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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**  
 :  
 v. :  
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 DAVID A. HERMAN : Mag. No. 13-4179 (MAH)  
 :

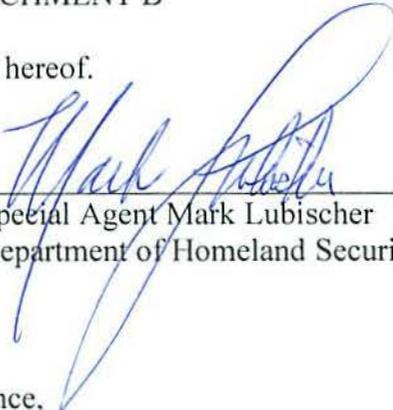
I, Mark Lubischer, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Department of Homeland Security, and that this complaint is based on the following facts:

SEE ATTACHMENT B

Continued on the attached page and made a part hereof.

  
\_\_\_\_\_  
Special Agent Mark Lubischer  
Department of Homeland Security

Sworn to before me and subscribed in my presence,  
October 21, 2013 in Newark, New Jersey

HONORABLE MICHAEL A. HAMMER  
UNITED STATES MAGISTRATE JUDGE

  
\_\_\_\_\_  
Signature of Judicial Officer



**ATTACHMENT A**

**COUNT I**

On or about September 30, 2013, in Bergen County, in the District of New Jersey and elsewhere, defendant DAVID A. HERMAN, knowingly, attempted to transport an individual in interstate commerce who had not attained the age of 18 years with the intent that the individual engage in sexual activity for which any person can be charged with a criminal offense.

In violation of Title 18, United States Code, Section 2423(a) and 2423(e) and Title 18, United States Code, Section 2.

## ATTACHMENT B

I, Mark Lubischer, am a Special Agent with the Department of Homeland Security Investigations ("HSI"). I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers who have engaged in numerous investigations involving child pornography, and my review of reports, documents, and items of evidence. Where statements of others are related herein, they are related in substance and part. Because this Affidavit is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

1. I have been employed as a Special Agent since 2002. I am responsible for, among other things, investigating federal criminal violations involving the sexual exploitation of children. I have received training through the Federal Law Enforcement Training Center in the areas of child pornography and child sexual exploitation, as well as specialized instruction in conducting investigations of child sexual exploitation and child pornography.

2. On or about November 27, 2012, a law enforcement officer, acting in an undercover capacity (hereinafter the "UC"), logged onto an internet website. The UC identified himself/herself as "Kris" and described the UC as a thirty-six year old female with a six-year old daughter named "Lexi."

3. A user utilizing the screen name "david121482," later identified as defendant DAVID A. HERMAN ("HERMAN"), contacted the UC "Kris" and asked to speak privately in an instant message conversation. "Kris" accepted the invitation and "david121482" advised that his name was "Dave" and that he was a male from New York.

4. During this conversation, HERMAN asked whether "Kris" was sexually active with her daughter or if she was interested in people that are sexually active with children. After learning that "Lexi" was six years old, HERMAN stated that "age 6 is the perfect time to start her being loved that way," and "I find girls that age incredibly sexy, soft, and their innocence is also a huge turn on for me." HERMAN provided his mobile telephone number and his Yahoo! email account so that the online conversation could continue elsewhere. When the conversation continued on Yahoo! later that day, HERMAN transmitted a picture of himself to "Kris" via Yahoo! Instant Messenger.

5. On or about December 17, 2012, HERMAN sent an instant message to "Kris" stating that he was close to New York City and that he wished to see "Lexi" at his office in New York City or at what he believed was "Kris'" residence in Bergen County, New Jersey. HERMAN promised that he would not hurt "Lexi" though he might have to be "forceful" with her. HERMAN suggested that they could give "Lexi" some alcohol to relax her. HERMAN stated his "ultimate goal" was to try to have oral and vaginal sex with "Lexi."

6. Over the ensuing months, HERMAN continued to communicate with "Kris" and to attempt to arrange a meeting with "Lexi" at what he believed to be her home in Bergen County or at his office in New York City.

7. Having been unsuccessful at meeting "Lexi" in the New Jersey area, in March 2013, HERMAN told "Kris" that he had a vacation home in St. Croix, U.S. Virgin Islands, and that he would like to fly "Kris" and "Lexi" down to spend a few days with him for the purpose of HERMAN engaging in sexual activity with "Lexi." HERMAN offered to pay for "Kris" and "Lexi's" trip from New Jersey, including airfare. During this communication, dates were discussed for a potential visit to St. Croix but nothing was scheduled.

8. In May 2013, HERMAN suggested taking a trip to the New Jersey area in late June or July for the purpose of engaging in sexual activity with "Lexi". Again, no trip was finalized.

9. In September 2013, HERMAN again suggested that "Kris" and "Lexi" fly to St. Croix at his expense. On or about September 30, 2013, a telephone conversation took place between HERMAN and "Kris." A female undercover law enforcement officer posed as "Kris" and conducted and recorded the telephone call from her location in New Jersey. During this telephone call, HERMAN requested first names, last names, and dates of birth for "Kris" and "Lexi" for the purpose of purchasing airline tickets for them to St. Croix. During this conversation, HERMAN discussed how he wanted to "break" Lexi's hymen and also stated that he was looking to do a lot of "oral" on her.

10. On or about September 30, 2013, HERMAN purchased airline tickets on American Airlines from LaGuardia International Airport to St. Croix, U.S. Virgin Islands (with a layover at Miami International Airport) for "Kris" and "Lexi" for travel on October 24, 2013. In order to purchase the ticket, HERMAN provided "Lexi's" birth date as "September 13, 2006."

11. HERMAN sent the flight information and itinerary to "Kris" via email and has had subsequent telephone and internet conversations with "Kris" regarding the upcoming trip to St. Croix, including whether HERMAN should procure certain things for "Kris" and "Lexi's" arrival in St. Croix, such as food, drinks, and a car seat. HERMAN has also continued to discuss his plan to engage in sexual activity with "Lexi" during the trip to St. Croix.