UNITED STATES DISTRICT COURT

for the

District of New Jersey

ORIGINAL FILED
FEB 27 2015
WILLIAM T. WALSH, CLERK

United States of America
v.
DARNEL JOHNS

Case No. 15-5506 (KMW)

Defendant(s)

CRIMINAL COMPLAINT

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

On or about the date(s) of 09/11/14 - 12/23/14 in the county of Camden in the _____ District of New Jersey, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 371, and 18 U.S.C. § 922 (g)(1)	(1) conspire and agree with each other and with others to engage in the business of dealing firearms, while not being federally-licensed dealers, importers, or manufacturers of firearms; and (2) possession of firearms in and affecting commerce, after previously having been convicted of a felony offense. See Attachment A

This criminal complaint is based on these facts:

See Attachment B

☑ Continued on the attached sheet.

Complainant's signature

Joseph Daly, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: January 27, 2015

Judge's signature

City and state: Camden, New Jersey

Karen M. Williams, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

COUNT ONE

From on or about September 11, 2014 through on or about December 23, 2014, in Camden County, in the District of New Jersey, and elsewhere, the defendants,

DAVID T. POTTS and
DARNEL JOHNS

did knowingly and intentionally conspire and agree with each other and with others to engage in the business of dealing firearms, while not being federally-licensed dealers, importers, or manufacturers of firearms, contrary to Title 18, United States Code, Section 922(a)(1)(A).

In violation of Title 18, United States Code, Section 371.

COUNT TWO

On or about September 19, 2014, in Camden County, in the District of New Jersey and elsewhere, the defendant,

DARNEL JOHNS,

having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court of the State of New Jersey, did knowingly possess in and affecting commerce firearms, namely, a Kel-Tec, model P11, 9mm pistol with an obliterated serial number; a Hi-Point, model C9, 9mm pistol, with an obliterated serial number; and a SCCY, model CPX-1, 9mm pistol with an obliterated serial number.

In violation of Title 18, United States Code, Section 922(g)(1).

ATTACHMENT B

AFFIDAVIT

Joseph Daly, Special Agent, Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"), being duly sworn according to law, deposes and states the following:

AFFIANT'S BACKGROUND

1. I have been employed as an ATF Special Agent since 2009, and am currently assigned to the ATF's Camden Field Office. During this time I have conducted and participated in numerous investigations concerning the violation of laws prohibiting the illegal possession of firearms and controlled dangerous substances ("CDS"). As an ATF Special Agent, I have received specialized training regarding, and have personally participated in, various types of investigative activity, including, but not limited to, the following: (a) physical surveillance; (b) the debriefing of defendants, witnesses, informants, and other individuals who have knowledge concerning violations of federal firearms laws; (c) undercover operations; (d) the execution of search warrants; (e) the consensual monitoring and recording of conversations; and (f) the handling and maintenance of evidence.

2. I have personally participated in the investigation discussed below and am aware of the facts contained herein based upon my own investigation as well as information provided to me by other law enforcement officers. Since this Affidavit is submitted for the sole purpose of establishing probable cause to support the issuance of a Criminal Complaint, I have not included each and every fact known to me concerning this investigation. Where statements of others are set forth in this Affidavit, they are set

forth in substance and in part. Similarly, dates and times are approximations, and should be read as on about, in about, or at about the date and/or time provided.

STATEMENT OF PROBABLE CAUSE FOR CRIMINAL COMPLAINT

3. On September 9, 2014, an ATF confidential informant ("the "CI") contacted ATF personnel stating that the CI was contacted in the city of Camden, New Jersey by an individual known to him as "Dave," who informed the CI that he and his associates had three firearms for sale: a .40 caliber, a .45 caliber, and a 9mm. During their conversation, "Dave" showed the CI several photographs from his cellular telephone of the above-described firearms, then explained to the CI that the firearms were coming up from the state of Georgia and were "brand new in the box." "Dave" further stated that he and his associates were selling .40 and .45 caliber firearms for $600.00 each. While the CI was speaking with "Dave," the CI observed an AK-47 style rifle inside the SUV occupied by "Dave" and an unknown black male. The CI asked "Dave" if the rifle was for sale; he replied in the affirmative and told the CI that they were asking $1,500.00 for it. At the conclusion of their conversation, "Dave" and the CI exchanged telephone numbers. The subscriber of the telephone number "Dave" gave to the CI is David POTTS.

4. The CI also told ATF agents that "Dave" works at a business on River Road in Camden ("the Business"). Agents queried law enforcement databases in regards to individuals related to the address of the Business, and learned that an individual named David T. POTTS had some connection to that address. The Camden County Sheriff's Office database was then queried for any individuals with the name of David POTTS,

and a photograph of a black male named David Tyrone POTTS was in the system from a 2011 arrest. On September 10, 2014, ATF personnel showed the CI that photograph, devoid of identifiers, and the CI positively identified David T. POTTS (hereinafter "POTTS") as the "Dave" mentioned in the previous paragraph. A query of the National Crime Information Center ("NCIC") determined that David T. POTTS, DOB: 11/03/1972 (FBI # 574122AB6), has multiple arrests and two prior felony convictions.

5. Subsequently, between in or about September 2014 and continuing through February 2015, the CI purchased 22 firearms from POTTS and Darnel JOHNS ("JOHNS") during the course of twelve controlled purchases. Of the firearms purchased, several had obliterated serial numbers, several were recently stolen, several were assault-style rifles or pistols with high-capacity magazines, and one was an illegal short-barreled shotgun. As the investigation established, and as set forth in more detail below, POTTS and JOHNS conspired with each other and others to sell the firearms, engaged in dealing in the firearms without a license, and possessed firearms both having been previously convicted of felonies in the State of New Jersey.

6. Pursuant to ATF standard procedure, prior to and following each of the controlled purchases, investigators searched the CI's vehicle and person for firearms and contraband. In every case, those pre/post searches revealed neither firearms nor contraband. Prior to each controlled purchase, the CI was furnished with pre-recorded ATF funds, that is, U.S. currency, with which to purchase the firearm(s). It should also be noted that the controlled purchases were arranged by the CI under the direction of ATF Agents through a series of cellular telephone calls and text messages between the

CI and POTTS and/or JOHNS. The controlled purchases were also audio and video recorded.

7. The CI has two prior felony convictions and a pending unlawful possession of a firearm charge being prosecuted by the State of New Jersey. The CI is cooperating in the hope of obtaining consideration with respect to this open state firearms charge, and has also received monetary payment for his cooperation. The CI's active cooperation with law enforcement has proven reliable, and information provided by the CI with respect to this investigation has also proven to be reliable and corroborated.

The September 11, 2014 Controlled Purchase: 1 Firearm

8. On September 11, 2014, in the early evening, agents conducted surveillance of a meeting between the CI and POTTS in the area of the Business. POTTS arrived in a green Hummer H2 sport utility vehicle (the "Hummer"), driven by another black male in his late forties or early fifties. POTTS exited the front passenger area of the vehicle and met with the CI. POTTS asked the CI if the CI was interested in purchasing four firearms. POTTS reentered the Hummer and left the area. An NCIC query showed the Hummer registered to a woman with the last name of JOHNS and a Lindenwold, New Jersey residence.

9. Agents then met with the CI at an undisclosed location. The CI texted POTTS and then placed a recorded telephone call to POTTS informing him that the CI was ready to purchase the firearms. Later that evening, the CI drove to the meeting location, which was in the area of the Business. While the CI was driving to that location, POTTS called the CI to tell him that only one of the firearms was available for

sale, and raised the price from $700 to $800. A short time later, law enforcement officers observed the Hummer parking adjacent to the CI's vehicle in the Business's parking lot. POTTS exited the Hummer and entered the CI's vehicle carrying a box. POTTS handed the box, which contained a Ruger, model SR-9, 9mm pistol bearing serial number 335-45483, to the CI, who then handed POTTS $800.00 in ATF pre-recorded funds in exchange. POTTS asked the CI if he wanted a pistol grip assault-type rifle for $1,500, to which the CI responded in the affirmative.

The September 19, 2014 Controlled Purchase: 3 Firearms

10. On September 19, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of three firearms: (1) a Kel-Tec, model P11, 9mm pistol with an obliterated serial number; (2) a Hi-Point, model C9, 9mm pistol, with an obliterated serial number, which was later restored to P1840868 (it was reported stolen on October 8, 2014); and (3) a SCCY, model CPX-1, 9mm pistol with an obliterated serial number. Prior to this controlled purchase, the CI was shown a Camden County Sheriff's Office photograph, devoid of identifiers, of Darnel JOHNS from April 15, 2000; the CI stated that he felt that the individual in the photograph was the driver of the Hummer from the September 11, 2014 controlled purchase, but asked to see a more current photograph.

11. The CI drove to the area of the Business, where a black Ford Expedition ("the Ford") was parked. The CI entered the Ford, which was driven by the same black male who was driving the Hummer during the meeting on September 11, 2014 that preceded the controlled purchase later that day. POTTS was in the front passenger seat. While

the Ford circled the block, the CI gave POTTS $2,400.00 in ATF pre-recorded funds, after which the driver told the CI that the firearms were inside a duffel bag in the Ford's rear cargo section. After the CI retrieved the firearms from the duffel bag and confirmed that they were all there, the driver told the CI to put the firearms inside a plastic bag that was inside the duffel bag. When the CI asked POTTS and the driver if they could obtain assault-style rifles, the driver replied that he was going Sunday to purchase more firearms, and that the CI could buy one for $1,500 on Monday. The driver then agreed to sell the CI two AK-47-style rifles for $3,000. Following this controlled purchase, surveillance units observed POTTS exiting the passenger side of the Ford in front of 242 Ablett Village in Camden. The Ford then was surveilled to the 1400 block of Bellevue Avenue in Camden, where it parked. As the driver exited the Ford and entered 1418 Belleview Avenue, he was positively identified by agents as JOHNS. Subsequently, on September 22, 2014, the CI was shown a New Jersey driver's license photograph of JOHNS, again devoid of identifiers. The CI positively identified the person in the photograph as the individual who was present with POTTS during both the September 11 and 19, 2014 controlled firearms purchases. POTTS had previously indicated that his source of firearms lived a couple of hours away and in Pennsylvania, and referred to him as his cousin. Investigation subsequently established that JOHNS resides in Albrightsville, Pennsylvania, an approximately two hours' drive from Camden.

The September 24, 2014 Controlled Purchase: 2 Firearms

12. On September 24, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of two firearms, a magazine, and various ammunition: (1) a Century Arms International 7.62mm rifle, model GP 1975, bearing

serial number GP-C506056; (2) a Browning 12-gauge shotgun, model BPS, with an obliterated serial number; (3) a Pro Mag Industries 73-round capacity 7.62mm drum magazine containing 51 rounds of 7.62mm ammunition; (4) 164 rounds of 7.62mm Black Bear ammunition; and (5) four rounds of assorted 12-gauge shotgun ammunition. While driving in a Cadillac Escalade ("the Cadillac") to the meeting location in the area of the Business, POTTS called the CI to say that POTTS's cousin was stuck in traffic and would not be able to meet until later. Surveillance subsequently observed JOHNS driving the Hummer, arriving at the meeting location, and pulling over by the Cadillac. POTTS walked to the Hummer and spoke to JOHNS. POTTS then opened the Hummer's rear passenger door and returned to the Cadillac with an object in his hand, while appearing to speak on a cellular phone. At the same time, the CI received a call from POTTS informing him that POTTS was ready and that POTTS's cousin was at the meeting location. After receiving that call from POTTS, the CI drove to the area of the Business, where he parked next to JOHNS, who was in the Hummer. POTTS then approached the CI and told the CI to follow him, so the CI followed POTTS's Cadillac to another area in the meeting location. POTTS then retrieved three plastic bags from the back of the Cadillac and placed them in the rear of the CI's vehicle. The CI then handed POTTS $2,400 in ATF pre-recorded funds. Immediately following the CI's departure from this meeting, POTTS drove the Cadillac over to the Hummer and met with JOHNS inside the Hummer. POTTS then exited the Hummer, and JOHNS departed the meeting location in the Hummer.

13. A query of the ATF National Firearms Registration and Transfer records on September 29, 2014 showed that the Browning model BPS 12-gauge short-barreled

shotgun with an obliterated serial number is neither registered to, nor has it been acquired by lawful manufacture or importation by, POTTS or JOHNS. Furthermore, no approved applications were located for POTTS or JOHNS to transfer and register said firearm to any person, as required by Title 26, United States Code, Sections 5811 and 5812.

The September 30, 2014 Controlled Purchase: 3 Firearms

14. On September 30, 2014, six days after the previous purchase, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of three firearms and ammunition: (1) an Israel Weapon IND-IWI, model Baby Eagle, 9mm pistol, serial number 43357177; (2) a Beretta, model 96D, .40 caliber pistol, serial number BER010680M (reported stolen by the Pennsylvania State Police on January 31, 1995); and (3) a Weihrauch Hermann, model EA/R, .38 special caliber revolver with an obliterated serial number; (4) ten rounds of .40 caliber Smith & Wesson ammunition; (5) 22 rounds of .357 caliber Federal ammunition; and (6) 11 rounds of 9mm Tula Cartridge Works ammunition. Before the CI departed for the meeting location, POTTS called the CI to tell him that his "cousin" was delayed in traffic.[1] When the CI arrived at the area of the Business, POTTS and JOHNS were standing between the Hummer and the Cadillac. POTTS retrieved a duffel bag from the rear of the Hummer and placed it inside the Cadillac. POTTS told the CI to follow him to another location in the area of

[1] Subsequent investigation determined that when POTTS, during conversations with the CI, referred to his "cousin," he was referring to JOHNS. To the best of my recollection, whenever POTTS spoke with the CI during this investigation, he never referred to JOHNS by his name, but always as his "cousin." For ease of reference, however, whenever I refer in this Affidavit to statements of POTTS to the CI about POTTS's "cousin," I will indicate that POTTS was referring to JOHNS by name. To date, law enforcement has been unable to confirm that POTTS and JOHNS are in fact cousins.

the Business, so the CI followed the Cadillac. POTTS then removed the duffel bag, which contained the firearms and ammunition, from the Cadillac and placed it in the CI's vehicle. The CI then handed POTTS $3,000 in ATF pre-recorded funds. When the CI asked POTTS if the CI should be concerned that the firearms' serial numbers were obliterated, POTTS replied that they were "clean" and that the CI had nothing to worry about.

15. After this transaction, law enforcement surveilled the Hummer being driven by JOHNS from the meeting location to Pennsauken, where both JOHNS and POTTS exited the Hummer and entered a liquor store. Several minutes later, JOHNS and POTTS were observed leaving the liquor store and reentering the Hummer. They were then surveilled back to the meeting location. JOHNS was then surveilled from the meeting location to the 1400 block of Belleview Avenue in Camden, and was subsequently observed exiting a building with the address 1418 Belleview Avenue and reentering the Hummer. JOHNS was then surveilled for approximately two hours as he drove from New Jersey into Pennsylvania and eventually arrived at East Mud Run Road in Albrightsville, Pennsylvania.

The October 3, 2014 Controlled Purchase: 2 Firearms

16. On October 3, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of the following firearms and ammunition: (1) a DPMS, model A15, .223 caliber rifle, serial number F222198 (reported stolen on September 26, 2013 in King of Prussia, Pennsylvania); (2) a Kimber, model Custom II, .45 caliber pistol, serial number K455074 (reported stolen from a Federal Firearms Licensed

Dealer ("FFL") in Clinton, North Carolina on August 5, 2014); (3) one .45 caliber high capacity magazine; (4) five 30-round capacity .223 caliber magazines; (5) 84 rounds of assorted .223 caliber ammunition; and (6) 21 rounds of Federal .45 caliber ammunition. Prior to this controlled purchase, POTTS repeatedly called the CI to tell him that JOHNS was in Camden with the firearms and to ask the CI if the CI was en route to the meeting location. A few minutes before the controlled purchase, investigators observed the Hummer parked at the meeting location. Once at the meeting location, the CI met POTTS, who was sitting in the Cadillac. POTTS exited the Cadillac, retrieved a duffel bag from the back seat, placed it inside the CI's vehicle, and then entered the CI's vehicle. After the CI confirmed that the firearms were in the bag, the CI handed POTTS $3,000 in ATF pre-recorded funds. Following the controlled purchase, the Hummer, driven by JOHNS, exited the meeting location, and POTTS was observed driving the Cadillac in the area of the Business.

The October 27, 2014 Controlled Purchase: 3 Firearms

17. On October 27, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of three firearms: (1) a Romarm/Cugir, model WASR-10, 7.62mm caliber rifle, serial number UF-0709-07RO; (2) a Springfield Armory, model 1911A1, .45 caliber pistol, serial number WW51756; and (3) a Sig-Sauer, model P6 9mm pistol, serial number M10721. Prior to this controlled purchase, investigators observed POTTS standing outside the Cadillac speaking with JOHNS, who was seated in the Hummer's driver's seat. POTTS was then observed speaking on a cellular phone, which coincided with a telephone call and conversation between the CI and POTTS; after POTTS concluded the call, he continued speaking with JOHNS until

POTTS entered the Cadillac and drove to another area of the meeting location, where he met with the CI. JOHNS was also observed by investigators moving the Hummer to another area of the meeting location, where he was seen by the CI as the CI arrived. After the CI pulled up to POTTS's Cadillac, POTTS exited the driver's seat, retrieved a bag from the Cadillac's back seat, and handed it to the CI. The CI placed the bag, which contained the aforementioned firearms, in the CI's vehicle, and then handed POTTS $3,100 in pre-recorded ATF funds, which POTTS separated into two piles.

18. Following this controlled purchase, POTTS was observed driving the Cadillac back to the area where JOHNS had parked the Hummer. POTTS exited the Cadillac, entered the Hummer, and met with JOHNS. POTTS then exited the Hummer, re-entered the Cadillac, and departed the meeting location. JOHNS was then surveilled as he left Camden and crossed into Pennsylvania; later that evening, JOHNS's Hummer was observed parked outside of 40 East Mudd Run Road in Albrightsville, Pennsylvania.

The Two November 10, 2014 Controlled Purchases: 5 Firearms

First Controlled Purchase on November 10, 2014: 2 Firearms

19. On November 10, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of the following firearms, magazines, and ammunition: (1) an Arsenal Company Bulgaria, model Makarov, 9mm Makarov caliber pistol, serial number 1275; (2) a Century Arms, model M72, 7.62mm caliber rifle, serial number M7200300; (3) 12 rounds of Barnaul 7.62mm caliber ammunition; (4) 24 rounds of Sellier & Bellot 9mm ammunition; (5) two 7.62mm caliber magazines; and (6) two

9mm magazines. Prior to this controlled purchase, POTTS called the CI to tell him that POTTS's cousin was running late, and therefore not to go to the meeting location in the area of the Business until POTTS had the firearms. The CI parked near the meeting location and, while waiting for POTTS to call, saw JOHNS arrive at the meeting location in the same Ford Expedition in which JOHNS and POTTS had conducted the September 19, 2014 controlled purchase with the CI. Around the same time, law enforcement officers also saw JOHNS arriving at the meeting location. Shortly thereafter, POTTS called the CI to tell him to go to the meeting location, and when the CI arrived at the meeting location, he saw POTTS taking possession of the firearms, magazines, and ammunition from JOHNS's Ford. The CI parked and exited his vehicle. POTTS then drove the Cadillac over to the CI's vehicle and exited the Cadillac as the CI walked towards POTTS and the Cadillac. When POTTS confirmed to the CI that he had the firearms, the CI handed POTTS $2,600 in pre-recorded ATF funds, which POTTS separated into two piles, one of which he put in his pants pocket. POTTS then retrieved the firearms, magazines, and ammunition from the back seat of the Cadillac and handed them to the CI, who then placed them in the CI's vehicle and departed the meeting location.

20. Following this controlled purchase, JOHNS was surveilled driving the Ford from the meeting location to 1418 Belleview Avenue in Camden, where JOHNS and another male, later identified as D.J., Jr., were observed exiting the Ford and entering 1418 Belleview Avenue. At one point, JOHNS exited 1418 Belleview Avenue and placed something inside the Ford, and then reentered the residence. JOHNS and D.J., Jr. were subsequently observed exiting 1418 Belleview Avenue, and investigators

observed D.J., Jr. concealing something underneath his zippered sweatshirt as he entered the Ford. JOHNS and D.J., Jr. were then surveilled back to the meeting location.

The Second Controlled Purchase on November 10, 2014: 3 Firearms

21. Approximately an hour after the first controlled purchase was completed on November 10, 2014, the CI received a phone call from POTTS informing the CI that he had more firearms for sale. The CI returned to the meeting location, and received a call from POTTS, who told the CI that the source of the firearms would be there in a few minutes. Twice while waiting, POTTS walked over to the CI's vehicle and told him that the source of the firearms would there in a few minutes. JOHNS and D.J., Jr. were observed returning to the meeting location, having been continuously surveilled from the first controlled purchase to 1418 Belleview Avenue, as noted in the previous paragraph, and then back to the meeting location. The CI received a call from POTTS, who told him that POTTS's cousin was there. POTTS then drove the Cadillac over to the CI's vehicle, at which time the CI saw JOHNS driving the Ford around the front of the CI's vehicle and then out of sight. POTTS then exited the Cadillac and entered the CI's vehicle carrying a plastic bag, which he told the CI contained three firearms. The CI then handed POTTS $2,700 in pre-recorded ATF funds, which POTTS split into one pile of $2,400 and one pile of $300, which he placed in two different pockets. The plastic bag contained the following firearms: (1) a Ruger, Model SR-40, .40 caliber pistol, serial number 342-59277; (2) a Ruger, Model SR-9, .9mm caliber pistol, serial number 335-54730; and (3) a Sig Sauer, Model P239, .40 caliber pistol, serial number SBU-020698

(all three of which were reported stolen from two different FFLs in North Carolina within eight days of this controlled purchase). When the CI later asked POTTS who was in the passenger seat of the Ford that JOHNS was driving during this controlled purchase, POTTS replied that it was his cousin's son.

The November 24, 2014 Controlled Purchase: 1 Firearm

22. On November 24, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of the following firearm, magazines, and ammunition: (1) a Masterpiece Arms, model MPA30SST, 9mm caliber pistol, serial number B0020 (the trace of this firearm indicated that the dealer who first received this firearm was located in Georgia); (2) two 30-round 9mm magazines; and (3) 23 rounds of assorted 9mm ammunition. In the afternoon on the day of this controlled purchase, surveillance by law enforcement observed a compact vehicle departing JOHNS's residence at 40 East Mudd Road, Albrightsville, Pennsylvania. Approximately three hours later, a Pontiac G6, believed to be the same compact vehicle ("the Pontiac"), was observed entering the meeting location in the area of the Business. When the CI arrived at the meeting location a short time later, he parked next to POTTS's Cadillac. POTTS was waiting outside the Cadillac holding the firearm, magazines, and ammunition in a plastic bag; he then placed the bag inside the CI's vehicle. The CI confirmed that the firearm was inside the bag, and handed POTTS $1,700 in pre-recorded ATF funds. Shortly after the controlled purchase, the Pontiac G6 left the meeting location and was surveilled as it left Camden and crossed into Pennsylvania. During the surveillance, agents identified the driver of the Pontiac as JOHNS and the passenger as D.J., Jr.

The Pontiac is registered to the same Lindenwold, New Jersey address as the Hummer. Approximately two and half hours after passing into Pennsylvania, surveillance agents observed a compact vehicle, believed to be the Pontiac, return to JOHNS's residence in Albrightsville, Pennsylvania.

The December 3, 2014 Controlled Purchase: 1 Firearm

23. On December 3, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of a FNH, model FNP9-M, 9mm pistol, serial number 71BMV01919 (stolen from a North Carolina FFL on November 2, 2014), and a box containing 25 rounds of Winchester-Western 9mm ammunition. Before this controlled purchase, surveillance agents observed the Hummer departing JOHNS's residence in Albrightsville, Pennsylvania, and approximately an hour and a half later observed JOHNS's Hummer arriving at the meeting location in the area of the Business. When the CI arrived at the meeting location, the CI parked next to POTTS's Cadillac. At that time, POTTS was standing next to the Cadillac holding a plastic bag containing the firearm and ammunition. POTTS entered the CI's vehicle and handed the bag to the CI, who handed POTTS $1,000 in pre-recorded ATF funds. At the conclusion of this controlled purchase, JOHNS was surveilled driving the Hummer to POTTS's residence at 242 Ablett Village, Camden, where a male believed to be POTTS was observed exiting the Hummer and entering the residence. JOHNS was then surveilled as he left Camden and crossed into Pennsylvania, and approximately an hour and forty minutes later the Hummer was observed returning to JOHNS' residence in Albrightsville, Pennsylvania.

The December 23, 2014 Controlled Purchase: 1 Firearm

24. On December 23, 2014, members of the ATF Camden Field Office utilized the CI to conduct the controlled purchase of a Ruger, Model GP100, .357 caliber revolver, serial number 175-39762 (this firearm was traced back to its first purchase, in Pennsylvania), and six rounds of Brazilian Cartridge Company .357 caliber ammunition. As the CI drove to the meeting location in the area of the business, POTTS called the CI to tell him that JOHNS was at the meeting location. When the CI arrived at the meeting location, he saw JOHNS sitting inside the Hummer. The CI drove over to POTTS, who was waiting outside his vehicle holding something under his sweatshirt. POTTS entered the CI's vehicle, and the CI handed POTTS $700.00 in pre-recorded ATF funds, which POTTS separated into two piles. POTTS then handed the CI a plastic bag containing the firearm and ammunition. As the CI departed the meeting location, the CI saw the Hummer parked in the same place. Investigators then observed the Hummer depart the meeting location.

Additional Records, Queries, and Analysis

25. An ATF interstate nexus expert examined most of the firearms listed and described in this Affidavit, including the markings, serial number, manufacturer name, model, caliber, and importer, if any. The expert determined the places of manufacture of each of the firearms, as follows: (1) a Ruger, model SR-9, 9mm caliber pistol, serial number 335-45483 (manufactured in Arizona); (2) a Kel-Tec, model P11, 9mm caliber pistol, with an obliterated serial number (manufactured in Florida); (3) a Hi-Point, model C9, 9mm caliber pistol, with an obliterated serial number, which was later restored to

P1840868 (manufactured in Ohio); (4) a SCCY, model CPX-1, 9mm caliber pistol with an obliterated serial number (manufactured in Florida); (5) a Century Arms International, model GP 1975, 7.62mm caliber rifle, serial number GP-C506056 (manufactured in Vermont or Minnesota); (6) a Browning, model BPS,12-gauge shotgun with an obliterated serial number (manufactured in Japan and imported into Utah or Missouri); (7) an Israel Weapon IND-IWI, model Baby Eagle, 9mm caliber pistol, serial number 43357177 (manufactured in Israel and imported into Minnesota); (8) a Beretta, model 96D .40 caliber pistol, serial number BER010680M (manufactured in Maryland); (9) a Weihrauch Hermann, model EA/R, .38 Special caliber revolver, with an obliterated serial number (manufactured in Germany and imported into Florida); (10) a DPMS, model A15, .223 caliber rifle, serial number F222198 (manufactured in Minnesota or Utah); (11) a Kimber, model Custom II, .45 caliber pistol, serial number K455074 (manufactured in New York); (12) a Romarm/Cugir, model WASR-10, 7.62mm caliber rifle, serial number UF-0709-07RO (manufactured in Romania and imported into Vermont); (13) a Springfield Armory, model 1911A1, .45 caliber pistol, serial number WW51756 (manufactured in Brazil and imported into Illinois); (14) a Sig-Sauer, model P6, 9mm caliber pistol, serial number M10721 (manufactured in West Germany and imported into Vermont); (15) an Arsenal Company Bulgaria, model Makarov, 9mm Makarov caliber pistol, serial number 1275 (manufactured in Bulgaria and imported in Washington); and (16) a Century Arms, model M72, 7.62mm caliber rifle, serial number M7200300 (manufactured in Vermont or Minnesota). As to each of these firearms, the expert's opinion is that if each of the firearms was received and/or possessed in the

State of New Jersey, it necessarily must have traveled in interstate commerce because the firearm was manufactured in the state indicated.

26. According to ballistics reports received from the Newark Police Department, each of the firearms described in the previous paragraph was test-fired and found to be operable.

27. On November 12, 2014, I received the results of a State of New Jersey records query for POTTS and JOHNS from an Extradition Secretary & an Executive Clemency Assistant. The results of both queries reflect that neither POTTS nor JOHNS ever applied for, or have been granted, a pardon from the Governor of New Jersey. On January 23, 2015, I received the results of a query of the ATF Relief of Disabilities records, which revealed that neither POTTS nor JOHNS have ever received relief from federal firearms disability.

28. During the course of my investigation, I obtained certified records of one prior felony conviction for POTTS from the Camden County (New Jersey) Records Division. The certification reflects that on April 8, 1996, POTTS pleaded guilty to one count of possession of CDS with intent to distribute within 1000 feet of a school, a crime of the third degree. A conviction for a third degree crime in New Jersey exposes a person to more than one year incarceration.

29. During the course of my investigation, I obtained certified records of one prior felony conviction for JOHNS from the Camden County Records Division. The certification reflects that on April 23, 2001, JOHNS plead guilty to one count of manufacture/distribute/dispense CDS, a second degree crime. A conviction for a

second degree crime in New Jersey exposes a person to more than one year incarceration.

30. A query of the Federal Firearms Licensing Center on October 7, 2014 showed that neither POTTS nor JOHNS has had a Federal Firearms License.

Straw Purchasers

31. The investigation determined that POTTS and JOHNS used several "straw purchasers" to buy for them a number of the firearms set forth and described above. Straw purchasers are people who are legally allowed to purchase firearms, but buy them with the intention of transferring them, for financial gain or otherwise, to others who are not legally allowed to purchase firearms.

The First Straw Purchaser

32. On December 4, 2014, law enforcement conducted an interview of a straw purchaser ("SP1") identified during the course of this investigation.[2] SP1 is a close associate and co-worker of JOHNS. A query of the ATF firearms tracing system identified SP1 as the purchaser of approximately 20 firearms from FFLs located in Pennsylvania. These firearms were purchased from five different FFLs from June 23, 2014 to September 11, 2014.

33. During the interview, SP1 stated the following, in substance and in part. Initially, he indicated that "a few months ago," he "loaned" all but one of his firearms to a co-worker who lives in Albrightsville, PA. The co-worker lives on several acres and wanted to borrow the firearms to shoot on the property. SP1 believes the total number of firearms he loaned to the co-worker was 25; one firearm is still in his (SP1's)

[2] To protect the straw purchasers referred to in this Affidavit, they will not be identified as male or female, but instead all will be referred to as "he" or "him," for ease of reference.

possession. JOHNS was the co-worker and drove a green Hummer and a black Ford Expedition. JOHNS was still in possession of all the firearms. He and JOHNS started talking about guns one day and SP1 mentioned that he (SP1) liked firearms. He and JOHNS would go look at firearms together and on some occasions, JOHNS would lend him money to buy guns if he did not have the money.

34. At that point in the interview, law enforcement officers explained that it did not make sense that SP1 would purchase approximately 20 firearms only to "lend" them all to a friend and not see them again. The officers then explained that it was believed that SP1 had actually purchased all the firearms for JOHNS. SP1 then apologized and stated that he would explain what happened to the purchased firearms. SP1 then advised law enforcement that one night in June 2014, JOHNS approached him at work and asked if he would agree to purchase firearms for JOHNS. JOHNS said he could not yet buy them because he still had a New Jersey license. JOHNS told SP1 that they would transfer the guns once JOHNS got a Pennsylvania ("PA") license. SP1 said that at that time he honestly thought he was going to hold on to the firearms until JOHNS got his PA license. About a week later, he and JOHNS met in the parking lot of Eastern Arms, and JOHNS gave him approximately $1,500.00 to purchase guns before going in to the store. JOHNS went into the store with him and told SP1 which guns "were nice." JOHNS took the guns right after he and JOHNS left the store and then gave SP1 approximately $100.00 for buying the guns. This scenario was repeated numerous times during the next few months at different gun shops and shows.

35. In September 2014, after a trip to a gun store, SP1 told JOHNS that he did not want to buy JOHNS any more guns. JOHNS told SP1 "okay" and said that he would not ask SP1 for another two months.

36. In either late September or early October, JOHNS told SP1 that he (JOHNS) had to get rid of all the guns because his (JOHNS) son got into some kind of trouble and ATF had come to the house. JOHNS told him that since JOHNS knew ATF was coming, he took all the guns out of the house and got rid of them. When SP1 asked JOHNS what he did with the guns, JOHNS told him that he (JOHNS) took them to New Jersey. After JOHNS told SP1 about the ATF coming to the house, JOHNS told SP1 to say that the guns were stolen if anyone came asking about them. JOHNS told him, "They aren't gonna find them."

The Second Straw Purchaser

37. On January 21, 2015, ATF agents from the Atlanta, Georgia Field Office conducted an interview of a straw purchaser ("SP2") identified during the course of this investigation. During this interview, SP2 stated in substance and in part the following. SP2 is a Georgia resident; he formerly resided in New Jersey. SP2 has been purchasing firearms on behalf of A.C. for a period of one year. A.C. was a close associate. SP2 used to work with A.C. and live with A.C. at a residence in Camden, NJ. A.C. would regularly contact SP2 via cellular telephone and tell SP2 what type of firearms he (A.C.) wanted purchased. SP2 would then purchase the firearms in Georgia and transport them to Camden, NJ, where he (SP2) would sell them to A.C. for a profit. A query of a law enforcement database revealed that A.C. listed his most recent address as 1418 Belleview Ave., Camden, NJ. See paragraphs 11, 15, 20-21 (re

this address). SP2 explained that A.C. is known to possess firearms and that SP2 observed approximately ten handguns and one shotgun at A.C.'s residence the last time he (SP2) stayed there.

The Third Straw Purchaser

38. In connection with the September 19, 2014 undercover purchase detailed above, a query of the ATF firearms tracing system identified one of the firearms involved in that purchase, the Hi Point Model C9 handgun, as having been purchased by SP3 one day before, on September 18, 2014, from Eastern Arms Outfitters LLC ("Eastern Arms") in Albrightsville, Pennsylvania. On that date, SP3 also purchased two other handguns from Eastern Arms. The ATF firearms tracing system identified those two additional firearms as: (1) a Kel Tec, Model P11 (serial number A2021), 9mm handgun; and (2) a SCCY Industries, Model CPX-1 (serial number 139829), 9mm handgun. These additional two firearms purchased by SP3 on September 18, 2014 appear to match the firearms recovered during the controlled purchase by ATF on September 19, 2014, showing a "time to crime" of one day.

39. A query of the ATF firearms tracing system for SP3 indicates that just a few days later, on September 21, 2014, SP3 purchased a total of seven firearms from four different federally licensed firearms dealers ("FFL"), all located in Pennsylvania. Three of those seven firearms were bought at a gun show in Wilkes-Barre, PA; at the same gun show, SP3 bought from another FFL two of those seven firearms; on that same day, he bought two of those seven firearms from an FFL in Frackville, PA, which is on the way to Wilkes-Barre (from Philadelphia). To date, none of these seven firearms has

reappeared in any ATF investigation. Thus, it is not known whether they still contain serial numbers, or whether some/all have been obliterated.

40. On September 29, 2014, the ATF Philadelphia Field Office initiated an investigation into SP3 regarding his suspected involvement in the trafficking of firearms. Based on information obtained during the course of the investigation, on September 30, 2014, ATF agents travelled to 203 Laurel Road, Sharon Hill, PA in an attempt to locate SP3. This address was utilized by SP3 on paperwork when purchasing firearms at the FFLs. While at that address, which was a residence, the agents observed a realtor's "lock box" located at the front of the residence. When it was discovered that SP3 no longer resided at this residence, the agents contacted one of the FFLs that SP3 utilized to purchase firearms. Employees of that FFL provided employment information for SP3, showing employment at a business located in the Plymouth Meeting Mall, located in Plymouth Meeting, PA. Employees of the FFL were also questioned regarding the sale of firearms to SP3. While the employees indicated they recalled only limited information regarding the sale of those firearms, they did recall that SP3 purchased two used revolvers and paid cash for them.

41. On October 1, 2014, members of the ATF Philadelphia Field Division travelled to SP3's aforementioned place of employment in an attempt to locate and interview SP3. SP3 was located and questioned regarding his purchase of a large quantity of firearms. Specifically, law enforcement officers informed SP3 that they wanted to verify that he still possessed the purchased firearms. SP3 responded by saying that he still possessed them and would be willing to show them to law enforcement when he got off work. Specifically, SP3 informed the officers that the firearms "should" be in a safe at

his residence, which was located at 1517 Forrester Ave, Sharon Hill, PA. SP3 indicated he lived at this residence with his parents. SP3 further indicated that he had moved from the 203 Laurel Road address in July or August 2014. SP3 then stated he would contact law enforcement at the end of his workday. Late in the evening hours on this same date, when SP3 had not contacted law enforcement, law enforcement contacted SP3 via his cellular telephone. SP3 answered the telephone and informed law enforcement he was just about to contact them regarding the firearms. SP3 then stated he remembered the firearms were not at his residence in Sharon Hill, PA as previously indicated, but instead were at his vacation house in the Poconos. SP3 explained that he leaves his guns at that particular residence because that is where he takes them shooting. SP3 explained he intended to take off from work on the following date and drive to his Poconos residence in an effort to locate the purchased firearms. SP3 was then questioned as to the exact location of that residence and was informed that law enforcement would like to visually verify that the firearms were there. SP3 indicated that visual verification was not a problem and stated that he was attempting to contact the individual at the Poconos residence to obtain the exact address, but these efforts met with negative results. SP3 stated he would contact law enforcement once he obtains the exact address for her Poconos residence.

42. Subsequently, but on this same date, law enforcement again contacted SP3 in an attempt to learn the address of the residence where the firearms in question were located. SP3 explained he was still was not able to reach the individual regarding the exact address. SP3 was then questioned as to whether he knew what it meant to "straw purchase" firearms. SP3 responded in the affirmative. It was at that point that

law enforcement again questioned SP3 as to the location of the firearms. SP3 responded by saying the firearms were not located at the Poconos residence. When asked to cooperate with law enforcement and produce the purchased firearms, SP3 stated he needed to speak to his mother or an attorney. An ATF agent told SP3 that he expected to hear from an attorney the next day. Shortly after, the conversation ended. Nobody called back the ATF agent.

43. On October 8, 2014, one week after the interview of SP3 by ATF agents regarding the ten firearms he had purchased, I.S. contacted the Pennsylvania State Police ("PSP"), Fern Ridge Station, and reported a burglary at his residence, that is, the Poconos house. When the PSP came to the Poconos house, SP3 told them the following, in substance and in part. SP3 described the Poconos house as being his vacation home. He was last at the Poconos house on September 21, 2014. The Poconos house was burglarized and various items were stolen, including ten handguns and two rifles. The firearms were kept in the basement at the Poconos house, in a black chest. However, when the PSP asked for permission to go down to the basement and look around, SP3 refused. SP3 further indicated the firearms were being kept there due to the fact that children were present at his primary residence, which SP3 identified as being at 1517 Forrester Avenue, Sharon Hill, PA 19079. Despite, by his own admission, his having purchased and owned 12 firearms, he was unable to provide the PSP with the makes and models of any of those firearms. The only information he provided was that he purchased them at Eastern Arms and at several gun shows. It should be noted that when the PSP arrived on scene to meet with SP3, D.J., Jr., the son of JOHNS, also was present.

44. When I compared the list of firearms in the PSP reports regarding the aforementioned purported burglary, I discovered that one of the firearms that SP3 reported stolen—the Hi Point, Model C9, 9mm handgun (serial number P1840868)--had in fact been sold by JOHNS and POTTS to the CS on September 19, 2014, the day after SP3 purchased it at Eastern Arms. Another two firearms SP3 reported stolen matched the description of the other two firearms, that is, the makes and models, that SP3 purchased at Eastern Arms at the same time SP3 purchased that Hi Point handgun. See ¶ 10 (re Sept. 19th sale/purchase). Because ATF was unable to raise the obliterated serial numbers on those two handguns, however, I cannot say with certainty that the aforementioned two firearms SP3 reported stolen are identical to the two that were sold, along with the aforementioned Hi Point handgun, to the CS on September 19, 2014.

45. Based on my training and experience, I am familiar with some of the methods JOHNS and straw purchasers have used in an effort to avoid detection of law enforcement. Being an individual prohibited from possessing firearms, JOHNS has employed close associates to act as straw purchasers, so they can legally purchase large quantities of firearms. SP3 has used multiple FFLs to purchase firearms. This is a common method utilized by firearms traffickers, like JOHNS and SP3, who deal in a large amount of firearms. Additionally, on several occasions SP3 purchased the same make and model of firearms. Specifically, SP3 purchased the same make and model firearms on two separate occasions, for a total of four firearms. Once again, this is indicative of individuals involved in firearms trafficking and the diversion of firearms into the illegal firearms market. One reason is that steady customers often prefer particular

makes and models of firearms. As noted earlier, on September 21, 2014, SP3 bought seven firearms from three FFLs. This is a common method used by gun traffickers so as not to attract attention from a conscientious FFL employee, who might call ATF due to a large purchase at one FFL by one person, and thereby trigger an investigation. The purchasing of firearms from different FFLs on the same day, based on my experience, is an indicator that an individual is (a) a straw purchaser, and/or (b) involved in firearms trafficking.