Mexico, Account # 347086;
- l. First National Bank of New Mexico, Account # 410225;

- m. Wells Fargo Bank, Checking Account # 2734038850;
- n. Wells Fargo Bank, Savings Account # 2734040070;
- o. State Employees Credit Union, Savings Account # 3001744560;
- p. State Employees Credit Union, Checking Account # 3001744570;
- q. Wells Fargo Bank, Checking Account # 8000631336;
- r. Wells Fargo Bank, Savings Account # 7000523287;
- s. First National Bank of New Mexico, Account # 340278;
- t. Southwest Capital Bank, Account # 7095554;
- u. Southwest Capital Bank, Account # 7082932;
- v. First National Bank of New Mexico, Account # 411345;
- w. Wells Fargo Bank, Business Account # 9200128016;
- x. Wells Fargo Bank, Business Account # 9200128776; and
- y. Wells Fargo Bank, Business Account # 6754385133.

3. REAL PROPERTY

- a. the property located at 742 Williams Drive in Las Vegas, New Mexico;
- b. the property located at 1822 7th Street in Las Vegas, New Mexico;
- c. the property located at 215 Clayton Road in Raton, New Mexico;
- d. the property located at 853 South Ty Road in Kingman, Arizona;
- e. the property located at 417 Beale Street in Kingman, Arizona;
- f. the property located at 1337 South Cibola Road in Golden Valley, Arizona; and
- g. the property located at 7762 West Abrigo Drive in Golden Valley, Arizona.
- h. the property located in Mohave County, identified as Mohave County Assessor's Parcel Number 306-16-178 B.

4. SUBSTITUTE ASSETS

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), 18 U.S.C. § 982(b), and 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL:

S/
FOREPERSON OF THE GRAND JURY


Assistant United States Attorney

JM