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Approved: J. Baglietto
JAMIE E. BAGLIEBTER / ALLISON NICHOLS
Assistant United States Attorneys

Before: HONORABLE PAUL E. DAVISON
United States Magistrate Judge
Southern District of New York

----- X	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	
- v. -	:	Violations of
	:	18 U.S.C. §§ 1341
MARK MUSHKIN,	:	& 2
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	WESTCHESTER
----- X	:	

18M5012

SOUTHERN DISTRICT OF NEW YORK, ss.:

DANIEL GABEL, being duly sworn, deposes and says that he is a Postal Inspector with the United States Postal Inspection Service (USPIS), and charges as follows:

COUNT ONE
(Mail Fraud)

1. From at least in or about January 2011, up to and including at least in or about June 2017, in the Southern District of New York and elsewhere, MARK MUSHKIN, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to the directions thereon, and at the places at which they were directed to be delivered by the person to whom they were addressed, such matters and things, to wit, MUSHKIN transmitted by United States mail fraudulent invoices for copier toner and

thereby induced victims to transmit by United States mail checks addressed to a fraudulent entity created by MUSHKIN.

(Title 18, United States Code, Sections 1341 and 2.)

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

2. I am a United States Postal Inspector with the United States Postal Inspection Service. I have been personally involved in the investigation of this matter, and I base this affidavit on that experience, on my conversations with other law enforcement officials and others, and on my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts 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.

Overview

3. Based on my investigation of this matter, and as set forth more fully below, from in or about January 2011, up to and including at least in or about June 2017, MARK MUSHKIN, the defendant, carried out a mail fraud, in substance, as follows:

a. MUSHKIN sent false invoices to small businesses throughout the country, predominately law firms (the "Victim Businesses"), from a purported company run by MUSHKIN called IT Tech Products.

b. The invoices falsely stated shipment dates for copier toner and demanded payment to IT Tech Products for the copier toner. The invoices typically demanded payment of \$419 or \$429 per unit of copier toner.

c. Over 800 Victim Businesses mailed checks to IT Tech Products based on their mistaken belief that the invoices were legitimate. In fact, the Victim Businesses never ordered copier toner from IT Tech Products or MUSHKIN.

The Investigation

4. Based on my review of records maintained by the Orange County, California Clerk-Recorder, I have learned, in substance and in part, the following:

a. On or about January 6, 2011, a Fictitious Business Statement in the name of ".it tek products service" was recorded with the Orange County, California Clerk-Recorder (the "Statement").

b. The Statement listed the "Registered Owner" as "Mark Mushkin" and indicated that the business was conducted by an individual.

c. The Statement listed both the "Street Address" of the business and the "Res. / Corp. Address" as 18141 Beach Boulevard #202, Huntington, California 92648.

5. Based on my review of notes from an interview between law enforcement and an individual employed by a management company that manages the building located at 18141 Beach Boulevard, Huntington, California 92648, I have learned, in substance and in part, that there is no suite #202 in the building at that address. I also learned that there are no records of a tenant by the name of Mark Mushkin or IT Tech Products.

6. Based on my review of post office box records, I have learned, in substance and in part, the following:

a. On or about January 7, 2011, MARK MUSHKIN, the defendant, applied for a post office box, Box #12017, at the post office in Costa Mesa, California (the "Post Office"), in the name of the company "IT Tech Products." The application stated that the post office box was for "Business/Organization Use."

b. MUSHKIN provided a California drivers' license, number C2133423, and a Progressive Insurance Company vehicle insurance policy to verify his identity at the time of the application.

c. The application for the post office box states that MUSHKIN's address is 18141 Beach Boulevard #202, Huntington, California 92648. As stated in paragraph 5 above, this is not a valid address.

d. I reviewed video footage from a surveillance camera at the Post Office which recorded an individual retrieving mail from Box #12017 or checking Box #12017 for mail nine times from in or about March 2011 through in or about April 2011. Based on a comparison of known photographs of MUSHKIN and the surveillance camera video footage, I believe that the individual checking Box #12017 in the surveillance video is MUSHKIN.

7. Based on my review of records from the California Department of Motor Vehicles, the California driver's license number C2133423 is issued to "MUSHKIN MARK TIMOTHY."

8. Based on my review of consumer complaints collected by various sources including the Better Business Bureau, the Federal Trade Commission and the U.S. Postal Inspection Service, I have learned, in substance and in part, that approximately 342 complaints were lodged against IT Tech Products between in or about August 2011 through in or about June 2017. Nearly all of the complaints allege that the business received invoices from IT Tech Products for copier toner that was neither ordered nor received.

9. Based on my review of reports of conversations between law enforcement and an employee of a law firm based in White Plains, New York ("Witness-1" and "Law Firm-1"), and my review of records from Law Firm-1, I have learned, in substance and in part, the following:

a. On or about November 1, 2011, Law Firm-1 received by mail an invoice dated October 27, 2011. The invoice was from IT Tech Products, P.O. Box 12017, Costa Mesa, CA 92627, for "TONER FOR XEROX WORKCENTRE 5632." The invoice stated that the order was for 2 units at a rate of \$429 per unit. The invoice stated that the total amount owed by Law Firm-1 was \$872, which included \$858 for the copier toner and \$14 for shipping.

b. After receiving the invoice, Witness-1 determined that Law Firm-1 had not ordered nor received the toner from IT Tech Products.

c. Witness-1 called the phone number listed on the invoice. After speaking with an individual representing IT Tech Products, Witness-1 filed a complaint with the Better Business Bureau of California.

d. Several days later, Law Firm-1 received another copy of the invoice from IT Tech Products dated October 27, 2011. This copy was marked "VOID - Cancelled October 29, 2011."

e. On or about February 6, 2017, Law Firm-1 received another invoice from IT Tech Products dated February 1, 2017. The invoice was for "TONER FOR COPIER / TYPE A TONER CTG." The invoice stated that the order was for 4 units at a rate of \$419 per unit. The invoice stated that the total amount owed by Law Firm-1 was \$1,690, which included \$1,676 for the copier toner and \$14 for shipping.

f. Law Firm-1 contacted a law enforcement officer to discuss the invoice. The law enforcement officer then placed a call on or about February 24, 2017 to the number on the invoice purporting to be an employee at Law Firm-1 and left a voicemail.

g. On March 1, 2017, a male individual returned the call from the law enforcement officer purporting to be an employee of IT Tech Products. The individual identified himself as Bob Stevens and said, in substance and in part, that the invoice was voided and the order was cancelled before any toner was shipped out. The individual was asked what service was used to ship the toner and the individual said, in substance and in part, that IT Tech Products uses UPS, USPS or freight for shipping. This call was recorded.

10. Based on my review of reports of conversations between law enforcement and an employee of a law firm based in White Plains, New York ("Witness-2" and "Law Firm-2"), and my review of records from Law Firm-2, I have learned, in substance and in part, the following:

a. In or around July 2014, Law Firm-2 received by mail an invoice dated July 10, 2014. The invoice was from IT Tech Products, P.O. Box 10217, Costa Mesa, CA 92627, for "TONER FOR COPIER / TYPE A TONER CTG." The invoice stated that the order was for 4 units at a rate of \$419 per unit. The invoice stated that the total amount owed by Law Firm-2 was \$1,690, which included \$1,676 for the copier toner and \$14 for shipping.

b. On or about August 1, 2014, Witness-2 signed a check made out to IT TECH PRODUCTS from Law Firm-2 for \$1,690.

c. On or about September 5, 2014, Law Firm-2 received by mail a second invoice from IT TECH PRODUCTS dated September 2, 2014. This invoice stated that the order was for 6 units of copier toner at a rate of \$419 per unit. The invoice stated that the total amount owed by Law Firm-2 was \$2,528, which included \$2,514 for the copier toner and \$14 for shipping.

d. At that time, Witness-2 learned that all copier toner for Law Firm-2 was included free of charge pursuant to a contract with a company from whom they bought their copier.

e. Witness-2 stated that she does not believe that Law Firm-2 ever received copier toner from IT Tech Products.

11. Based on my review of reports of conversations between law enforcement and an employee of a law firm based in Manhattan, New York ("Witness-3" and "Law Firm-3"), and my review of records from Law Firm-3, I have learned, in substance and in part, the following:

a. In 2016, Law Firm-3 received by mail four invoices from IT Tech Products. The invoices were sent on the following dates and for the following amounts: (1) May 6, 2016 for \$1,690 (2) June 3, 2016 for \$2,528, (3) July 7, 2016 for \$2,528, and (4) August 5, 2016 for \$2,528.

b. Each invoice charged a rate of \$419 for each unit of copier toner and included a \$14 charge for shipping.

c. Law Firm-3 paid the first three invoices by mailing checks. After receiving the fourth invoice, Witness-3 learned that Law Firm-3 had not ordered nor received toner from IT Tech Products.

d. Witness-3 called the phone number listed on the invoices and left several messages.

e. Witness-3 thereafter spoke with a man identifying himself as Bob Stevens of IT Tech Products and Stevens agreed to refund the money Law Firm-3 had paid. Law Firm-3 received a check dated September 8, 2016 for \$5,056 and a check dated September 15, 2016 for \$1,690. Both checks were drawn on a bank account of IT Tech Product Service, P.O. Box 12017, Costa Mesa, CA 92627.

12. Based on my conversations with other law enforcement officers and my review of reports of interviews and complaints from witnesses at Victim Businesses, I have learned that IT Tech Products has sent fraudulent invoices to law firms and businesses throughout the country. Some of these Victim Businesses reported that they had mistakenly paid IT Tech Products for copier toner that was never ordered nor delivered. Other witnesses reported that the Victim Businesses realized the invoices were fraudulent before paying any money to IT Tech Products.

13. Based on my review of bank account records, I have learned, in substance and in part, the following:

a. A checking account was opened on January 7, 2011 at a financial institution ("Bank-1") with the business name "IT TEK PRODUCT SERVICE" and "Mark T. Mushkin" as the authorized signer (the "Bank Account"). Sometime thereafter, the business name on the account was changed to "IT TECH PRODUCT SERVICE."

b. The opening documents for the Bank Account list the mailing address as 668 North Coast Highway #303, Laguna Beach, California 92651-1513. The street address for the business was listed as 18141 Beach Boulevard Suite 202, Huntington Beach, California 92648-5697. As stated in Paragraph 5 herein, 18141 Beach Boulevard Suite 202, Huntington Beach, California 92648-5697 is not a valid address.

c. From at least on or about January 13, 2011, through at least on or about June 23, 2017, the Bank Account received approximately 1,919 checks from 878 companies totaling approximately \$3,334,238. All of the checks were made out to IT Tech Products.

d. From in or about April 6, 2015 through at least on or about June 8, 2017, 41 checks that say "refund" in the memorandum line were written from the Bank Account. These checks were sent to 36 companies and totaled approximately \$128,370. Each of the 36 companies that received checks drawn on the Bank Account had previously sent money to IT Tech Products that was deposited into the Bank Account. Some refunds were also made to Victim Businesses through certified check.

e. From in or about January 2011 through in or about June 2017, approximately \$3,417 from the Bank Account was spent at UPS and approximately \$1,611 was spent at the U.S.

Postal Service. No other payments to shipping companies are apparent from the Bank Account's records.

f. From in or about January 2011 through in or about June 2017, approximately \$1,442,908 was transferred from the Bank Account into one of six bank accounts controlled by MARK MUSHKIN, the defendant (the "Additional Bank Accounts").

14. According to Postal Service records 668 North Coast Highway, Laguna Beach, California 92651, which is the mailing address listed on the opening documents for the Bank Account, is a private mail-receiving agency, the UPS Store. Based on a review of a USPS Form 1583 Application for Delivery of Mail Through Agent dated February 18, 2009, "Mark Timothy Mushkin" applied for Box 303 at that location. The identification listed on the application is a California driver's license, number C2133423 and U.S. Passport number 300467113, both bearing photographs of Mark Mushkin.

15. Based on my review of records from the Additional Bank Accounts, I have learned, in substance and in part, that from in or about January 2011 through in or about June 2017, approximately \$5,935 was spent at UPS and \$3,018 was spent at the U.S. Postal Service. No other payments to shipping companies are apparent from the bank records of the Additional Bank Accounts.

16. Based on my review of records from the Bank Account and the Additional Bank Accounts as well as my participation in this investigation, it appears that, between January 2011 and June 2017, only 96 units of copier toner were purchased by MARK MUSHKIN, the defendant, or any entity controlled by him. All 96 units of copier toner were purchased from a single company based in Phoenix, Arizona in 2011.

17. Based on the foregoing and my training and experience, I believe that there is probable cause to believe the following:

a. MARK MUSHKIN, the defendant, runs IT Tech Products, which, from in or about January 2011 through in or about June 2017, received approximately 1,919 checks in response to fraudulent invoices for copier toner when copier toner was never ordered by the company.

b. Over 800 Victim Businesses that received invoices paid the invoices by mailing checks to the address

listed on the invoices, which was P.O. Box 12017 Costa Mesa, California 92627.

c. In the event that a Victim Business called a telephone number listed on the invoice to complain about the invoice after having made payment, generally MUSHKIN or a representative of IT Tech Products would send a refund. This practice allowed MUSHKIN to continue operating the scheme.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of MARK MUSHKIN the defendant, and that he be arrested and imprisoned or bailed, as the case may be.



DANIEL GABEL
Postal Inspector
United States Postal Inspection Service

Sworn to before me this
11th day of June 2018



HONORABLE PAUL E. DAVISON
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK