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AO 91 (Rev. 11-17) Criminal Complaint

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THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

17CR 773

UNITED STATES OF AMERICA

v.

ROBERT TOMLINSON

CASE NUMBER:
UNDER SEAL

MAGISTRATE JUDGE COX

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

From in or about March 2016 and continuing through at least in or about November 2017, at Hoffman Estates, in the Northern District of Illinois, Eastern Division, and elsewhere, the defendant(s) violated:

Code Section

Title 18, United States Code, Section
1343

Offense Description

engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises and concealment of material facts, and, for the purpose of executing such scheme, caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, and signals

This criminal complaint is based upon these facts:

X Continued on the attached sheet.



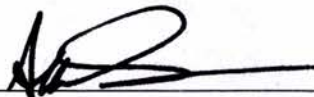
BRENT POTTER

Special Agent, Federal Bureau of Investigation
(FBI)

Sworn to before me and signed in my presence.

Date: November 27, 2017

City and state: Chicago, Illinois



Judge's signature

SUSAN E. COX, U.S. Magistrate Judge

Printed name and Title

UNITED STATES DISTRICT COURT)
)
NORTHERN DISTRICT OF ILLINOIS)

AFFIDAVIT

I, Brent E. Potter, first being duly sworn under oath, hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI"), and I am assigned to its Chicago Division. I have been employed by the FBI as a Special Agent for over 20 years, during which time I have conducted many financial fraud investigations and served numerous search warrants in such cases. I am currently assigned to an FBI squad dedicated to the investigation of federal wire and mail fraud offenses, as well as related financial crimes.

2. This affidavit is submitted in support of the attached criminal complaint, as well as an application for the issuance of a search warrant and an application for the issuance of a seizure warrant. The information contained in this affidavit is based upon my personal knowledge, as well as information provided to me by other law enforcement officers. It is also based upon my review of subpoenaed records, records obtained without the use of a grand jury subpoena, and on information provided to me by witnesses to the events discussed herein. Because this affidavit is submitted for the limited purpose of establishing probable cause with regard to the attached criminal complaint, application for a search warrant, and application for a seizure warrant, it does not set forth each and every fact that I have learned during this investigation.

3. This affidavit is made for the limited purpose of establishing probable cause to support: (A) a criminal complaint alleging that, from no later than in or about March 2016 and continuing through at least in or about November 2017, ROBERT TOMLINSON engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises and concealment of material facts, and, for the purpose of

executing such scheme, caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, and signals, in violation of Title 18, United States Code, Section 1343 (wire fraud); (B) an application for the issuance of a warrant to search TOMLINSON's residence at 3890 Bernay Lane, Hoffman Estates, Illinois 60192 (the "**Subject Premises**"), as described further in Attachment A-1, for evidence, contraband, and fruits of violations of Title 18, United States Code, Section 1343, as described further in Attachment B; and (C) an application for the issuance of a warrant to seize one bank account, as described further in Attachment A-2, which was used by TOMLINSON in the foregoing scheme to defraud the investors.

4. As further stated below, there is probable cause to believe that TOMLINSON engaged in a scheme to defraud the investors of Neurendo Pharma, LLC, the company over which TOMLINSON served as Chief Executive Officer, by making false statements and representations to investors about his use of the funds that they had used to purchase stock in Neurendo. Specifically, there is probable cause to believe that TOMLINSON represented to the investors of Neurendo that: (1) he was using the investor funds for the operation of Neurendo's business; and (2) that he was not compensated by the company when, in fact, he stole the majority of funds contributed to the company by investors between March 2016 through October 2017 and converted them to his own personal benefit.

FACTS ESTABLISHING PROBABLE CAUSE

Background

5. The FBI initiated an investigation of TOMLINSON in or about August 2017, based upon information that TOMLINSON had recently engaged in a series of financial transactions that may have been indicative of fraud against the investors of Neurendo. The records of the

Wisconsin Secretary of State show that Neurendo is a privately-held Wisconsin corporation founded in or around January 2004, with its principal place of business being rented mailbox #230 at a Pack N Mail store located at 1590 W. Algonquin Road in Hoffman Estates, which is located less than one mile away from the **Subject Premises**. Records obtained from the Pack N Mail store indicated that TOMLINSON is the long-time renter of mailbox #230 and his address is listed as the **Subject Premises**.

6. Neurendo was founded to investigate the potential of an experimental drug, known as GNTI, to treat type II diabetes. The company's founder, now deceased, was personally afflicted with diabetes and used GNTI experimentally to treat his illness prior to his death. According to investors and the outside accountant who are familiar with Neurendo's operations, the company has never turned a profit and operates solely on the basis of investment capital raised from equity investors. According to these individuals, the investments into Neurendo stock by individual shareholders will only pay off if the rights to GNTI are purchased at some point in the future by a large pharmaceutical company.

7. Prior to his involvement with Neurendo, TOMLINSON was in the real estate industry. However, TOMLINSON filed a voluntary bankruptcy petition in U.S. Bankruptcy Court for the Northern District of Illinois under Chapter 7 of the U.S. Bankruptcy Code on or about January 12, 2009. TOMLINSON was also the subject of a civil complaint filed in U.S. Bankruptcy Court for the Northern District of Illinois on or about January 22, 2010 by Entity A, an investment entity that participated in a real estate investment offering for \$3,560,505 in which TOMLINSON was involved prior to 2010. Entity A's adversarial bankruptcy case against TOMLINSON was settled with a stipulated judgment order entered by the U.S. Bankruptcy Court

against TOMLINSON in the amount of \$1 million on or about April 21, 2011. The order stated that the \$1 million judgment “will be finally and forever exempt from discharge pursuant to 11 United States Code §523(a).” The order set forth a payment schedule over the next 56 months, with the goal of having TOMLINSON pay at least \$250,000 to Entity A. If, at the end of that period, \$250,000 in payments had been made by TOMLINSON, the judgment would be reduced to \$600,000. If TOMLINSON had not paid at least \$250,000 by the end of that period, the judgment amount would increase to \$1.5 million. Based upon the Trustee’s report, dated July 11, 2016, in TOMLINSON’s Chapter 7 bankruptcy case, which I have reviewed, TOMLINSON did not make \$250,000 in payments to Entity A as of that date. This meant that, from at least March 2016 through November 2017, TOMLINSON was still subject to the stipulated judgment order from the U.S. Bankruptcy Court for the Northern District of Illinois, in the amount of \$1.5 million payable to Entity A.

Information Obtained from Investor A

8. I conducted interviews with Investor A on or about October 6, 2017 and October 26, 2017. According to Investor A, TOMLINSON asked Investor A to join Neurendo’s board of directors in approximately 2014, and has served as a company director since then. Investor A stated that TOMLINSON took over as Neurendo’s Chief Executive Officer (“CEO”) after the departure of the company’s first CEO, also in or around 2014. Investor A began buying Neurendo stock in approximately 2010 and has invested approximately \$1.8 million into Neurendo stock purchases in total. TOMLINSON told Investor A that Neurendo has never made any profit and never would, until the rights to its drug, GNTI, were purchased by a larger company. Based upon TOMLINSON’s representations to him/her, Investor A understood that Neurendo paid its

operating expenses solely from cash TOMLINSON received from Neurendo's equity investors.

9. According to Investor A, on several occasions during 2016 and 2017, TOMLINSON stated that Neurendo was nearly out of operating funds and he needed Investor A to buy more Neurendo stock in order to keep the company going. TOMLINSON also told Investor A on several occasions during this time period that Neurendo was very close to successfully marketing its drug to a major pharmaceutical company. Based upon TOMLINSON's representations to him/her between in or about March 2016 and in or about July 2017, Investor A made approximately \$800,000 in Neurendo stock purchases during that time period.

10. Investor A attended most of the quarterly meetings of the Neurendo board of directors, which were usually held at a hotel in the Chicago area. TOMLINSON was also present at those meetings. TOMLINSON on several occasions told Investor A and other board members that he took no salary or financial compensation from Neurendo and that he supported himself from his own resources. According to Investor A, TOMLINSON also said that his contract with Neurendo did not allow financial compensation for him until and unless the company's drug rights were purchased by an outside company. TOMLINSON said that he only accepted reimbursement for his actual business expenses from Neurendo. TOMLINSON said that he would only be compensated if Neurendo's drug rights were purchased by a major pharmaceutical company and all of its investors received a substantial payment. TOMLINSON told Investor A that, if this came to pass, TOMLINSON stood to make approximately \$20 million due to his company stock options contracts. TOMLINSON never told Investor A that he took hundreds of thousands of dollars from Neurendo's bank accounts to support his and his wife's lifestyles, or that he took large

cash withdrawals from Neurendo's bank accounts. Based upon TOMLINSON's statements to him/her over time, Investor A believed that the funds contributed to the company by its investors were used only to support Neurendo's operations.

11. According to Investor A, TOMLINSON asked Investor A for a personal loan in approximately 2014. In response to TOMLINSON's request, Investor A made two personal loans to TOMLINSON in the amount of \$500,000 and \$350,000. These loans were unrelated to Investor A's purchases of Neurendo stock. Since that time, TOMLINSON has not repaid any of the loan principal, which is due at the end of 2020, and has repaid only a small portion of the interest due. With accrued interest, TOMLINSON owes Investor A over \$970,000 in personal debt.

12. TOMLINSON asked Investor A for another personal loan of \$1.2 million in early October 2017, and Investor A turned him down. TOMLINSON told Investor A that, without another loan, he risked foreclosure on some of his personally-held real estate.

Information Obtained from Investor B

13. I interviewed Investor B on or about October 16, 2017. According to Investor B, TOMLINSON cold-called Investor B, who made frequent investments in start-up companies, in approximately 2015 and pitched him/her on an investment in Neurendo stock. TOMLINSON told Investor B that any future Neurendo investment profits would depend on the purchase of Neurendo's drug rights. TOMLINSON further stated that he served as Neurendo's CEO.

14. Since approximately 2015, Investor B has invested \$200,000 into Neurendo stock purchases. Investor B made his/her investments in the form of personal checks, and he/she usually gave them to TOMLINSON in person. Investor B and TOMLINSON met several times

over the course of 2016 and 2017 in the same Chicago coffee shop. According to Investor B, TOMLINSON told Investor B that he ran Neurendo out of his residence, which is the **Subject Premises**. TOMLINSON told Investor B that he used investor capital to pursue marketing Neurendo's experimental drug to major pharmaceutical suppliers.

15. TOMLINSON also told Investor B that he would personally reimburse Investor B for his/her investment in Neurendo stock if Neurendo's drug rights were not purchased and the company failed to turn an investment profit. TOMLINSON said that he would generate the funds to reimburse Investor B by selling his personal real estate in northern Michigan.

16. After he/she was interviewed by the FBI, Investor B agreed to meet with TOMLINSON privately to discuss an additional investment in Neurendo stock and record the meeting, using FBI audio and video recording devices concealed upon his/her person. Investor B subsequently met with TOMLINSON in a coffee shop in Chicago, Illinois, on or about October 31, 2017, and consensually recorded his/her conversation with TOMLINSON at the direction of the FBI. Prior to his meeting with TOMLINSON, I met with Investor B, provided him/her with the recording devices, and activated them. After the meeting, I subsequently retrieved the devices from Investor B and de-activated them. I was also physically present in the vicinity and I observed the entirety of the meeting between Investor B and TOMLINSON. I identified TOMLINSON from his Illinois driver's license photograph. After I retrieved the recording devices from Investor B, I reviewed the recordings.

17. During the course of the meeting, Investor B and TOMLINSON talked about TOMLINSON's plans to sell the drug to pharmaceutical companies and TOMLINSON said that he needed approximately \$300,000 in additional investment from Investor B. During the course

of that discussion, Investor B asked TOMLINSON whether he accepted any compensation from Neurendo. TOMLINSON said that he did not, and stated: "I haven't been paid for years." When Investor B asked TOMLINSON how he paid his personal expenses, TOMLINSON stated: "I've been using my own resources because I believe in it." Investor B asked TOMLINSON "You're working out of your home?" TOMLINSON replied "Yeah." Investor B then said "So we don't have an office?" TOMLINSON said "No, no, right." TOMLINSON then said "No, I'm not taking anything."

18. TOMLINSON e-mailed Investor B a copy of Neurendo's 2016 financial statements on or about November 6, 2017. The financial statements contained the line item "outside service" under "operating expenses." The amount given for 2016 "outside service" was \$772,250. Investor B e-mailed TOMLINSON the next day to ask him for a breakdown as to how this amount was spent by Neurendo. Based upon the FBI's preliminary financial analysis of the use of funds deposited into Neurendo's bank accounts, as well as information provided by Accountant A, as further described below, I am aware that nearly half of the funds disbursed by Neurendo under "outside service" were transferred by TOMLINSON to a bank account controlled by a shell corporation in the name of Aviators Manager, LLC ("Aviators"), over which he exercised sole control. TOMLINSON then wrote checks to his wife from the Aviators account for approximately \$380,000. The vast majority of these funds originated with Neurendo investors. From my review of her bank account records, TOMLINSON's wife used the Neurendo funds to pay the couple's personal expenses.

19. TOMLINSON and Investor B spoke again by telephone on or about November 13, 2017. Investor B recorded the telephone call at the direction of the FBI using remote FBI

recording equipment. I have reviewed the recorded call. Investor B asked TOMLINSON specifically what the “outside service” was in the 2016 financial statement. TOMLINSON told Investor B that this was “primarily the patent efforts and everything along that line.” TOMLINSON acknowledged that these expenses for 2016 were “extremely high” because Neurendo had to “get a lot of stuff done” and that “it’s really paying off.” From my investigation, there is probable cause to believe that this statement was not true. The FBI’s preliminary financial analysis, as described in more detail below, showed that Neurendo spent less than \$100,000 on legal fees during 2016. At no point did TOMLINSON tell Investor B that he transferred nearly half of the payments logged as 2016 “outside service” to his wife or that he and his wife spent these funds on the couple’s personal expenses. TOMLINSON did not tell Investor B that he had personally directed approximately \$874,000 in business and cashier’s checks to his wife since March 2016, using the funds entrusted to him by Neurendo investors, including Investor B.

20. Based upon bank records that the FBI has reviewed, Investor B paid TOMLINSON \$75,000 for his/her most recent investment in Neurendo stock by a personal check dated October 2, 2017. TOMLINSON deposited Investor B’s check to the Fifth Third Bank Neurendo account ending in 8960 (the “**Subject Account**”) on or about October 13, 2017. Prior to TOMLINSON’s deposit of Investor B’s funds, the account held approximately \$159,000. Over the course of the next several weeks until approximately November 8, 2017, TOMLINSON made 10 cash withdrawals of \$9,500 each, along with two other checking withdrawals. This activity depleted the value of the **Subject Account** to approximately \$50,000.

21. Investor B met with TOMLINSON again at the same coffee shop on or about November 14, 2017 and produced another recording of the meeting using an FBI audio recording

device. As before, I met beforehand with Investor B, activated the recorder and gave it to him/her, observed the entirety of the meeting, and retrieved the recorder after the conclusion of the meeting.

22. During the meeting, Investor B asked TOMLINSON how much investment capital that he had raised for Neurendo over the last year, and TOMLINSON replied "Maybe \$500,000, if that." When Investor B asked TOMLINSON how he had spent those funds, TOMLINSON said "them doing patents, and then with the consulting people to help them." Investor B said "where's that going, mainly patents?" and TOMLINSON said "Yeah, patents." TOMLINSON told Investor B that he had been loaning money to Neurendo and had loaned the company almost \$2 million by then. TOMLINSON then reiterated that he had been financing the company. During the meeting, Investor B told TOMLINSON that he could not invest additional funds into Neurendo at that time. TOMLINSON asked him, "Is there anything you can do, some part of it? Because I've got to scramble now and I don't know where to go ... I'm in a crunch now, big time ... I hear what you're saying but I'm in a bad situation." TOMLINSON went on to say, "It just puts me in a horrific position and I've made representations to people. I don't know what to do now. You can't even do, you know, half of it? A hundred? Do fifty, or something like that?" When Investor B refused, TOMLINSON said "You can't free up anything that you've got? I've got to go, I've got to scramble here, I didn't expect this. I wish you had told me sooner, I didn't know ... I really came down to here say when can we get the money, because I'm already obligated to do this, this and this."

Information Obtained from Accountant A

23. On or about November 1, 2017, I interviewed Accountant A, who has served as the

outside accountant for Neurendo since approximately 2011. Accountant A's responsibilities included preparing income tax K-1 forms for all Neurendo investors on an annual basis, as well as the preparation of Neurendo's annual financial statements, general ledger and tax returns. Accountant A sent the K-1's to Neurendo investors and provided the financial statements and general ledger to TOMLINSON. According to Accountant A, the financial statements and general ledger were prepared using the bank statements for Neurendo's bank accounts and check registers provided by TOMLINSON.

24. Accountant A stated that, since 2011, Neurendo paid an entity known as LTF One LLC significant sums of money. Accountant A did not know what LTF One was or who controlled it. Accountant A said that he was told by Neurendo's previous CEO that LTF One was a financial consulting firm that brought investor capital to Neurendo. Accordingly, Accountant A coded payments to LTF One as "financial consulting" in Neurendo's annual financial statements through 2015.

25. In approximately November 2016, TOMLINSON had a conversation with Accountant A concerning the preparation of Neurendo's 2016 financial statements. TOMLINSON told Accountant A that Neurendo had paid LTF One over \$770,000 during 2016 and LTF One had, in turn, paid Neurendo's "vendors" using the funds. TOMLINSON said that Neurendo had been the subject of a garnishment order and that he paid the money to LTF One in order to protect Neurendo's money from garnishment. TOMLINSON did not explain the garnishment order any further. Based upon TOMLINSON's explanation of the payments to LTF One, Accountant A coded the payments under "outside service" in Neurendo's financial statements and general ledger. TOMLINSON did not tell Accountant A that he was using large amounts of

the funds paid to LTF One during 2016 to pay his own and his wife's personal expenses.

26. Based upon his/her years preparing Neurendo's financial statements, Accountant A stated that he believed that TOMLINSON did not take a salary or compensation from Neurendo. Accountant A never observed compensation payments being made from Neurendo bank accounts to TOMLINSON, and only rarely was TOMLINSON paid reimbursement by Neurendo for his business related expenses. According to Accountant A, TOMLINSON did not state that he was accepting any salary or compensation from Neurendo.

Neurendo Financial Statements

27. During the course of the FBI investigation, Accountant A produced to the FBI Neurendo's 2015 and 2016 financial statements and general ledgers, along with supporting documentation. Neurendo's 2016 general ledger showed that approximately \$765,000 was received into an account titled "Entrepreneur Checking" from March 31, 2016 through December 31, 2016, and an almost identical amount was disbursed. The general ledger also confirmed what Accountant A told the FBI – that approximately \$772,250 was paid to LTF One from March to December of 2016 and coded as "outside service."

Preliminary Financial Analysis

28. As part of the FBI's investigation of TOMLINSON and Neurendo, I obtained records from Fifth Third Bank, Hoffman Estates Community Bank and Bank of America for bank accounts where TOMLINSON is the sole signatory on the account. The banks produced records of an open account in the name of Neurendo at each of these banks, along with an open account in the name of Aviators Manager, LLC ("Aviators") at each bank. According to the records of the Delaware Secretary of State and Futures Trading Firm A, Aviators is a Delaware corporation

incorporated on January 31, 2015 and TOMLINSON is the sole member of the LLC. TOMLINSON was the sole signer on each of these bank accounts. Moreover, both accounts at Bank of America were opened recently by TOMLINSON in or about November 2016 and both accounts at Fifth Third Bank (including the **Subject Account**) were opened by TOMLINSON on or about May 12, 2017. I have reviewed these records and found that, beginning on or about March 24, 2016, and continuing through July 31, 2017, TOMLINSON deposited approximately \$1.7 million in investor checks from approximately eight individual investors and two investment entities into the three Neurendo accounts at these banks (including the **Subject Account**). Notations written on nearly all of the checks by their originators indicate that their intended use was to purchase shares of Neurendo stock.

29. Once TOMLINSON deposited the investor funds into the three Neurendo accounts, the pattern of subsequent activity was largely the same. In each case, TOMLINSON wrote checks on the Neurendo accounts to LTF One, and deposited these checks into the Aviators account at each bank. Specifically, the checks drawn on the **Subject Account** were deposited in the Fifth Third Aviators account, the checks drawn on the Bank of America Neurendo account were deposited in the Bank of America Aviators account and the checks drawn on the Hoffman Estates Community Bank Neurendo account were deposited in the Aviators account at the same bank. The bank records show that TOMLINSON withdrew large amounts of cash from many of these accounts, and he also wrote checks from those accounts to his wife. Nearly all of the funds in these bank accounts came from the Neurendo investors. The flow of funds was as follows:

- a. Hoffman Estates Community Bank ("HECB") Neurendo account ending in 5686 received approximately \$773,000 in investor deposits. TOMLINSON wrote

approximately \$667,500 in checks drawn on that account to LTF One and deposited them into HECB Aviators account ending in 7786. TOMLINSON withdrew over \$35,000 from the account in cash.

- b. HECB Aviators account ending in 7786 received approximately \$667,500 in investor deposits from HECB Neurendo account ending in 5686 in the form of checks written to LTF ONE. TOMLINSON withdrew over \$74,000 from the account in cash, wired \$100,000 to Futures Trading Firm A, and wrote approximately \$381,000 in checks to his wife. Records from Futures Trading Firm A show that the futures trading account was held in the name of Aviators and TOMLINSON was the sole account holder, and the \$100,000 was used to speculatively trade options on currency futures, as well as stock index futures contracts. In addition, TOMLINSON signed a Power of Attorney authorizing a Lithuanian national to trade using on-line access to the account.
- c. Bank of America ("BOFA") Neurendo account ending in 0435 received approximately \$560,000 in investor deposits. TOMLINSON withdrew approximately \$170,000 from the account as cash and wrote approximately \$282,000 in checks to LTF One, all of which were deposited in BOFA Aviators account ending in 8842.
- d. BOFA Aviators account ending in 8842 received approximately \$282,000 in investor deposits from BOFA Neurendo account ending in 0435, in addition to at least one wire transfer from Futures Trading Firm A in the amount of \$45,000. TOMLINSON withdrew approximately \$40,000 in cash from the account and

purchased 17 cashier's checks made out to his wife totaling approximately \$256,500, as well as approximately \$5,280 in cashier's check payments to the Washington National Cathedral and a \$25,000 cashier's check made out to Entity A. As described above in paragraph 7, TOMLINSON still owes approximately \$1.5 million to Entity A as a result of the stipulated judgment order entered by the U.S. Bankruptcy Court for the Northern District of Illinois on or about April 21, 2011.

- e. The **Subject Account** received approximately \$434,000 in investor deposits. TOMLINSON wrote approximately \$140,000 in checks to LTF One, all of which he deposited into the Fifth Third Aviators account ending in 0396, and withdrew approximately \$128,000 from the **Subject Account** in cash.
- f. Fifth Third Aviators account ending in 0396 received approximately \$140,000 in checks written to LTF One. TOMLINSON wrote checks on the account totaling over \$51,000 to pay his personal expenses, including property taxes on a luxury house in Bay Harbor, Michigan, and his wife's annual dues at the Bay Harbor Golf Club, the Bay Harbor Yacht Club, and the Bay Harbor Lake Marina. TOMLINSON also paid approximately \$14,000 to the Washington National Cathedral and \$14,000 to his wife.

Additional Financial Transactions

30. A currency transaction report ("CTR") is a report that domestic financial institutions are required to file with the United States Department of the Treasury for each deposit, withdrawal, exchange of currency, or other payment or transfer, by, through, or to the financial

institution which involves a transaction in United States currency of more than \$10,000. This requirement is codified in Title 31, United States Code, §5313(a). It is a federal crime, pursuant to Title 31, United States Code, §5324, to cause or attempt to cause a domestic financial institution, such as Fifth Third Bank, to fail to file a CTR for the purpose of evading the reporting requirements of Title 31, United States Code, §§5313(a) or 5325, or the reporting or recordkeeping requirements imposed by any order issued under §5326. Based upon my training and experience, and that of other law enforcement officers with whom I have spoken, breaking up cash deposits or withdrawals to or from a domestic financial institution into amounts smaller than \$10,000 is known as “structuring,” and this is a common way that individuals illegally attempt to avoid the reporting requirements set forth in Title 31, United States Code, §§5313(a) or 5325, or the reporting or recordkeeping requirements imposed by any order issued under §5326.

31. The FBI’s preliminary review of Neurendo’s Fifth Third Bank records demonstrates that TOMLINSON made approximately 52 cash withdrawals from the **Subject Account** between May through November 2017, approximately 47 of which were for \$9,500. None of TOMLINSON’s cash withdrawals from Fifth Third Bank during this time were over the CTR reporting threshold of \$10,000.

32. I have received and reviewed records from Barrington Bank & Trust (“BB&T”). The BB&T records demonstrate that TOMLINSON purchased approximately 79 cashier’s checks with United States currency, totaling approximately \$329,000, between approximately April 2017 and October 2017 at a bank branch located within about two miles of the **Subject Premises**. Many of the check purchases were structured in amounts lower than \$10,000. Among the cashier’s checks purchased by TOMLINSON were approximately \$253,000 in checks written to

his wife, \$23,500 in checks written to Church A, and \$33,000 in checks written to the Washington National Cathedral. The vast majority of the cashier's checks were either written to TOMLINSON's wife or were used to make payments that appeared unrelated to Neurendo's business, such as the checks written to the Washington National Cathedral and to Church A.

33. In addition, I have reviewed the bank records for TOMLINSON's wife. As discussed above, TOMLINSON wrote numerous checks to his wife, including cashier's checks and business checks, from the Neurendo accounts. From my review, it appears that Neurendo investor funds were commingled with existing funds in the TOMLINSON's wife's account, and that the funds were used to pay the couples' personal expenses including mortgages on a property in Petoskey, Michigan, and a row home in the Georgetown neighborhood in Washington D.C.¹

34. During the entirety of this time frame, TOMLINSON was subject to a stipulated judgment order from the U.S. Bankruptcy Court for the Northern District of Illinois which ordered him to pay \$1.5 million to Entity A. TOMLINSON was aware of the U.S. Bankruptcy Court order, as demonstrated by his payment of a \$25,000 BOFA cashier's check to Entity A on or about May 2, 2017.

Summary of TOMLINSON's Financial Transactions

35. Based upon the FBI's preliminary review of financial records, the vast majority of

¹ More specifically, between April 2016 and September 2017, mortgage payments, totaling approximately \$89,000, were made from TOMLINSON's wife account at JP Morgan Chase Bank for the couple's property located at 4660 Wild Winds Drive, Bay Harbor, Michigan, 49770, PIN number 52-18-09-225-123. In addition, between April 2016 and September 2017, mortgage payments, totaling approximately \$217,000, were also made from TOMLINSON'S wife's account at the same bank for the couple's property located at 3315 N St NW, Washington D.C., 20007, PIN number 1229-0000-0128.

the approximately \$1.7 million in Neurendo investor funds received by TOMLINSON from March 2016 through July 2017 were not used by TOMLINSON for the operations of Neurendo Pharma. In particular, TOMLINSON transferred approximately \$1.1 million of Neurendo investor funds to bank accounts controlled by Aviators, a corporate entity under the complete control of TOMLINSON, and withdrew over \$333,000 from Neurendo bank accounts in the form of cash, mostly as structured withdrawals under \$10,000. TOMLINSON transferred approximately \$651,500 to his wife from Aviators bank accounts, withdrew approximately \$123,000 in cash, paid \$100,000 to Futures Trading Firm A to fund a trading account, and paid such personal expenses as approximately \$31,000 in personal property taxes, approximately \$25,000 to Entity A, approximately \$19,000 to the Washington National Cathedral, and approximately \$20,000 for annual membership dues in his wife's name to a golf club, marina, yacht club and boat maintenance expenses. During the same time frame, TOMLINSON brought approximately \$329,000 in cash to a bank branch located less than two miles from the **Subject Premises** and purchased numerous cashier's checks, many of them in structured purchases below \$10,000. TOMLINSON had approximately \$253,000 worth of those cashier's checks made out to his wife, approximately \$23,500 to Church A and approximately \$33,000 to the Washington National Cathedral.

36. Ultimately, TOMLINSON directed approximately \$904,000 of Neurendo investor funds to his wife during that time frame, used approximately \$151,500 more to pay his personal expenses and paid \$100,000 to Futures Trading Firm A, in addition to his total cash withdrawals of approximately \$456,000. Contrary to his representations to Investors A and B, the majority of Neurendo investors' capital contributions in 2016 and 2017 were not spent to fund the company's operations, but rather to fund the lifestyle of TOMLINSON and his wife.

Use of Interstate Wires

37. I have reviewed records relating to a wire transfer involving the use of Investor C's funds of \$100,000 for TOMLINSON's futures trading. Investor C, a Wisconsin entity, provided a check for \$150,000, made out to Neurendo for the purchase of 50,000 shares of Neurendo stock. The check was deposited by TOMLINSON to Neurendo's HECB account ending in 5686 on or about May 3, 2016. Prior to the deposit of Investor C's funds, the account held less than \$572. On or about May 6, 2016, TOMLINSON sent a wire transfer, via FEDWIRE, from HECB to the BMO Harris Bank account of Futures Trading Firm A to fund a commodity futures trading account in the name of Aviators in the amount of \$100,000 on or about May 6, 2016. FEDWIRE is an electronic interbank funds transfer system operated by the Federal Reserve.

38. Based upon my training and experience, and my interviews of Federal Reserve employees in prior investigations, I know that FEDWIRE does not process wire transfers in Illinois but rather in New Jersey and/or Texas. Thus, FEDWIRE transfers initiated in Illinois are interstate wire transactions.

The Subject Premises

39. TOMLINSON told Investor B during the course of a meeting recorded by the FBI that he ran Neurendo from his home, which is the **Subject Premises**. TOMLINSON told Investor B that there was no other office for Neurendo. TOMLINSON has told Investor A that he is the sole employee of Neurendo.

40. The records of the Cook County Recorder of Deeds demonstrate that the **Subject Premises** is owned by TOMLINSON. In addition, TOMLINSON and his wife submitted an "Evidence of Property Insurance" form to Northern Trust on or about August 19, 2014. The form

showed TOMLINSON and his wife's address as the **Subject Premises**. In addition, I obtained the records of Citibank credit cards whose balances were paid by TOMLINSON's wife from her Chase account ending in 7887. Among these credit cards was a Citibank credit card account ending in 8553 opened by TOMLINSON's wife on or about November 23, 2014, as well as a Shell fuel credit card account ending in 1399. She listed the **Subject Premises** as her current home address in the application for the account ending in 8553. The statements for both credit card accounts were mailed to TOMLINSON's wife at the **Subject Premises** from at least December 2014 through September 22, 2017. TOMLINSON's wife used her Citibank credit card account ending in 8553 to purchase services for TOMLINSON, including tickets for his air travel on at least three occasions in 2017, and rental car reservations in August 2017.

41. On August 10, 2017, I conducted an investigation concerning TOMLINSON and Neurendo at the Pack N Mail store located at 1566 W. Algonquin Road in Hoffman Estates, Illinois. Mailbox #230 at that location is Neurendo's business address as given on the company's official correspondence, tax documents and financial statements. This store is located less than one mile from the **Subject Premises**. Records provided by the store indicated that TOMLINSON rented mailbox #230 since approximately 1998, and that his most recent rental application was filed in 2006. TOMLINSON listed the address of the **Subject Premises** as his home address on the 2006 application. Mailbox #230 contained envelopes from Northern Trust, HECB, BOFA and Investor A, all addressed to Neurendo.

42. According to the United States Postal Service, TOMLINSON has received mail at the **Subject Premises** through November 17, 2017.

43. Based upon my training and experience in investigating fraud and serving search

warrants, and the training and experience of law enforcement officers with whom I have spoken, I am aware that individuals who run businesses out of their homes often keep records related to that business in their homes either on their computers or in paper form in their files. This financial information can include information in both electronic and paper form related to names of investors, company financial statements and bank statements, as well as communications and correspondence with investors and board members. Similarly, based upon my training and experience, I am aware that individuals often store personal records in both electronic and paper form related to their personal finances in their homes, which can include personal bank account statements, personal brokerage statements, personal mortgage statements, and records relating to assets and liabilities and personal income and expenditures of funds.

44. Based upon my training and experience, and the training and experience of other law enforcement officers with whom I have spoken, persons like TOMLINSON, who are the subject of court ordered judgments, often attempt to conceal their assets. Withdrawing cash from business bank accounts through structured transactions and physically hiding the cash is one method of concealing assets from a court-ordered judgment. Also based upon my training and experience, I am aware that individuals who possess large amounts of cash often store all or part of the cash in their residences.

SPECIFICS REGARDING SEARCHES OF ELECTRONIC STORAGE MEDIA

45. Based upon my training and experience, and the training and experience of specially trained personnel whom I have consulted, searches of evidence from electronic storage media commonly require agents to download or copy information from the electronic storage media and their components, or remove most or all electronic storage media items (e.g. computer

hardware, computer software, computer-related documentation, and cellular telephones) to be processed later by a qualified computer expert in a laboratory or other controlled environment. This is almost always true because of the following:

46. Electronic storage media can store the equivalent of thousands of pages of information. Especially when the user wants to conceal criminal evidence, he or she often stores it with deceptive file names. This requires searching authorities to examine all the stored data to determine whether it is included in the warrant. This sorting process can take days or weeks, depending on the volume of data stored, and it would be generally impossible to accomplish this kind of data search on site.

47. Searching electronic storage media for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert should analyze the system and its data. The search of an electronic storage media system is an exacting scientific procedure which is designed to protect the integrity of the evidence and to recover even hidden, erased, compressed, password-protected, or encrypted files. Since electronic storage media evidence is extremely vulnerable to tampering or destruction (which may be caused by malicious code or normal activities of an operating system), the controlled environment of a laboratory is essential to its complete and accurate analysis.

48. In order to fully retrieve data from a computer system, the analyst needs all storage media as well as the computer. The analyst needs all the system software (operating systems or interfaces, and hardware drivers) and any applications software which may have been used to

create the data (whether stored on hard disk drives or on external media).

49. In addition, electronic storage media such as a computer, its storage devices, peripherals, and Internet connection interface may be instrumentalities of the crime(s) and are subject to seizure as such if they contain contraband or were used to carry out criminal activity.

PROCEDURES TO BE FOLLOWED IN SEARCHING ELECTRONIC STORAGE MEDIA

50. Pursuant to Rule 41(e)(2)(B) of the Federal Rules of Criminal Procedure, this warrant will authorize the removal of electronic storage media and copying of electronically stored information found in the premises described in Attachment A-1 so that they may be reviewed in a secure environment for information consistent with the warrant. That review shall be conducted pursuant to the following protocol.

51. The review of electronically stored information and electronic storage media removed from the premises described in Attachment A-1 may include the following techniques (the following is a non-exclusive list, and the government may use other procedures that, like those listed below, minimize the review of information not within the list of items to be seized as set forth herein):

52. examination of all the data contained in such computer hardware, computer software, and/or memory storage devices to determine whether that data falls within the items to be seized as set forth in Attachment B;

53. searching for and attempting to recover any deleted, hidden, or encrypted data to determine whether that data falls within the list of items to be seized as set forth in Attachment B (any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offenses, (2) a fruit of the criminal

activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offenses specified above);

54. surveying file directories and the individual files they contain to determine whether they include data falling within the list of items to be seized as set forth in Attachment B;

55. opening or reading portions of files, and performing key word searches of files, in order to determine whether their contents fall within the items to be seized as set forth in Attachment B.

56. The government will return any electronic storage media removed from the premises described in Attachment A-1 within 30 days of the removal unless, pursuant to Rule 41(c)(2) or (3) of the Federal Rules of Criminal Procedure, the removed electronic storage media contains contraband or constitutes an instrumentality of crime, or unless otherwise ordered by the Court.

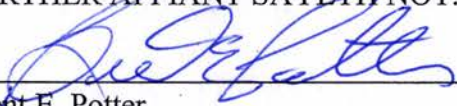
CONCLUSION

57. Based upon the information set forth above, I respectfully submit that there is probable cause to believe that, beginning no later than in or about March 2016 and continuing through at least in or about November 2017, TOMLINSON engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises and concealment of material facts, and, for the purpose of executing such scheme, caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, and signals, specifically a FEDWIRE funds transfer from HECB to a commodity futures trading account in the name of Aviators at Futures Trading Firm A in the amount of \$100,000 on or about May 6, 2016, in violation of Title 18, United States Code, Section 1343.

58. In addition, I believe that there is probable cause to search and seize items at the **Subject Premises**, described in Attachment B that constitute evidence of, contraband, and fruits of crime in the commissions of violations of Title 18, United States Code, Section 1343, as described above.

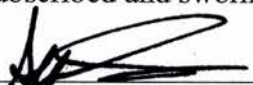
59. I respectfully submit that there is probable cause to seize the balance of the funds in the **Subject Account**, further described in Attachment A-2, based upon TOMLINSON's deposits of Neurendo investor funds into the account and his subsequent transfers of those funds to his wife's personal Chase account.

FURTHER AFFIANT SAYETH NOT.



Brent E. Potter
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me this 27th day of November 2017, at Chicago, Illinois.



The Honorable Susan E. Cox
United States Magistrate Judge
Northern District of Illinois