

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

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CRIMINAL NO: 14-294

v.

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SECTION: "C"

DAVID DELANEY

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FACTUAL BASIS

Should this matter have gone to trial, the government would have proven beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible exhibits, the following to support the allegations charged by the government in the one-count Bill of Information now pending against the defendant, DAVID DELANEY.

In January 2010, the United States Secret Service, New Orleans Field Office ("USSS") received information from a representative from the business, A & H Armature Works, Inc. ("A&H"), an electrical motor and generator repair company located in Westwego, Louisiana, that the company was a victim of embezzlement. USSS Special Agent Christopher McDonald investigated this matter. Through his investigation, SA McDonald spoke with the owners of the company, Harry Atwood ("Atwood") and Christine McClure ("McClure"), who informed him that they had suspicions that company funds were being embezzled from the company business bank accounts at First American Bank. Atwood had discussed his suspicions involving the theft of company funds with DAVID DELANEY ("DELANEY"), who was employed as a technician at A&H. DELANEY admitted to Atwood that he did run up the company credit card. Atwood and others from the company reviewed the company's bank accounts at First American Bank and saw that company funds were used to pay for unauthorized charges on the company's American

Express business credit cards.

USSS agents interviewed DELANEY and advised him of his *Miranda* rights, which he waived both verbally and in writing. DELANEY provided oral and written statements. He admitted that he was involved in sending funds from the company's American Express business credit card via PayPal to an account named "Riversdiane" opened by his co-conspirator, Roy Joseph Busiere. He further admitted to receiving money from Busiere after Busiere received the money through PayPal. DELANEY explained that he first used PayPal in order to make legitimate purchases for A&H. In 2007, he opened an account at PayPal, account number x4458, on behalf of A&H in order to make purchases for the company. When he opened the PayPal account, DELANEY provided American Express Business Gold ("AMEX") account number x4078, which was issued in the name of "Harry J. Atwood, Jr/A and H Armature." This AMEX account number x4078 was assigned specifically to DELANEY. He stated that Busiere had authorized him to set up the PayPal account number x4458 against the company's AMEX business card, account number x4078, in DELANEY's name. He further stated that Busiere had set up a PayPal account in the name "Riversdiane." PayPal documents show that this account at PayPal, account number x7883, was opened in 2007 in the name of Busiere's wife.

DELANEY claimed that Busiere told him that the company was making a lot of money and that DELANEY deserved a gratuity, and he would throw DELANEY some money. DELANEY had set up the AMEX business accounts so that they were electronically accessible. He stated that Busiere gained the username and password from DELANEY and then had the First American Bank account number x2325 information to pay the AMEX bill. DELANEY had concerns about that the fact that the AMEX card in DELANEY's name was being used to transfer money through PayPal, and he would be implicated in this scheme. However, Busiere told him that if anything

should happen, he could blame it on Busiere because the money was going into an account in Busiere's wife's name. DELANEY also provided a written statement explaining his involvement in this embezzlement scheme. The total loss amount of this scheme, which occurred from approximately May 5, 2008 to December 29, 2009, is approximately \$368,000.

PayPal was a global e-commerce business which allowed customers to make payments and money transfers through the Internet. To create and register a PayPal account, an individual need only provide a name, email address, physical address, phone number, and bank account or credit card account. Once a customer established a PayPal account, he or she could make purchases or transfers of funds via the Internet by depositing funds to his or her PayPal account from a bank account or charged to a credit card.

PayPal documents show that there were approximately 94 wire transfers from DELANEY's PayPal account number x4458 to Riversdiane PayPal account number x7883 from May 5, 2008 to December 21, 2009. The AMEX statements show the corresponding charges for each wire transfer. Records from First American Bank, account number x2325, in the name of A & H Armature Works, Inc., show that each month, the AMEX bill, account number x4078, was paid via electronic transfer of funds from the First American Bank account number x2325.

More specifically, on or about May 7, 2008, DELANEY and Busiere transferred approximately \$2,000 from DELANEY's PayPal account number x4458 to PayPal account number x7883. On the same day, approximately \$2,000 was charged to A&H's AMEX account number x4078.

Between on or about May 8, 2008 and May 30, 2008 DELANEY and/or Busiere made payments to the AMEX account number x4078 by four electronic wire transfers of funds from A&H's First American Bank, account number x2325, without the knowledge and authorization of

the rightful account holders.

On or about December 21, 2009, DELANEY and Busiere transferred approximately \$4575.74 from DELANEY's PayPal account number x4458 to PayPal account number x7883. On the same day, approximately \$4,575.74 was charged to A&H's AMEX account number x4078.

Between on or about December 28, 2009 to December 29, 2009, DELANEY and/or Busiere made payments to the AMEX account number x4078 by two electronic wire transfers of funds from A&H's First American Bank, account number x2325, without the knowledge and authorization of the rightful account holders.

First American Bank, located in New Orleans, Louisiana, in the Eastern District of Louisiana and elsewhere, was a bank whose deposits were insured by the Federal Deposit Insurance Corporation.

The Government would prove that the amount of restitution, loss, and relevant conduct attributable to DELANEY for the purposes of this offense is approximately \$738,484.

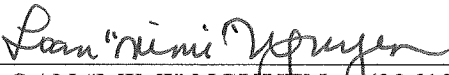
APPROVED AND ACCEPTED:

DAVID DELANEY
Defendant

Date

PROVINO MOSCA (8473)
Attorney for Defendant

Date



LOAN "MIMI" NGUYEN (23612)
Assistant United States Attorney

Date