

Approved: Michael D. Neff  
MICHAEL D. NEFF  
Assistant United States Attorney

Before: THE HONORABLE KATHARINE H. PARKER  
United States Magistrate Judge  
Southern District of New York

17 MAG 9314

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UNITED STATES OF AMERICA : SEALED COMPLAINT  
  
- v. - : Violations of  
18 U.S.C. § 371  
  
SCOTT MCKINNEY, :  
Defendant. : COUNTY OF OFFENSE:  
NEW YORK  
  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

DOUGLAS SMITH, being duly sworn, deposes and says that he is a Special Agent with the U.S. Department of Homeland Security -- Homeland Security Investigations, National Security Division ("HSI"), and charges as follows:

COUNT ONE

(Conspiracy to Enter Aircraft or Airport Area  
in Violation of Security Requirements)

1. From at least in or about July 2017 up to and including in or about November 2017, in the Southern District of New York and elsewhere, SCOTT MCKINNEY, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, entering an aircraft or airport area in violation of security requirements, in violation of Title 49, United States Code, Section 46314(a) & (b), and Title 49, Code of Federal Regulations, Sections 1540.105 and 1540.107.
2. It was a part and object of the conspiracy that SCOTT MCKINNEY, the defendant, and others known and unknown, did knowingly and willfully enter an area of John F. Kennedy International Airport ("JFK Airport") that serves an air carrier or foreign air carrier in violation of security requirements

prescribed under Title 49, United States Code, Section 44901, 44903(b) and (c), and 44906, to wit, Title 49, Code of Federal Regulations, Sections 1540.105 and 1540.107.

Overt Acts

3. In furtherance of the conspiracy, and to effect the illegal object thereof, SCOTT McKINNEY, the defendant, together with others known and unknown, committed the following overt acts in the Southern District of New York and elsewhere:

a. In or about July 2017, McKINNEY met a co-conspirator ("CC-1") at a hotel in New York, New York, where CC-1 provided McKINNEY with a package containing approximately \$50,000 in cash for McKINNEY to transport through security at JFK Airport.

b. On or about July 14, 2017, McKINNEY went through the "Known Crewmember" ("KCM") security lane at JFK Airport carrying approximately \$50,000 or more in United States currency while wearing his crewmember uniform even though he did not work on that date.

c. On or about September 15, 2017, McKINNEY went through the KCM lane at JFK Airport carrying luggage that contained a bag he had just received in the JFK Airport parking garage from CC-1, despite not knowing what was inside the bag.

(Title 18, United States Code, 371.)

COUNT TWO

**(Conspiracy to Operate an Unlicensed  
Money Transmitting Business)**

4. From at least in or about July 2017 up to and including in or about November 2017, in the Southern District of New York and elsewhere, SCOTT McKINNEY, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, operation of an unlicensed money transmitting business, in violation of Title 18, United States Code, Section 1960.

5. It was a part and an object of the conspiracy that SCOTT McKINNEY, the defendant, and others known and unknown, knowingly would and did conduct, control, manage,

supervise, direct, and own all and part of an unlicensed money transmitting business affecting interstate and foreign commerce, which (a) was operated without an appropriate money transmitting license in States, to wit, New York and California, where such operation is punishable as a misdemeanor or a felony under State law; and (b) failed to comply with the money transmitting business registration requirements set forth in Title 31, United States Code, Section 5330, and the regulations prescribed thereunder.

#### Overt Acts

6. In furtherance of the conspiracy, and to effect the illegal object thereof, SCOTT MCKINNEY, the defendant, together with others known and unknown, committed the following overt acts, in the Southern District of New York and elsewhere:

a. In or about July 2017, MCKINNEY met CC-1 at a hotel in New York, New York, where CC-1 provided MCKINNEY with a package, containing approximately \$50,000 in cash, for MCKINNEY to transport from New York City to Los Angeles, California, which MCKINNEY did.

b. On or about August 4, 2017, MCKINNEY transported approximately \$50,000 in United States currency by airplane from JFK Airport to Los Angeles, California.

(Title 18, United States Code, 371.)

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

7. I am a Special Agent with HSI. I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation, my examination of reports and records, and my conversations with others, including other 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.

## Background on the Known Crewmember Security Lane

8. Based on my participation in this investigation, my review of publicly available information, and my conversations with others -- including other law enforcement officers, individuals who work for the Transportation Security Administration ("TSA"), and individuals who work for an airline ("Airline-1") -- I have learned, among other things, the following:

a. Starting in or around 2011, TSA approved an alternate screening method for certain airline employees referred to as the Known Crewmember ("KCM") lane. Since 2011, certain airports, including JFK Airport, have installed a KCM lane.

b. The KCM lane permits qualifying airline employees to pass through security more quickly because they are typically subject to less scrutiny. Unlike the security screening process for ordinary passengers, which requires that passengers place their belongings through an x-ray machine, the KCM lane does not automatically require airline employees to place their belongings through an x-ray machine.

c. Once an individual goes through security -- whether the ordinary security screening process or the KCM lane -- that individual enters the secure (or "sterile") area of the airport, from which it is possible to access airplanes and other secure areas of the airport.

d. KCM privileges are available to certain pilots and crewmembers whose employing airline participates in the KCM program. Airline employees must present valid identification each time they wish to use the KCM lane.

e. Individuals with KCM privileges are permitted to bring personal property through the KCM lane so long as the property is not on TSA's prohibited items list. This applies to personal property. Those with KCM privileges may not bring property belonging to other individuals, including their spouses, children, and co-workers, through the KCM lane.

f. Individuals who gain KCM privileges through their employing airline may use the KCM lane only for  
(1) business travel related to their employing airline, and  
(2) domestic personal travel.

g. Individuals with KCM privileges are not required to wear their crewmember uniform to use the KCM lane. However, those who are in uniform receive certain privileges not afforded those who are not in uniform.

h. If the TSA employee monitoring the KCM lane has any concerns, she may take follow-up steps, including referring the airline employee (who is attempting to use the KCM lane) to the ordinary security screening process.

Background on Licensing Requirements for a  
Money Transmitting Business

9. New York law requires anyone operating a money transmitting business to be licensed. In particular, New York State Banking Law, Section 641(1), provides, "No person shall . . . engage in the business of receiving money for transmission or transmitting the same, without a license therefor obtained from the superintendent as provided in this article, nor shall any person engage in such business as an agent, except as an agent of a licensee or as agent of a payee . . . ."

10. California law requires anyone operating a money transmitting business to be licensed. In particular, the California Money Transmission Act, Section 2030, provides, "A person shall not engage in the business of money transmission in this state . . . unless the person is licensed," the agent of a licensed individual, or exempt from licensing requirements. Section 2003 defines transmitting money to mean, in relevant part, "receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means." Section 2030 provides that only corporations and LLCs organized under California law, or qualified to transact business in California, "may apply for or be issued a license" to transmit money.

11. Under Federal law, money transmitting businesses must also be registered with the U.S. Department of Treasury. For instance, Title 31, United States Code, Section 5330(a)(1) provides that "[a]ny person who owns or controls a money transmitting business shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury[.]" Section 5330(d)(1), in turn, explains, in part, that the "term 'money transmitting business' means . . . (A) any . . . person who engages as a business in the transmission of funds, including any person who engages as a business in an informal money

transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system; (B) is required to file reports under section 5313; and (C) is not a depository institution (as defined in section 5313(g))."<sup>1</sup>

12. The New York, California, and federal requirements for money transmitting businesses apply to formal and informal arrangements alike.

#### The Defendant's Illegal Money Transmitting Business

13. Based on my participation in this investigation, I have learned that SCOTT McKINNEY, the defendant, is involved in operating an unlawful money transmitting business as detailed below, for which he and his companies lacked a license.

#### HSI's Stop of McKINNEY on September 15, 2017 at JFK Airport

14. On or about September 15, 2017, other agents and I conducted physical surveillance at JFK Airport. Based on my observations, my conversations with others, including other enforcement officers, my review of video surveillance and photographs, and my review of flight manifest information, I have learned the following, among other things:

a. SCOTT McKINNEY, the defendant, traveled from Los Angeles International Airport ("LAX Airport") to New York's JFK Airport, on a flight that departed LAX Airport at around

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<sup>1</sup> The Secretary of the Treasury has the authority to establish which individuals and entities are subject to 31 U.S.C. 5330's registration requirement. 31 U.S.C. §§ 5313(a); 5330(a)(2) & (c)(1). These regulations are contained in the Code of Federal Regulations ("CFR"). In particular, 31 C.F.R. § 1022.380(a)(1) provides that "each money services business (whether or not licensed as a money services business by any State) must register with FinCEN [an agency within the U.S. Department of Treasury] . . . as required by 31 U.S.C. 5330[.]" 31 C.F.R. § 1010.100(ff) includes a "money transmitter" as a "money services business." The term "money transmitter" is, in turn, defined to include "the acceptance of currency . . . from one person and the transmission of currency . . . to another location or person by any means." *Id.* Accordingly, the Treasury regulations establish that any person engaged in the transfer of funds is required to register with FinCEN.

11:49 p.m. PDT on September 14, 2017, and landed at JFK Airport at approximately 8:13 a.m. EDT on September 15, 2017.

b. Upon landing at JFK Airport, McKINNEY exited the jetway and entered the terminal wearing street clothes (*i.e.*, not in his crewmember uniform). He had a rollerboard carry-on bag. Prior to leaving the secure area, he entered a restroom in the terminal. McKINNEY exited the restroom with the same rollerboard carry-on bag, but now he was wearing his crewmember uniform.

c. McKINNEY exited the secure area, walked through the terminal, and exited the terminal to the JFK parking garage. There, he met CC-1, who was inside of a black Toyota Scion (the "Car"). After this meeting, McKINNEY was holding a red package (the "Red Package"). McKINNEY's entire interaction with CC-1 lasted less than two minutes. Surveillance camera footage shows McKINNEY exit the terminal at approximately 8:40 a.m., not holding the Red Package, and reenter the terminal at approximately 8:42 a.m., holding the Red Package.

d. As he approached the ticketing area of the terminal, McKINNEY entered a bathroom with his rollerboard bag; he was still holding the Red Package. After he exited the bathroom, he still had the rollerboard bag, but he was no longer holding the Red Package. McKINNEY then entered the secure area of JFK Airport, with his rollerboard bag, by using the KCM lane.

e. McKINNEY then went to a restaurant, after which he approached a particular gate, where he appeared to be waiting to board a return flight to Los Angeles, California.

#### McKINNEY's Admissions on September 15, 2017

15. After observing his conduct at JFK Airport and seeing him pass through KCM lane, HSI agents approached SCOTT McKINNEY, the defendant, and asked if he would be willing to speak with them. He said yes. They then asked if McKINNEY was willing to join them off to the side -- in the passenger seating area of a gate -- which was still within the public area of JFK Airport. He said yes. Based on my conversations with others and my participation in a portion of this interview, I am aware that McKINNEY made the following statements, in sum and substance, and in part:

a. McKINNEY intended to travel on American Airlines flight 255 from JFK to Los Angeles.

b. McKINNEY met with and accepted a package from a lady at the parking garage outside terminal 8 following arrival at JFK.

c. McKINNEY used his Airline-1 credentials to pass through security for his travel. He was not aware of the contents of the package he was carrying. He committed a security violation by transporting the package through security without prior examination of the package and exact knowledge of its content. McKINNEY's employer, Airline-1, would likely fire him for this incident.

d. The contents of the package were not McKINNEY's and he had no legal claim of ownership of them.

e. McKINNEY has met with the same individuals on other occasions to take packages and bring them back to California. Prior packages contained currency. In particular, McKINNEY has done this back and forth trip several times for an individual with whom he worked in transmitting money ("CC-2"). McKINNEY has brought packages from New York to California at least three times and each package contained approximately \$50,000.00 in U.S. currency. The first package was received from another individual involved ("CC-3") in July 2017 and that is when McKINNEY met CC-1. McKINNEY met with CC-1 at a hotel in New York, New York ("Hotel-1") and received a Foot Locker bag containing \$51,000.

f. On previous trips, McKINNEY had checked the contents of the package because he did not want to transport narcotics. McKINNEY had previously dropped cash in California to CC-2's secretary curbside at the airport in Los Angeles following a trip from New York.

g. CC-2 told McKINNEY that transporting currency is not illegal but required a "courier license." McKINNEY stated that he did not currently have a "courier license" but that he intended to obtain one. McKINNEY deferred receiving payment for the transportation of CC-2's currency until he had a license. McKINNEY did not disclose how much CC-2 currently owed him.

h. McKINNEY consented to allowing the agents to view information contained on his cell phone, which included communications with CC-2 regarding picking up "paper" and his availability to do so as well as discussions regarding "the



shit" which McKINNEY explained was either crystal methamphetamine or marijuana.

i. The last drug transaction McKINNEY was involved in was in May 2017. He has not mailed packages with narcotics to New York since last year.

16. During the course of this interview, SCOTT McKINNEY, the defendant, consented to the agents' searching his luggage. His rollerboard bag contained the Red Package -- a red bag with "Happy Birthday" written on it. Inside of the Red Package was a heat-sealed bag (the "Heat-Sealed Bag") with a significant quantity of U.S. currency in stacks with rubber bands. The Heat-Sealed Bag had "54K" written on it. A subsequent examination revealed approximately \$54,000 in U.S. currency. A subsequent ion-scan examination revealed that the Heat-Sealed Bag tested positive for the presence of marijuana.

17. SCOTT McKINNEY, the defendant, then signed a hand-written abandonment form, dated September 15, 2017, which states: "I, Scott McKinney, abandon the contents of 'red colored happy birthday' bag. The bag contains approx. \$54,000 in US Currency. I acknowledge that I am not the owner of the currency and abandon it as property I have no legal right to claim. I do so voluntarily."

#### CC-1 is Stopped and Makes Admissions

18. Based on my conversations with other law enforcement officers, I have learned the following, among other things:

a. On or about September 15, 2017, several agents followed the Car as CC-1 drove away from JFK Airport after giving the Red Package to SCOTT McKINNEY, the defendant. Shortly thereafter, agents performed a traffic stop in or around Jamaica, Queens.

b. Two individuals -- CC-1 and a passenger -- were in the Car. CC-1 consented to a search of the Car, which revealed a small amount of marijuana. CC-1 told the agents the following, among other things:

i. CC-1 had traveled that morning from Gansevoort, New York to JFK Airport. CC-1 was instructed to give "Scott" a package described as his "birthday present" or "paperwork."

ii. In early summer 2017, CC-1 had met with two others in a hotel room in Manhattan, and CC-1 was asked to bring these "birthday presents" to Scott and was told it would occur about once per month. CC-3 usually gives her the "happy birthday bag"; CC-1 communicates with CC-3 via messenger but CC-3 changes phone numbers frequently. CC-1 communicates with Scott using WhatsApp.

iii. CC-1 receives no compensation for delivering these packages, other than receiving some marijuana.

McKINNEY's Messages with CC-1

19. Based on my conversations with other law enforcement officers, I have learned, among other things, that on or about September 15, 2017, CC-1 consented to having the agents take snapshots of the messages in CC-1's cellphone (the "Messages"). From my review of the Messages, I have learned the following, among other things:

a. SCOTT McKINNEY, the defendant, and CC-1 exchange messages about various topics relating to their money transmitting, including whom they work for, who runs CC-1's side of the operation, when and where they will meet, compensation, and flight schedules. McKINNEY and CC-1 also exchanged messages about security issues. The following exchange illustrates some of the topics McKINNEY and CC-1 discuss:

**McKINNEY:** U get only 400 for driving that's not eighth  
Right  
I have [met] [] a few times. Very nice guy, good looking but I know he is also tough ass on money  
Ur doing his position in reality, n not much for a 9 hour long and stressful trip  
There is an alternate. The train is very fast, 2 hours 5 mins. And runs every 3 hours to NYC. There is no security check and can meet u at train station.  
I think U should have a few cocktails n take the train to NY. U can sleep n have no security problems . . .

CC-1: Gunna drive I think I'll be fine but  
thanks people down there make me  
nervous lol my luck I'd get robbed lol  
I feel safer with []s papers in my car  
. . .

b. Based on my training, experience, and participation in this investigation, I believe that, in these messages, McKINNEY is communicating, among other things, that it's "not right" for CC-1 to be paid so little by the man who runs her end of the money transmitting operation.<sup>2</sup> McKINNEY adds that CC-1's roundtrip to New York City takes nine hours and is "stressful." As a result, McKINNEY suggests that CC-1 instead take the train to New York City, as the train is fast, runs frequently, and there's no security checkpoint. CC-1 replies, among other things, that CC-1 "feel[s] safer" driving down to New York City with money ("papers") in her car.

#### McKINNEY's Repeated Travel between LAX and JFK Airports

20. Based on my review of flight manifests provided by Airline-1, I have learned, among other things, that SCOTT McKINNEY, the defendant, repeatedly traveled between LAX Airport and JFK Airport, including on July 14, 2017, August 4, 2017, August 24, 2017, and September 14-15, 2017. Notably, McKINNEY spent less than 24 hours on the ground on some of these occasions. For instance, on August 24, 2017, McKINNEY's flight from LAX Airport landed at JFK Airport at approximately 7:09 p.m.).<sup>3</sup> His return flight to LAX Airport departed JFK Airport

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<sup>2</sup> A different message between McKINNEY and CC-1 states that CC-1 is paid \$400 "and a bit of green," which I understand to mean marijuana, for each trip CC-1 makes as part of the money transmitting operation.

<sup>3</sup> Based on my review of flight-path information provided by U.S. Customs and Border Protection, I have learned, among other things, that this flight flew just south of Manhattan Island, flew over the Hudson River and New York Harbor, and flew over bodies of water within the Eastern District of New York as well, including Jamaica Bay. See 28 U.S.C. § 112(b) ("The Southern District comprises the counties of Bronx, Dutchess, New York, Orange, Putnam, Rockland, Sullivan, and Westchester and concurrently with the Eastern District, the waters within the Eastern District."); see also *U.S. v. Ramirez-Amaya*, 812 F.2d

less than one hour later at approximately 8 p.m. Similarly, on September 15, 2017, McKINNEY's flight from LAX Airport landed at JFK Airport at approximately 8:13 a.m. He was scheduled to return to LAX Airport on a flight departing JFK Airport less than two hours later, at 9:55 a.m.

Three Previous Incidents in July and August 2017

21. As noted above, both SCOTT McKINNEY, the defendant, and CC-1 admitted to previous monetary transactions during the summer of 2017.

22. Based on my review of surveillance camera footage and photographs from the JFK Airport terminal and parking garage, which I obtained from TSA, Airline-1, and the Port Authority of New York and New Jersey, I have learned the following, among other things:

a. On or about July 14, August 4, and August 24, McKINNEY went through the KCM lane in his crewmember uniform.

b. For example, on August 4, 2017, after his flight from LAX Airport landed at JFK Airport approximately 7:09 p.m., McKINNEY -- who was not wearing his crewmember uniform and who had a rollerboard carry-on bag -- promptly walked through the terminal. At approximately 7:21 p.m., he was talking on his cellphone and he did not have a green drawstring bag on his back. He then briefly met a black car in the parking garage, where he received a green drawstring bag (the "Green Bag"). At approximately 7:22 p.m., McKINNEY reentered the terminal, this time with the Green Bag on his back. He then went through the KCM lane in his crewmember uniform.

23. Based on my communications with a representative from Airline-1, I have learned, among other things, the following:

a. SCOTT McKINNEY, the defendant, has had KCM privileges since in or about November 2012.

b. McKINNEY did not work as a crewmember on any of the aforementioned flights on July 14, 2017; August 4, 2017; August 24, 2017; or September 14-15, 2017.

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813, 816 (2d Cir. 1987); *U.S. v. Duque*, 123 F. App'x 447, 2005 WL 387906 (2d Cir. 2005) (summary order).

Airline-1 Hearings -- October and November 2017

24. Based on my communications with a representative from Airline-1, I have learned, among other things, the following:

a. Upon learning of some of the events described above, Airline-1 placed SCOTT McKINNEY, the defendant, on paid administrative leave, pending an investigation by Airline-1. Airline-1 conducted hearings, in October and November 2017, where McKINNEY made certain statements and answered questions.

b. During these hearings, McKINNEY said the following in substance and in part, among other things:

i. The purpose of his August 4, 2017 trip to New York was to attend a birthday party thrown for him.

ii. The purpose of his August 24, 2017 trip to New York was to see his ex, who was ill and was going to be put into a coma. On August 24, 2017, at JFK Airport, McKINNEY changed into his crewmember uniform in case he found out quickly that his friend could not host him, in which case he would need to get on the plane quickly, so he changed into uniform in order to use KCM.

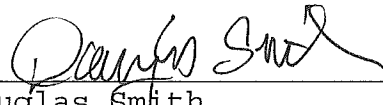
iii. On September 15, 2017, a client needed to make a cash payment. McKINNEY was called to meet and receive the package on September 15, which was the same day he was in New York to visit his ex. His first contact with that client regarding transporting this money was when McKINNEY was about to land at JFK. The amount of money was less than \$50,000.

iv. McKINNEY started a courier business called SMAN Design Solutions, a licensed business. He also has another business, Sonic Services Delivery, registered in San Diego. His courier business was domestic, not international. He would drop the money with another courier outside security at LAX Airport. In addition to transporting money, McKINNEY had transported dental moldings and real estate documents.

McKINNEY and His Companies Are Not  
Registered or Licensed Money Transmitting Businesses

25. Based on my review of a record obtained from the State of New York, as well as my review of New York's publicly available database of licensed money transmitters, I have learned that at no time has McKINNEY been licensed to operate a money transmitting business in New York, nor are "SMAN Design Solutions" or "Sonic Services Delivery" (the "McKINNEY Entities") licensed to conduct money transmitting in New York. Based on my communications with a representative from the California Department of Business Oversight (the "CDBO"), including a record obtained from the CDBO, as well as a review of California's publicly available database of licensed money transmitters, I have learned that none of the McKINNEY Entities is licensed to operate a money transmitting business in California, nor have they ever had such a license. Finally, based on my review of a publicly available database operated by the U.S. Treasury, I have learned that SCOTT McKINNEY, the defendant, is not registered with the Secretary of the Treasury or FinCEN as an individual licensed to conduct a money transmitting business as set forth in the federal statutes and regulations described above, nor was he registered at any point in 2017. And none of the McKINNEY Entities is federally licensed to conduct a money transmitting business.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of SCOTT McKINNEY, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.



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Douglas Smith  
Special Agent  
Department of Homeland Security,  
Homeland Security Investigations

Sworn to before me this  
15th day of December, 2017



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THE HONORABLE KATHARINE H. PARKER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK