

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN JOSE

UNITED STATES OF AMERICA,

v.

Filed

OCT 29 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

MAXITO PEAN,

CR 14 00543

LHK

PSG

DEFENDANT(S).

INDICTMENT

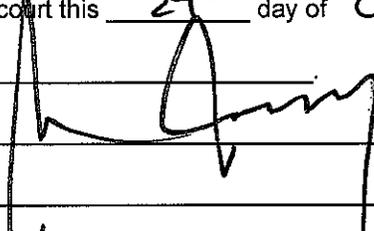
VIOLATIONS: 18 U.S.C. § 1349 – Conspiracy to Commit Wire Fraud; 18 U.S.C. § 1343 – Wire Fraud; 18 U.S.C. § 1956(h) – Conspiracy to Commit Money Laundering; 18 U.S.C. § 1956(a)(1)(B)(i) – Money Laundering (Concealment); 18 U.S.C. § 1957 – Engaging in Monetary Transactions Using the Proceeds of Specified Unlawful Activity; 18 U.S.C. § 2 – Aiding and Abetting

A true bill.



Foreman

Filed in open court this 29th day of Oct, 2014



Clerk

No Bail Arrest Warrant Bail, \$

C

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United States Attorney

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3 Chief, Criminal Division

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Attorneys for United States of America

Filed

OCT 29 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

LHK
PSG

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 MAXITO PEAN,

17 Defendant.

CR 14

00543

CASE NO.

VIOLATIONS: 18 U.S.C. § 1349 – Conspiracy to
Commit Wire Fraud; 18 U.S.C. § 1343 – Wire Fraud;
18 U.S.C. § 1956(h) – Conspiracy to Commit Money
Laundering; 18 U.S.C. § 1956(a)(1)(B)(i) – Money
Laundering (Concealment); 18 U.S.C. § 1957 –
Engaging in Monetary Transactions Using the
Proceeds of Specified Unlawful Activity; 18 U.S.C.
§ 2 – Aiding and Abetting

SAN JOSE VENUE

20
21 INDICTMENT

22 The Grand Jury charges:

23 At all times relevant to this Indictment, with all dates mentioned being approximate and all date
24 ranges inclusive:

25 Email Takeover Scams Based on “Phishing”

26 1. An “email takeover scam” refers to a scheme in which a victim is sent a so-called
27 “phishing” email designed to capture his or her username and account password. A phishing email is
28 designed to appear legitimate, but in reality is a fraudulent attempt to acquire someone’s personal

1 information – such as the user’s name, date of birth, account information or passwords – by false
2 pretenses. A phishing email is designed to trick the unsuspecting victim into clicking on a link that
3 delivers him to a fraudulent website designed to look like its legitimate counterpart. When the victim
4 logs into the fraudulent website, his username and password are captured; this allows the perpetrator to
5 access the victim’s account, review its contents, and send or receive emails posing as the victim.

6 2. Perpetrators of email takeover scams often set up filters within a victim’s account that
7 redirect certain incoming emails – for example, emails from the victim’s bank or financial advisor sent
8 to verify a transaction – to prevent the victim from discovering the fraud. By using a filter to redirect
9 those emails to the victim’s trash folder, the imposter greatly reduces the likelihood that the victim will
10 see the confirming email. This allows the imposter to communicate with the victim’s bank as if he (the
11 imposter) were the victim, without the victim’s knowledge or permission.

12 Use of “Money Mules” to Launder Fraudulently Obtained Proceeds

13 3. Persons involved in money laundering of financial transactions involving the proceeds of
14 fraud often use nominees and multiple bank accounts to transfer and withdraw funds to evade detection
15 by law enforcement. The purpose of using nominees, also known as “money mules,” is to conceal the
16 nature, source, and location of the proceeds earned from the fraud. At the perpetrator’s direction, a
17 money mule will open one or more bank accounts in his or her own name, or in the name of a fictitious
18 business, to make the illicit funds flowing through the bank account appear to be legitimate. The
19 nominee accounts are opened for the sole purpose of receiving fraudulent funds and transferring those
20 funds to the perpetrator, sometimes using other intermediary accounts in a process known as “layering.”

21 C.S.P. is Victimized by Email Takeover Scam, Loses \$233,200

22 4. By not later than February 12, 2013, C.S.P., a resident of Saratoga, California, was the
23 victim of an email takeover scam. Beginning on that date, an unknown person, posing as C.S.P., began
24 communicating with K.M., an employee with Deutsche Bank in San Francisco, requesting K.M. to
25 transfer funds from C.S.P.’s bank account. The emails between C.S.P. and K.M. were sent to and from
26 C.S.P.’s Yahoo! email account; however, the person who sent and received those emails from C.S.P.’s
27 account was not C.S.P., but rather an imposter who had gained control of the account by means of a
28 phishing email and was posing as C.S.P. without his knowledge or authority.

1 statement for his own account (SunTrust Bank account ending in 8307) that showed a \$150,000 deposit
2 made on February 21, 2013.

3 The Scheme and Artifice to Defraud

4 11. Beginning in approximately February 2013, and continuing through August 21, 2013,
5 PEAN received funds that had been fraudulently obtained from C.S.P. through an email takeover scam.
6 In order to hide his involvement in the scheme, PEAN arranged for nominees, including but not
7 necessarily limited to unindicted co-conspirators R.E. and L.G., to set up businesses and bank accounts
8 in their own names, receive the fraudulent proceeds on PEAN's behalf, then funnel those funds back to
9 him.

10 Interstate Nexus for Money Laundering Counts

11 12. Fifth Third Bank, SunTrust Bank, and TD Bank are financial institutions engaged in, and
12 the activities of which affect, interstate and foreign commerce in some way and degree, within the
13 meaning of 18 U.S.C. § 1956(c)(4)(B) and § 1957(f)(1).

14 COUNT ONE: (18 U.S.C. § 1349 – Conspiracy to Commit Wire Fraud)

15 13. Paragraphs 1 through 12, and the transactions alleged in Counts Two through Five, are
16 alleged and incorporated as if fully set forth here.

17 14. Beginning at a time unknown to the Grand Jury, but no later than February 12, 2013, and
18 continuing through August 21, 2013, in the Northern District of California and elsewhere, the defendant,

19 MAXITO PEAN,

20 and others both known and unknown to the Grand Jury, conspired to devise and did devise a material
21 scheme and artifice to defraud, and to obtain money and property by means of false and fraudulent
22 pretenses, representations, and promises, and by material omissions, and for the purpose of executing
23 such scheme and artifice did transmit and cause to be transmitted by means of wire communication in
24 interstate commerce certain writings, signs, signals, pictures, and sounds, including, but not limited to,
25 the wire communications alleged in Counts Two through Five.

26 All in violation of Title 18, United States Code, Section 1349.

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1 COUNTS TWO THROUGH FIVE: (18 U.S.C. §§ 1343 and 2 – Wire Fraud; Aiding and Abetting)

2 15. Paragraphs 1 through 12, and the transactions alleged in Counts Two through Five and
3 Seven through Sixteen, are alleged and incorporated as if fully set forth here.

4 16. On or about the dates set forth below, in the Northern District of California, and
5 elsewhere, for the purpose of executing a material scheme to defraud, and to obtain money and property
6 by means of false and fraudulent pretenses, representations, and promises, and by material omissions,
7 the defendant,

8 MAXITO PEAN,

9 and others both known and unknown to the Grand Jury, did transmit and cause to be transmitted by
10 means of wire communication in interstate commerce certain writings, signs, signals, pictures, and
11 sounds, including, but not limited to, the wire communications alleged in Counts Two through Five
12 below:

Count	Date	Description of Wire Communication	Sent From/To
2	2/12/2013 at 6:17 a.m.	Email from C.S.P.'s Yahoo account to K.M. requesting wire transfer of funds	From Los Angeles to San Francisco, CA, by way of New York
3	2/12/2013 at 7:15 a.m.	Email from K.M. to C.S.P. attaching a Letter of Authorization (LOA) for the requested transfer of funds	From San Francisco to Los Angeles, CA, by way of New York
4	2/12/2013 at 7:39 a.m.	Email from C.S.P. to K.M. returning a signed copy of the LOA, requesting confirmation number when wire transfer of funds is completed	From Los Angeles to San Francisco, CA, by way of New York
5	2/14/2013	Wire Transfer of \$233,200 from Deutsche Bank to account ending in 3055 at Fifth Third Bank, held in the name of Southeastern Capital Group	San Francisco, CA to Pembroke Pines, FL

25 All in violation of Title 18, United States Code, Sections 1343 and 2.

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28 //

INDICTMENT

1 COUNT SIX: (18 U.S.C. § 1956(h) – Conspiracy to Commit Money Laundering)

2 17. Paragraphs 1 through 12, and the transactions alleged in Counts Two through Five and
3 Seven through Sixteen, are alleged and incorporated as if fully set forth here.

4 18. Beginning at a time unknown to the Grand Jury, but no later than January 7, 2013, and
5 continuing through August 21, 2013, in the Northern District of California and elsewhere, the defendant,

6 MAXITO PEAN,

7 and others both known and unknown to the Grand Jury, did conspire to commit offenses against the
8 United States in violation of 18 U.S.C. § 1956(a)(1)(B)(i) and 1957, namely:

9 a. Knowing that property involved in a financial transaction represented the
10 proceeds of some form of unlawful activity, and which property was in fact the proceeds of specified
11 unlawful activity, namely wire fraud, the defendant conducted financial transactions knowing that those
12 transactions were designed in whole and in part to conceal and disguise the nature, location, source,
13 ownership, and control of the proceeds of that specified unlawful activity, in violation of 18 U.S.C.
14 § 1956(a)(1)(B)(i); and

15 b. Defendant knowingly engaged in monetary transactions by, through, and to a
16 financial institution, affecting interstate commerce, in criminally derived property of a value greater than
17 \$10,000, said property having in fact been derived from specified unlawful activity, namely wire fraud,
18 in violation of 18 U.S.C. § 1957.

19 MANNER AND MEANS

20 19. The objectives, manner, and means of the conspirators in carrying out the money
21 laundering conspiracy included the following:

22 a. Using multiple bank accounts, in a process known as “layering,” to transfer and
23 withdraw funds in order to evade detection by law enforcement;

24 b. Using nominees to set up businesses and bank accounts to receive, transfer, and
25 withdraw funds in order to evade detection by law enforcement; and

26 c. Engaging in monetary transactions using criminally derived property of a value
27 greater than \$10,000, said property having in fact been derived from the specified unlawful activity of
28 wire fraud.

1 In order to accomplish the objectives of the conspiracy, the defendant engaged in the financial
2 transactions alleged in Counts Seven through Sixteen, among others.

3 All in violation of Title 18, United States Code, Section 1956(h).

4 COUNTS SEVEN THROUGH TEN: (18 U.S.C. § 1956(a)(1)(B)(i) – Money Laundering)

5 20. Paragraphs 1 through 12, and the transactions alleged in Counts Two through Five, are
6 alleged and incorporated as if fully set forth here.

7 21. On the dates listed below, in the Northern District of California and elsewhere, the
8 defendant,

9 MAXITO PEAN,

10 aided and abetted by others both known and unknown to the Grand Jury, knowing that property involved
11 in a financial transaction represented the proceeds of some form of unlawful activity, and which
12 property was in fact the proceeds of specified unlawful activity, namely wire fraud, conducted the
13 following financial transactions, knowing that those transactions were designed in whole and in part to
14 conceal and disguise the nature, location, source, ownership, and control of the proceeds of that
15 specified unlawful activity:

	Date	Description of Transaction	Amount
7	2/15/2013	Wire transfer from Fifth Third Bank account x3055, in the name of SCG, to SunTrust Bank account x0637, in the name of Meade Financial Services	\$232,000
8	2/15/2013	Check cashed against Meade Financial Services account x0637, made payable to "Natures Spring, LLC"	\$30,000
9	2/15/2013	Check cashed against Meade Financial Services account x0637, made payable to "Capital Rescue, LLC"	\$50,000
10	2/19/2013	Check cashed against Meade Financial Services account x0637, made payable to "Maxito Pean"	\$150,000

28 All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i), and Section 2.

1 COUNTS ELEVEN THROUGH SIXTEEN: (18 U.S.C. §1957 – Engaging in Monetary
2 Transactions Using Criminally Derived Property)

3 22. Paragraphs 1 through 12, and the transactions alleged in Counts Two through Five, are
4 alleged and incorporated as if fully set forth here.

5 23. On the dates listed below, in the Northern District of California and elsewhere, the
6 defendant,

7 MAXITO PEAN,

8 aided and abetted by others both known and unknown to the Grand Jury, did knowingly engage in the
9 following monetary transactions by, through, and to a financial institution, affecting interstate
10 commerce, in criminally derived property of a value greater than \$10,000, said property having in fact
11 been derived from specified unlawful activity, namely wire fraud:

	Date	Description of Transaction	Amount
11	2/15/2013	Wire transfer from Fifth Third Bank account x3055, in the name of SCG, to SunTrust Bank account x0637, in the name of Meade Financial Services	\$232,000
12	2/15/2013	Check cashed against Meade Financial Services account x0637, made payable to "Natures Spring, LLC"	\$30,000
13	2/15/2013	Check cashed against Meade Financial Services account x0637, made payable to "Capital Rescue, LLC"	\$50,000
14	2/19/2013	Check cashed against Meade Financial Services account x0637, made payable to "Maxito Pean"	\$150,000
15	2/22/2013	Electronic Check payment from Natures Spring LLC bank account x2989 held at TD Bank, payable to Hudsons Furniture	\$11,500
16	2/26/2013	FedWire from SunTrust Bank account x8307, held in the name of "Max C. Pean" or "Maxito K. Pean" to account x9294, Bank of Nova Scotia, Port-au-Prince, Haiti	\$150,000

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INDICTMENT

All in violation of Title 18, United States Code, Section 1957 and Section 2.

DATED:

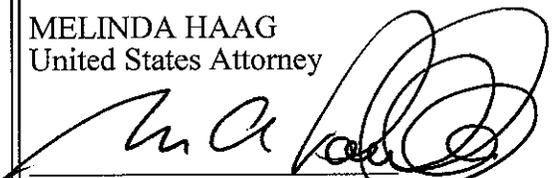
10/29/14

A TRUE BILL



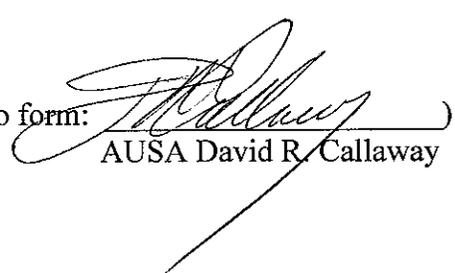
FOREPERSON

MELINDA HAAG
United States Attorney



MATTHEW A. PARRELLA
Chief, Computer Hacking/Intellectual Property

(Approved as to form:



AUSA David R. Callaway

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

SEE ATTACHMENT

Filed

OCT 29 2014

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY: SEE ATTACHMENT

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

CR

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

DEFENDANT - U.S.

▶ Maxito PEAN

DISTRICT COURT NUMBER

14 00543 LHK

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1) If not detained give date any prior summons was served on above charges ▶
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction } Federal State
 - 6) Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes } If "Yes" give date filed No

DATE OF ARREST ▶ Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY ▶ Month/Day/Year

This report amends AO 257 previously submitted

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

S/A Kyle Bashor IRS-CI

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form MELINDA HAAG

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) DAVID R. CALLAWAY

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: No Bail

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments: Def. is incarcerated at D. Ray James CI, Folkston, GA. Scheduled release 12/09/14. (Prisoner Reg. # 03848-104)

**PENALTY SHEET ATTACHMENT
MAXITO PEAN**

COUNT ONE: (18 U.S.C. § 1349-Attempt and Conspiracy to Commit Wire Fraud)

Penalties: Up to twenty years imprisonment;
\$250,000 fine (or twice the gain/loss);
Three years supervised release;
\$100 special assessment.

COUNTS TWO THROUGH FIVE: (18 U.S.C. § 1343 and 2 - Wire Fraud; Aiding and Abetting)

Penalties: Up to twenty years imprisonment;
\$250,000 fine (or twice the gain/loss);
Three years supervised release;
\$100 special assessment.

COUNT SIX: 18 U.S.C. § 1956(h)-Conspiracy to Commit Money Laundering

Penalties: 20 years imprisonment;
\$500,000 fine (or twice the gross gain or gross loss);
Three years supervised release;
\$100 special assessment.

COUNTS SEVEN THROUGH TEN: 18 U.S.C. § 1956(a)(1)(B)(i)-Money Laundering

Penalties: 20 years imprisonment;
\$500,000 fine (or twice the gross gain or gross loss);
Three years supervised release;
\$100 special assessment.

COUNTS ELEVEN THROUGH SIXTEEN: (18 U.S.C. §1957 – Engaging in Monetary Transactions Using Criminally Derived Property)

Penalties: 10 years imprisonment;
\$250,000 fine (or twice the amount of the criminally-derived property involved in the transaction);
Three years of supervised release;
\$100 special assessment