UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	*	**CRIMINAL NO: 14-259**
v.	*	**SECTION: "J"**
DARNELL REED	*	

* * *

FACTUAL BASIS

Should this matter have gone to trial, the government would have proven beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible exhibits, the following to support the allegations charged by the government in the two-count Indictment now pending against the defendant, DARNELL REED.

In April 2012, Homeland Security Investigations ("HSI") Special Agents received information from police officers from the New Orleans Police Department ("NOPD") regarding DARNELL REED ("REED"), who was selling digital video discs ("DVDs") of pirated movies in the parking lot of a business, Beauty Plus, located in the 1100 block of Elysian Fields Avenue, New Orleans, LA. NOPD officers had issued REED a summons on at least three (3) prior occasions for selling counterfeit movie DVDs and charged him with the municipal charges of non-payment of sales tax and not having an occupational license.

An HSI Special Agent would testify that on or about May 3, 2012, he conducted surveillance in the 1100 block of Elysian Fields Avenue. He observed REED in the parking lot of Beauty Plus. REED was standing in the rear of his green Dodge Caravan with the hatch opened displaying his movie DVD and music compact disc ("CD") inventory.

On or about May 8, 2012, HSI Special Agents, Investigators from the Louisiana

Department of Justice/Attorney General Investigations Division (LDOJ/AG) and an investigator from the Recording Industry Association of America, Inc. (RIAA) and the Motion Picture Association of America (MPAA) conducted a controlled buy from REED, who was in the parking lot of Beauty Plus and using the same Dodge Caravan to display the movie DVD and music CD inventory. The investigator approached REED and inquired about a purchase of a movie DVD and music CDs. The DVDs and CDs were displayed in the rear of the caravan, which also hung a handwritten sign showing "3 FOR $10" and "7 FOR $20". The investigator purchased one music CD and two movie DVDs from REED for the sum of $10. The investigator handed REED a $20 bill and REED gave him change in the amount of two five dollar bills. The investigator examined the DVDs and CD and determined that they were counterfeit.

REED was arrested after the transaction. After the law enforcement officers explained REED his *Miranda* rights, which he waived, REED informed the agents that he had CD/DVD burners and packaging materials at his house. He signed a Consent to Search form for his residence located in New Orleans, LA. The agents also seized $48.00 U.S. currency from REED, which included the $20 "buy money".

During the execution of the search, the agents found and seized 2 Boxes of CD and DVD Sleeves; 1 Box of Blank DVDs; CD/DVD Burner, Serial Number E100035051; CD/DVD Burner, Serial Number E10045035; CD/DVD Burner, Serial Number E10045036; CD/DVD Burner, Serial Number F06120490045; and packaging materials.

The seized DVDs were given to representatives of the MPAA to determine whether the DVDs were pirated or counterfeit. An MPAA expert randomly selected approximately 99 DVDs from approximately 7,187 DVDs which were seized from REED's vehicle. After examining them, the expert concluded that the materials were counterfeit. The seized counterfeit DVDs have a total

retail value of more than $2,500.

The CDs were given to representatives of the RIAA to determine whether the CDs were pirated or counterfeit. An RIAA expert randomly selected approximately 234 CDs from approximately 7,315 CDs which were seized from REED's vehicle. After examining them, the expert concluded that the CDs were counterfeit. The seized counterfeit CDs have a total retail value of more than $2,500.

The counterfeit movie DVDs and CDs seized from REED, including, but not limited to, six (6) copies of *Cinderella*, five (5) copies of *Kung Fu Panda 2*, eleven (11) copies of *Speed Racer*, two (2) copies of Christina Aguilera's *Stripped*, five (5) copies of Destiny Child's *1998 Destiny's Child*, and three (3) copies of Mariah Carey's *The Ballads*, were registered with the U.S. Copyright Office and were copyright protected. None of the movie DVDs or music CDs was authorized for duplication, replication, or distribution by any party other than the copyright holders. None of the copyright owners authorized REED to manufacture or distribute any of the copyrighted material.

APPROVED AND ACCEPTED:

DARNELL REED Defendant	Date
GEORGE CHANEY, JR. (22215) Assistant Federal Public Defender Attorney for Defendant	Date
Loan "Mimi" Nguyen LOAN "MIMI" NGUYEN (23612) Assistant United States Attorney	Date