

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FELONY

BILL OF INFORMATION FOR MAIL FRAUD AND NOTICE OF FORFEITURE

UNITED STATES OF AMERICA	*	CRIMINAL NO.	
v.	*	SECTION:	
MARTIN VELLOZZI	*	VIOLATION:	18 U.S.C. § 2 18 U.S.C. § 1341
	*		

* * *

The United States Attorney charges that:

COUNT 1 - MAIL FRAUD

A. AT ALL MATERIAL TIMES HEREIN:

1. Martin Vellozzi (“VELLOZZI”) was a resident of Rancho Palos Verdes, California, and the owner and operator of Luxury Motor Vehicles Industries (“LMV Industries”). LMV Industries offered independent technical information and support for Mercedes-Benz automobiles, among others, through websites to which members paid a monthly fee. In addition to providing the membership-only website to share information relating to the repair of automobiles, including Mercedes-Benz automobiles, VELLOZZI conducted frequent, regular multi-day diagnostic training seminars around the country focused on Mercedes-Benz automobiles for which individuals could pay and enroll, including seminars held in New Orleans, Louisiana.

2. Daimler AG was an automaker headquartered in Stuttgart, Germany, that produced and sold Mercedes-Benz ("Mercedes-Benz") automobiles. Mercedes-Benz USA ("MBUSA"), a division of Daimler AG, was responsible for the distribution and marketing of Mercedes-Benz automobiles in the United States. In addition to automobiles, Daimler AG produced, and MBUSA distributed in the United States, automotive parts and equipment for both commercial and consumer use.

3. Daimler AG produced the Star Diagnostic System ("SDS"), a hand-held computer designed to aid in the diagnosis of automotive systems with electronic controls and interfaces. The SDS consisted of a tablet-type computer with a touch screen interface running the Windows XP operating system. Included with the SDS was a multiplexer (used for combining signals, and, in effect, negotiating the transmission of diagnostic information between an automobile and the SDS) and various connection cables. Installed on the SDS were software programs created by Mercedes-Benz in order to diagnose and repair Mercedes-Benz automobiles. Daimler AG provided authorized purchasers and lessors of the SDS regular software updates.

4. The retail price of an authentic Mercedes-Benz SDS was between approximately \$8,300 and \$22,000 in the United States. Additionally, in some instances, purchasers of the SDS would pay Daimler AG (or, in the United States, MBUSA) several thousand dollars per year to receive regular software updates.

5. In order to purchase or lease an SDS from MBUSA, a purchaser or lessor had to execute a license agreement that governed the usage and distribution of the SDS and the SDS software. The license agreement recognized that the software on the SDS was "confidential, proprietary, trade secret information" and that recipients of a license were prohibited, in part, from transferring, assigning, or providing the software to others without authorization from

Daimler AG or MBUSA. The SDS software also sought to prevent unauthorized use of the software by requiring the input of an alpha-numeric code sequence (a “key” or “license key”) to “unlock” the software.

6. Daimler AG registered its trademarks in the principal register at the U.S. Patent and Trademark Office, including specifically the following:

a. The stylized Mercedes-Benz, Three-Pointed Star logo pictured below (“Logo”), when used with a broad range of other related products, in addition to automobiles and their parts, and services, including, but not limited to, the repair, reconditioning, and servicing of motor vehicles, motors, and their parts and accessories (TM 72023897, 73068448; Registration # 0661311, 1045080).



b. The word mark “Mercedes-Benz,” when used with automobiles and their parts and services, as well as a broad range of other, related products, including the repair, reconditioning, and servicing of motor vehicles, motors, and their parts and accessories (TM 72023779, 73089866; Registration # 0657386, 1060986).

B. THE SCHEME TO DEFRAUD:

7. Beginning at a time unknown, but not later than 2005, and continuing through about July 2012, in the Eastern District of Louisiana and elsewhere, the defendant, **MARTIN VELLOZZI**, did willfully and intentionally devise and attempt to devise a scheme and artifice to defraud for the purpose of obtaining money and property by means of false and fraudulent pretenses, representations, and promises by falsely and fraudulently producing and offering for

sale unauthorized and non-authentic versions of the Mercedes-Benz Star Diagnostic System containing software bearing the Mercedes-Benz logo and word mark, thereby representing that the SDS he was selling were authentic and authorized by Daimler AG, when, in fact, they were neither authentic nor authorized by Daimler AG. **VELLOZZI** charged approximately \$6,000, on average, for an unauthorized, non-authentic SDS.

8. It was further part of the scheme and artifice to defraud that **VELLOZZI** began offering for sale, and in fact selling, SDS units containing software that bore trademarks registered by Daimler AG on the principal register at the U.S. Patent and Trademark Office without authorization. Initially, the unauthorized SDS were produced by Company A, a Harahan, Louisiana-based company specializing in the sale and distribution of parts and equipment for used Mercedes-Benz automobiles and Company B, a Durham, North Carolina-based company that specialized in the sale of remanufactured Mercedes-Benz parts and equipment. In about 2008, Company A, Company B, and **VELLOZZI** began purchasing software for the unauthorized SDS, as well as updates and "patches" for the software, from another source.

9. It was further part of the scheme and artifice to defraud that **VELLOZZI** purchased and offered for sale alpha-numeric codes that would "unlock" the software on the unauthorized SDS that were not issued by Daimler AG or MBUSA. The codes were generated using "keygens," or programs that generate an unauthorized license key or serial number that activate (*i.e.*, "unlock") software by bypassing or overriding protections embedded in the software license so that the software can be used without buying a licensed version from the supplier. **VELLOZZI** used the keygens to override security protections and protocol on the software in the unauthorized SDS he sold. The keygens were used in conjunction with other

modifications to make the software work on the unauthorized SDS without authorization from Daimler AG or MBUSA.

10. It was further part of the scheme and artifice to defraud that, in some instances, when a customer agreed to purchase an unauthorized SDS from **VELLOZZI, VELLOZZI** would notify Company A, who would then either send the unauthorized SDS via commercial interstate carrier, including Federal Express and United Parcel Service (“UPS”), from Harahan, Louisiana, to **VELLOZZI** who would then send it on to the customer or send the unauthorized SDS directly from Harahan, Louisiana to **VELLOZZI’S** customer.

11. It was further part of the scheme and artifice to defraud that in some instances, when **VELLOZZI** or one of the customers to whom he sold an unauthorized SDS had a problem or needed updated software, Company A would provide the updated software or perform the repairs on the device and return it via commercial interstate carrier to **VELLOZZI** or **VELLOZZI’S** customer.

C. THE MAILING:

12. On or about August 22, 2011, in the Central District of California, and elsewhere, the defendant, **MARTIN VELLOZZI**, for the purpose of executing and attempting to execute the scheme and artifice to defraud as alleged in Section B above, did knowingly and willfully deposit, and cause to be deposited and delivered by a private and commercial interstate carrier; to wit: a non-authentic and unauthorized SDS unit that he sold for approximately \$5,500.00 from Rancho Palos Verdes, California, to Ann Arbor, Michigan; all in violation to Title 18, United States Code, Sections 1341 and 2.

NOTICE OF FORFEITURE

1. The allegations of Count 1 of this bill of information are realleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Sections 1341 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461.

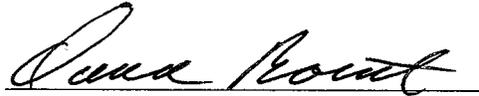
2. As a result of the offenses alleged in Count 1, the defendant, **MARTIN VELLOZZI**, shall forfeit to the United States pursuant to Title 18, United States Code, Sections 1341 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461, any and all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Section 1341.

3. If any of the property subject to forfeiture pursuant to Paragraph 2 of this Notice of Forfeiture, as a result of any act or omission of the defendant:

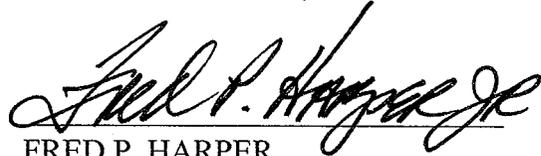
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot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

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

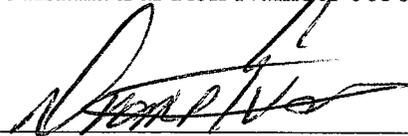
All in violation of Title 18, United States Code, Sections 1341 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461.



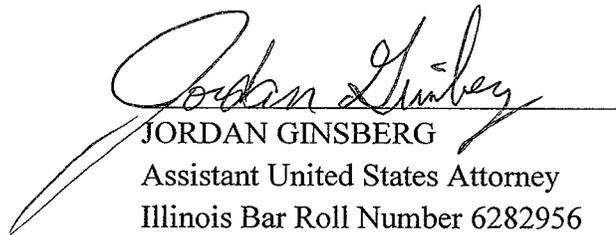
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New Orleans, Louisiana
July 15, 2013