

COPY

Approved: BA  
Benjamin Allee  
Assistant United States Attorney

Emily Rae Woods  
Trial Attorney  
Public Integrity Section  
United States Department of Justice

13 MAG. 1921

Before: HONORABLE GEORGE A. YANTHIS  
United States Magistrate Judge  
Southern District of New York

-----	X
	:
UNITED STATES OF AMERICA	: <u>SEALED</u>
	: <u>COMPLAINT</u>
	:
- v. -	: Violations of
	: 18 U.S.C. §§ 201, 371,
ROBERT LUSTYIK,	: 31 U.S.C. § 5322(a)
JOHANNES THALER, and	:
RIZVE AHMED,	: COUNTY OF OFFENSE:
a/k/a "Caesar,"	: WESTCHESTER
	:
Defendants.	:
	:
-----	X

SOUTHERN DISTRICT OF NEW YORK, ss.:

KERWIN JOHN, being duly sworn, deposes and says that he is a Special Agent with the Department of Justice's Office of Inspector General ("DOJ OIG"), and charges as follows:

COUNT ONE

1. From in or about September 2011 through in or about March 2012, in the Southern District of New York and elsewhere, ROBERT LUSTYIK, JOHANNES THALER, and RIZVE AHMED, a/k/a "Caesar," the defendants, together with others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit, soliciting bribes by a public official, and offering bribes to a public official, in violation of Title 18, United States Code, Sections 201(b) (1) and 201(b) (2).

2. It was an object of the conspiracy that ROBERT LUSTYIK and JOHANNES THALER, the defendants, demanded, sought, received, accepted, and agreed to accept monetary payments from RIZVE AHMED, a/k/a "Caesar," the defendant, in exchange for LUSTYIK's doing and omitting to do acts in violation of his official duty.

3. It was a further object of the conspiracy that RIZVE AHMED, a/k/a "Caesar," the defendant, gave, offered, and promised monetary payments to ROBERT LUSTYIK and JOHANNES THALER, the defendants, in exchange for LUSTYIK's doing and omitting to do acts in violation of his official duty.

#### Overt Acts

4. In furtherance of the conspiracy and to effect the illegal objects thereof, ROBERT LUSTYIK, JOHANNES THALER, and RIZVE AHMED, a/k/a "Caesar," the defendants, together with others known and unknown, committed the following overt acts, in the Southern District of New York and elsewhere:

- a. On or about September 15, 2011, AHMED sent an email to THALER about, among other things, a prominent citizen of Bangladesh ("Individual 1").
- b. On or about September 22, 2011, THALER forwarded to LUSTYIK an email he had received from AHMED about, among other things, Individual 1.
- c. On or about September 27, 2011, October 13, 2011, and November 3, 2011, FBI Special Agents and employees, in White Plains, New York, at the direction of ROBERT LUSTYIK, the defendant, entered an FBI database and retrieved a confidential report, known as a Suspicious Activity Report, pertaining to, among other things, Individual 1 (the "SAR").
- d. On or about December 9, 2011, THALER and AHMED met at a food court in a mall in Danbury, Connecticut.
- e. On or about December 10, 2011, LUSTYIK and THALER sent text messages to each other about the meeting the previous day between THALER and AHMED.
- f. On or about December 16, 2011, THALER and AHMED sent text messages to each other about exchanging cash payments for confidential information.

- g. On or about December 17, 2011, LUSTYIK and THALER sent text messages to each other about obtaining cash payments from AHMED in exchange for confidential information.
- h. On or about January 29, 2012, LUSTYIK, THALER, AHMED, and another individual met in the vicinity of a mall in Danbury, Connecticut.
- i. On or about January 30, 2012, LUSTYIK and THALER wrote text messages to each other about obtaining cash payments from AHMED.
- j. On or about February 18, 2012, LUSTYIK sent an email to THALER containing confidential information regarding Individual 1.
- k. On or about March 12, 2012, AHMED sent an email to THALER with a photo depicting a handful of cash.

(Title 18, United States Code, Section 371.)

COUNT TWO

5. From in or about September 2011 through in or about March 2012, in the Southern District of New York and elsewhere, ROBERT LUSTYIK and JOHANNES THALER, the defendants, while LUSTYIK was a public official, unlawfully and knowingly, directly and indirectly, corruptly demanded, sought, received, accepted, and agreed to receive and accept things of value personally and for other persons, and aided and abetted the same, in return for being induced to do and omit to do acts in violation of the official duty of LUSTYIK, to wit, LUSTYIK solicited cash payments, and THALER aided and abetted LUSTYIK in soliciting cash payments, in return for disclosing confidential information to which LUSTYIK had access by virtue of his position as a Special Agent with the Federal Bureau of Investigation ("FBI").

(Title 18, United States Code, Sections 201 (b) (2) (C) and 2.)

COUNT THREE

6. From in or about September 2011 through in or about March 2012, in the Southern District of New York and elsewhere, RIZVE AHMED, a/k/a "Caesar," the defendant, unlawfully and knowingly, directly and indirectly, corruptly gave, offered, and

promised things of value to a public official, and offered and promised a public official to give things of value to another person, and aided and abetted the same, with intent to induce such public official to do and omit to do acts in violation of the lawful duty of such official, to wit, AHMED offered cash payments to JOHANNES THALER and ROBERT LUSTYIK with intent to induce LUSTYIK to disclose confidential information to which LUSTYIK had access by virtue of his position as a Special Agent with the FBI.

(Title 18, United States Code, Sections 201(b)(1)(C) and 2.)

#### COUNT FOUR

7. From in or about September 2011 through March 2012, ROBERT LUSTYIK, the defendant, an officer of a federal authority, willfully and knowingly violated subchapter II of Title 31 and a regulation and order prescribed thereunder, 31 C.F.R. § 1023.320(e)(2), by disclosing a Suspicious Activity Report ("SAR"), and information that would reveal the existence of a SAR, which disclosure was not necessary to fulfill LUSTYIK's official duties, to wit, LUSTYIK disclosed a SAR, which he obtained by virtue of his position as a Special Agent with the FBI, in order to solicit and obtain bribes in the form of cash payments.

(Title 31, United States Code, Section 5322(a).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

#### BACKGROUND

8. I am a Special Agent with DOJ OIG. I have participated in an investigation of bribery of a public official, portions of which investigation are described below. I am familiar with the facts and circumstances set forth below from my personal participation in the investigation, including my review of pertinent documents, my interviews of witnesses, and my conversations with fellow law enforcement officers. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

9. At all times relevant to this Complaint, ROBERT LUSTYIK, the defendant, was a Special Agent with the Federal Bureau of Investigation ("FBI"), assigned to counterintelligence work in the New York Division, White Plains Resident Agency ("White Plains R.A."). JOHANNES THALER, the defendant, was a childhood friend of LUSTYIK. RIZVE AHMED, a/k/a "Caesar," the defendant, was an acquaintance of THALER from a retail store where they worked together in Danbury, Connecticut. AHMED was a native of Bangladesh.

10. The investigation in which I have participated has revealed that from in or about September 2011 through in or about March 2012, ROBERT LUSTYIK, JOHANNES THALER, and RIZVE AHMED, a/k/a "Caesar," the defendants, engaged in a bribery scheme. As part of the scheme, LUSTYIK and THALER solicited payments of money from AHMED, in exchange for LUSTYIK's agreement to provide internal, confidential documents and other confidential information to which LUSTYIK had access by virtue of his position as an FBI Special Agent. The documents and information pertained to a prominent citizen of Bangladesh ("Individual 1"). AHMED perceived himself on the opposite side of a political rivalry with Individual 1. AHMED sought, among other things, to obtain information about Individual 1, to locate Individual 1, and to harm Individual 1 and others associated with Individual 1.

#### The Bribery Scheme

11. I have reviewed emails from the email account of JOHANNES THALER, the defendant. Based on the emails, I have learned that in or about September 2011, THALER and RIZVE AHMED, a/k/a "Caesar," the defendant, discussed Individual 1, and AHMED's opinion that Individual 1 was associated with corruption in Bangladesh. AHMED emailed to THALER purported newspaper articles about Individual 1 and allegations of corruption, and THALER forwarded information from AHMED to ROBERT LUSTYIK, the defendant.

12. I have reviewed FBI records regarding instances when confidential documents regarding Individual 1 were accessed within the FBI, and I have interviewed some of the FBI personnel who accessed the records. Based on the records, I have learned that beginning on or about September 26, 2011, FBI Special Agents and employees in the White Plains R.A. searched for and retrieved confidential documents pertaining to Individual 1. Based on the interviews, I have further learned that FBI

personnel who accessed the confidential documents did so at the request and instruction of ROBERT LUSTYIK, the defendant. For example:

- a. On or about September 26, 2011, an FBI employee in the White Plains R.A. entered an FBI database of FBI documents and retrieved an internal FBI memorandum that referred to, among other things, Individual 1 and a sum of \$300 million (the "FBI Memo"); and
- b. On three occasions - on or about September 27, 2011, October 13, 2011, and November 3, 2011 - an FBI Special Agent or employee, at the direction of ROBERT LUSTYIK, the defendant, entered an FBI database and retrieved a confidential report, known as a Suspicious Activity Report, pertaining to, among other things, Individual 1 (the "SAR").

13. By in or about October 2011, ROBERT LUSTYIK and JOHANNES THALER, the defendants, were scheming to solicit bribes from RIZVE AHMED, the defendant, in exchange for information about Individual 1. In or about late-October 2011, LUSTYIK, in a series of emails describing a "master plan" to THALER, wrote, "So. Here is my master plan. . . .we use info from [a] source within the current Bang govt and sell it to caesar's [(referring to AHMED)] people. No one knows . . . no one gets hurt."

14. I have reviewed text messages obtained from the phone of JOHANNES THALER, the defendant (the "Text Messages"). Based on the Text Messages, I have learned that by in or about December 2011, ROBERT LUSTYIK and JOHANNES THALER, the defendants, rather than provide information from a "source" as described in the previous paragraph, agreed instead to provide confidential documents - including the FBI Memo and the SAR - and other information to RIZVE AHMED, a/k/a "Caesar," the defendant, in exchange for cash. AHMED, for his part, agreed to provide cash for the documents and information, representing to THALER that he was working with associates who likewise sought the documents and information and were willing to pay for them.

15. On or about December 9, 2011, JOHANNES THALER and RIZVE AHMED, a/k/a "Caesar," the defendants, met in a food court in a shopping mall in Danbury, Connecticut. During the meeting or in and around the time period of the meeting, THALER provided the FBI Memo and the SAR to AHMED, and AHMED provided to THALER \$1,000 in cash. Following the meeting, ROBERT LUSTYIK, the defendant, and THALER discussed the meeting in text messages,

and a plan to obtain further bribes from AHMED and AHMED's associates:

LUSTYIK: Hey did u see cezar? Did he pay u?

THALER: Yeah. I got some for you. We need to talk about Bangladesh.

LUSTYIK: Ok. He gave u a grand? And r they ready to play?

THALER: Yes on both

LUSTYIK: Monthly money?

THALER: Not sure. C's [associate] is flying to bang today to meet with [another associate] . . . .

16. In or about December 2011 and early 2012, ROBERT LUSTYIK and JOHANNES THALER, the defendants, further schemed to obtain additional, regular cash bribes from RIZVE AHMED, a/k/a "Caesar," in increments of tens of thousands of dollars, in exchange for confidential law enforcement information, for undertaking of efforts to tarnish Individual 1, and for information about Individual 1's residence. AHMED agreed to make such payments in exchange for the information and efforts regarding Individual 1, and described efforts to obtain money for this purpose to THALER.

17. To arrange for further exchanges of bribes for confidential information about Individual 1, on or about December 16, 2011, JOHANNES THALER and RIZVE AHMED, a/k/a "Caesar," the defendants, sent the following text messages to each other:

THALER: Why don't we just do the contract. 40 up front, 30 monthly and we can give you everything we have plus set up [Individual 1] and get the inside from the party. That would be easier than negotiating every piece of info.

AHMED: That's fine but they have to have some idea what you have . . . . They aren't going to sign something not knowingly n give u the money . . . . I don't need any documents or anything. Just give me some idea what exactly you have on them . . . The last documents you gave me about \$300

millions. How far that investigation went n what they found. Give me some idea and I will get u that contract!!!

THALER: Ok. I'll let you know.

AHMED: I'm working for u n myself . . . . If this works out, I will be the hero to my party!!!

THALER: We can make that happen

AHMED: Get me some info on 3000000 mil file. Thanks.

18. On or about the following day, December 17, 2011, JOHANNES THALER, the defendant, sent a text message to ROBERT LUSTYIK, the defendant, describing what RIZVE AHMED, a/k/a "Caesar," sought to obtain from LUSTYIK, and the price AHMED claimed willingness to pay:

LUSTYIK: So. How much is this contract w cezar? And what r they expecting from it? And can we get like 20 gs quick?

THALER: Our original terms. \$40 retainer and \$30 monthly. They want everything on [Individual 1] plus getting [a Bangladeshi political figure's] charges dropped. . . .

In additional text messages on or about December 17, 2011, LUSTYIK provided additional purported confidential information to THALER about Individual 1. THALER responded, in part and substance, that AHMED and his associates would ask for proof, and THALER asked LUSTYIK for more information. LUSTYIK responded, "Tween me n u? Cause we could make money on it."

19. Later, on or about the same day, December 17, 2011, JOHANNES THALER, the defendant, provided to RIZVE AHMED, a/k/a "Caesar," the defendant, purported confidential information that ROBERT LUSTYIK, the defendant, had provided THALER about Individual 1 in text messages earlier that day.

20. In or about December 2011 and January 2012, ROBERT LUSTYIK and JOHANNES THALER, the defendants, made arrangements to meet with RIZVE AHMED, a/k/a "Caesar," and an associate of AHMED whom AHMED claimed had a political position in Bangladesh. In making the arrangements, LUSTYIK and THALER further plotted how to obtain cash payments from AHMED in exchange for



confidential information. In text messages in late December 2011 and early January 2012, they wrote:

THALER: [AHMED's associate] wants to meet both of us. Especially you because you're the man.

. . . .

LUSTYIK: Hey we need to push Cezar for this meeting and get that 40 gs quick. . . . Let's just meet them. I will talk us into getting the cash. . . . I will work my magic . . . . We r sooooooo close."

THALER: I know. It's all right there in front of us. Pretty soon we'll be having lunch in our oceanfront restaurant . . . .

21. On or about January 29, 2012, ROBERT LUSTYIK, JOHANNES THALER, and RIZVE AHMED, a/k/a "Caesar," the defendants, and another individual who was an associate of AHMED, met in or around a shopping mall in Danbury, Connecticut. They discussed, among other things, exchanging information about Individual 1 for cash payments.

22. In or about late January 2012, following the meeting described in the previous paragraph, ROBERT LUSTYIK and JOHANNES THALER, the defendants, schemed to pressure RIZVE AHMED, a/k/a "Caesar," the defendant to make additional cash payments, including by withholding information until receiving payment. THALER told AHMED, in part and substance, that he and LUSTYIK were unwilling to provide additional information without cash. AHMED responded, in part and substance, that he and his associates would turn instead to another source for information about Individual 1, a "ret FBI agent," angering LUSTYIK and THALER. In text messages, they wrote:

LUSTYIK: What? A retired FBI agent? Who is going to be asked about info I showed them??????? I am so screwed

. . . .

LUSTYIK: I'm so fkn pissed at C. I thought all this was worked out. . . . Tell c Bob is just going to go to other side of coin.

THALER: You have [Individual 1's] number. I'm sure he'd be interested in what we talked about. Maybe he actually pays.

. . . . .

LUSTYIK: I want to kill C . . . . . Fcuking C. Let's kick his ass. Show them. I hung my ass out the window n we got nothing? . . . . . Tell [AHMED], I've got [Individual 1's] number and I'm pissed. . . . I will put a wire on n get [AHMED and his associates] to admit they want [a Bangladeshi political figure] offed n we sell it to [Individual 1]

THALER: I know. That's what I was thinking. . . . .

. . . . .

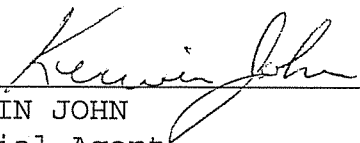
LUSTYIK: Its ok. No retired guy can get [the information about Individual 1]. They will have to come back n we will double it. That's what u tell them.

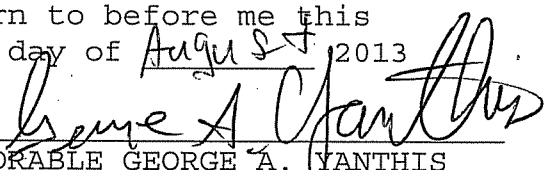
. . . . .

LUSTYIK: So bottom line. I need ten gs asap. We gotta squeeze C . . . . . Call him n make him realize no retired guy can help them. Also remind him that I deal w Interpol

23. Based on the Text Messages, I have learned that in or about February 2012, ROBERT LUSTYIK, the defendant, continued to provide confidential information about Individual 1, to which LUSTYIK had access because of his position as an FBI Special Agent, to JOHANNES THALER, the defendant. THALER, in turn, provided information received from LUSTYIK to RIZVE AHMED, a/k/a "Caesar," the defendant. In or about March 2012, ROBERT LUSTYIK and JOHANNES THALER, the defendants, ceased providing information about Individual 1 to RIZVE AHMED, a/k/a "Caesar," the defendant, because AHMED had not provided them with additional cash payments.

WHEREFORE, deponent respectfully requests that warrants be issued for the arrest of ROBERT LUSTYIK, JOHANNES THALER, and RIZVE AHMED, a/k/a "Caesar," the defendants, and that they be imprisoned, or bailed, as the case may be.

  
\_\_\_\_\_  
KERWIN JOHN  
Special Agent  
Office of Inspector General  
Department of Justice

Sworn to before me this  
1<sup>st</sup> day of August, 2013.  
  
\_\_\_\_\_  
HONORABLE GEORGE A. YANTHIS  
United States Magistrate Judge  
Southern District of New York