

FILED

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

UNITED STATES DISTRICT COURT

JUN 26 2013 *[Signature]*

for the

New Mexico

United States of America
v.

MATTHEW J. DYKMAN
CLERK

Amro Assi

Case No. **13MJ2169**

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 6/26/2013 in the county of Cibola in the
District of New Mexico, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
Title 21 U.S.C. §§ 802(32), 813, 841(a)(1) and 841(b)(1) and Title 21 U.S.C. § 846	Distribution of a Controlled Substance Analogue and Conspiracy

This criminal complaint is based on these facts:

See Attached Affidavit of Special Agent Erin Croft

Continued on the attached sheet.

[Signature of Erin Croft]

Complainant's signature

Erin Croft, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: **JUN 26 2013**

[Signature of Lorenzo F. Garcia]

Judge's signature

City and state: Albuquerque, New Mexico

Lorenzo F. Garcia, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT OF SPECIAL AGENT ERIN CROFT:

I, Erin Croft, Special Agent (SA), Drug Enforcement Administration (DEA), United States Department of Justice, being duly sworn, do depose and hereby state the following:

1. I am an "investigative or law enforcement officer" of the United States within the meaning of Title 18 U.S.C § 2510(7), in that I am an officer of the United States empowered by law to conduct criminal investigations and make arrests for offenses enumerated in Title 18 U.S.C. § 2516. I have been employed by the DEA since January 2004. I am empowered to investigate, to make arrests with or without a warrant and to execute search warrants under the authority of Title 21 U.S.C. § 878.
2. This affidavit is made in support of the issuance of a Criminal Complaint charging Amro ASSI with violation of Title 21 U.S.C. §§ 802(32), 813, 841(a)(1) and 841(b)(1)(C): Distribution of a Controlled Substance Analogue and Title 21 U.S.C. § 846: Conspiracy. Because this Affidavit is written for the limited purpose of setting forth probable cause for the requested criminal complaint, I have not included every fact known to me through this investigation. I have set forth those facts I deem necessary to establish probable cause of the above listed offense.

BACKGROUND ON SYNTHETIC CANNABINOIDS AND CATHINONES

3. Starting in 2011, the DEA began emergency scheduling several chemicals as Scheduled I controlled substances. These chemicals are used in the clandestine manufacture of synthetic cannabinoid products commonly known on the street as "spice," "herbal incense," and "K2." These chemicals include, but are not limited to, 1-pentyl-3-(1-naphthoyl)indole (JWH-018), a Scheduled I controlled substance; 1-(5-Fluoropentyl)-3-

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(1-naphthoyl)indole (AM2201), a Scheduled I controlled substance; 1-Pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250), a controlled substance analogue as defined in Title 21, United States Code, Section 802(32), with intent for human consumption as provided in Title 21, United States Code, Section 813; 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (MAM2201), a controlled substance analogue as defined in Title 21, United States Code, Section 802(32), with intent for human consumption as provided in Title 21, United States Code, Section 813; 1-(5-Fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole (5-fluoro-UR-144 or XLR11), a controlled substance analogue as defined in Title 21, United States Code, Section 802(32), with intent for human consumption as provided in Title 21, United States Code, Section 813; and 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester (PB-22), a controlled substance analogue as defined in Title 21, United States Code, Section 802(32), with intent for human consumption as provided in Title 21, United States Code, Section 813; if possessed or distributed is a clear violation of Title 21 USC §§ 841(a)(1) and (b)(1)(C) and § 846.

4. In response to DEA's emergency scheduling, clandestine manufacturers and traffickers began distributing smoke-able synthetic cannabinoid products containing slightly varied synthetic cannabinoid compounds in an attempt to circumvent newly enacted federal and state laws. Smoke-able synthetic cannabinoid products are commonly purchased in smoke shops, tobacco shops, convenience stores, adult stores, and via the internet. They are often marketed as incense or herbal aroma and almost always carry the markings "not for human consumption." These markings are routinely put in place in an attempt to circumvent the product being identified as a controlled substance or a controlled

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substance analogue of the Schedule I synthetic cannabinoids. Users of these products have reported effects similar to marijuana and greater, to include paranoia, panic attacks, increased heart rate, and increased blood pressure.

5. This investigation has coincided with a nation-wide focus on these synthetic drugs by law enforcement as many communities around the country are seeing substantial increases in the use, and consequences for the use, of these dangerous drugs.

PROBABLE CAUSE

6. In approximately March 2012, Grants Police Department Lieutenant Maxine Spidle was present at the "SANTA FE SMOKE SHOP" on an unrelated police matter when she informed the owner, later identified as Amro ASSI, that the sale of "spice" (synthetic cannabinoids) was illegal. Amro ASSI assured her that all related products would be removed from the shelves and would no longer be for sale. On April 18, 2012, Grants Police Department Officer Shawn Vigil, acting in an undercover capacity, purchased suspected synthetic cannabinoids from the "SANTA FE SMOKE SHOP." The exhibit was confirmed by the New Mexico Department of Public Safety Forensic Laboratory to contain an analogue of a Schedule I controlled substance previously listed. Specifically, the results were positive for the presence of 1.82 grams of JWH-250. Through the ongoing DEA investigation Special Agent Brian Bridgeford identified Amro ASSI as the owner/operator of the "SANTA FE SMOKE SHOP."
7. On January 23, 2013, DEA Special Agent (SA) Scott Hartz, acting in an undercover capacity, attempted to purchase suspected synthetic cannabinoids from the "SANTA FE SMOKE SHOP." The unknown female clerk stated to SA Hartz that due to recent law enforcement activity, the shop was not currently selling "spice" products.

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8. On June 10, 2013, SA Brian Bridgeford purchased suspected synthetic cannabinoids from the "SANTA FE SMOKE SHOP." The exhibit has been submitted to the DEA South Central Laboratory, and although results have not yet been provided, agents believe the exhibit will contain either a Schedule I controlled substance or analogue of a Schedule I controlled substance. During the purchase it was noted that the cash utilized to purchase the suspected synthetic cannabinoid was placed directly in to the business cash register.
9. In addition, through his investigation SA Bridgeford learned that Amro ASSI has written several checks to "FAST TRACK WHOLESAL," which agents believe is a distributor of synthetic cannabinoids used to supply smoke shops owned/operated by members of the ASSI family in the Grants and Gallup areas of New Mexico. Based on information obtained by SA Bridgeford, "FAST TRACK WHOLESAL" is not known to manufacture or distribute any legitimate products. In addition, Amro ASSI is the sole signer for the bank account held in the name of "SANTA FE SMOKE SHOP dba A & A LLC." As previously mentioned, on June 10, 2013, an undercover purchase of a suspected synthetic cannabinoid was made at the "SANTA FE SMOKE SHOP." The Grants Police Department has responded to the "SANTA FE SMOKE SHOP" for unrelated matters in the last year in which Amro ASSI responded to the business claiming ownership.
10. On June 26, 2013, SA John Castleberry interviewed Amro ASSI during the execution of Federal Search Warrants at his residence and business located in Grants, NM. ASSI was read his Miranda Warnings and agreed to speak with SA Castleberry. ASSI told SA Castleberry that he opened his "smoke shop" in 2007. ASSI stated approximately two (2) years ago he began selling "spice" at the smoke shop. ASSI stated he was introduced to

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the "spice" business through a community of Arabic people including Ray who owned Ray's Smoke Shop in Albuquerque, NM. (It should be noted that Ray's Smoke Shop was owned by Ray RIHANI who was indicted in mid-2012 for "spice" distribution in Albuquerque, NM.) ASSI stated he obtains his "spice" from individuals he described as traveling salesmen whom he believed were from California. ASSI stated he owned his business independently of his brother's businesses but he and his brothers did make a bulk purchase of "spice" approximately one and a half years ago. ASSI stated the purchase was from a supplier in the Phoenix, AZ area. ASSI further stated he knew that his customers use the "spice" to get "high" and that he has regular customers who purchase from him. ASSI stated to Castleberry that his brother had analysis performed on the product and had provided the analysis to the Sheriff of McKinley County where his brother's shop was located and his brother was told that the product was in the process of being made illegal but that it wouldn't take effect for another six (6) months to one (1) year. SA Castleberry noted that ASSI kept the "spice" behind the counter out of view of the general public. SA Castleberry told ASSI that that made it appear that ASSI knew the sale of "spice" was illegal to which ASSI only shrugged his shoulders.

11. I later spoke with ASSI and SA Castleberry. ASSI related again that his brother had analysis performed on their product and that he had been told by the Sheriff of McKinley County that his product was not illegal yet but was in the process of being made illegal. ASSI stated he was visited in November 2012 by the Cibola County Sheriff's Department who told him the "spice" was illegal and seized his inventory which ASSI estimated to be approximately \$10,000 worth. ASSI stated he was later told by customers of his that his product was being sold in San Rafael and that his customers were also purchasing "spice"

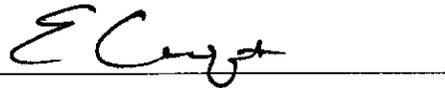
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in Gallup, NM. ASSI stated his brother also told him that he should put his product "back on the shelf" and that "it was on him" (his brother) because he had the testing performed. ASSI stated he decided after that to start selling the "spice" again in March 2013. I asked ASSI what he was purchasing from "FAST TRACK WHOLESAL" and ASSI stated "we" purchase the stuff from there and named some types of "spice." I verified with ASSI that he meant "spice" when he stated "stuff" and ASSI confirmed. I also asked ASSI who "we" was and ASSI first told me he stated "I" and then told me that he and his brother, Nael ASSI, purchase their product from the company and that the company was out of Utah.

12. This Affidavit was reviewed and approved by Assistant United States Attorney Samuel Hurtado.

13. Based on the foregoing, I believe that probable cause exists that Amro ASSI, on or about June 26, 2013, did unlawfully, knowingly, and intentionally violate Title 21 U.S.C. §§ 802(32), 813, 841(a)(1) and 841(b)(1)(C): Distribution of a Controlled Substance Analogue and Title 21 U.S.C. § 846: Conspiracy.

I swear this information is true and correct to the best of my knowledge.



Erin Croft

Special Agent

Drug Enforcement Administration

Subscribed to me and sworn to

before me, this 26th of June, 2013

Lorenzo F. Garcia
United States Magistrate Judge Lorenzo F. Garcia