

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

Before: THE HONORABLE HENRY B. PITMAN
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA :
:
- v. - :
:
MICHAEL LUCIANO and :
PHILIP LUCIANO, :
:
Defendants. :
:
- - - - - x

SEALED COMPLAINT

Violation of
21 U.S.C. § 846

COUNTY OF OFFENSE:
NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

PAUL NUGENT, being duly sworn, deposes and says that he is a Special Agent with the Department of Homeland Security, Homeland Security Investigations ("HSI"), and charges as follows:

COUNT ONE

1. From at least in or about February 2016 up to and including at least in or about July 2017, in the Southern District of New York and elsewhere, MICHAEL LUCIANO and PHILIP LUCIANO, the defendants, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that MICHAEL LUCIANO and PHILIP LUCIANO, the defendants, and others known and unknown, would and did distribute and possess with the intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1).

3. The controlled substances that MICHAEL LUCIANO and PHILIP LUCIANO, the defendants, conspired to distribute and possess with the intent to distribute were (1) 40 grams and more

of mixtures and substances containing a detectable amount of fentanyl, in violation of 21 U.S.C. § 841(b)(1)(B), and (2) a quantity of mixtures and substances containing a detectable amount of oxycodone, in violation of 21 U.S.C. § 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

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

4. I am a Special Agent with HSI, and I have been involved in the investigation of the above-described offenses. The information contained in this Complaint is based upon my personal knowledge and participation in this investigation, as well as on my conversations with other law enforcement agents and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing 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. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Terminology

5. Based on my training, research, education, and experience, I am familiar with the following relevant terms:

a. The "dark web" is a colloquial name for a number of extensive, sophisticated, and widely used criminal marketplaces operating on the Internet, which allow participants to buy and sell illegal items, such as drugs, firearms, and other hazardous materials with greater anonymity than is possible on the traditional Internet. These online black market websites use a variety of technologies, including the Tor network (defined below) and other encryption technologies, to ensure that communications and transactions are shielded from interception and monitoring. A famous dark web marketplace, Silk Road, operated similar to legitimate commercial websites such as Amazon and eBay, but offered illicit goods and services. Law enforcement shut down Silk Road in 2013. More recently active markets have included AlphaBay and HANSA.

b. "Vendors" are the dark web's sellers of goods and services, often of an illicit nature, and they do so through

the creation and operation of "vendor accounts." Customers, meanwhile, operate "customer accounts." It is possible for the same person to operate one or more customer accounts and one or more vendor accounts at the same time.

c. The "Tor network," or simply "Tor," is a special network of computers on the Internet, distributed around the world, that is designed to conceal the true Internet Protocol ("IP") addresses of the computers accessing the network, and, thereby, the locations and identities of the network's users. Tor likewise enables websites to operate on the network in a way that conceals the true IP addresses of the computer servers hosting the websites, which are referred to as "hidden services" on the Tor network. Such "hidden services" operating on Tor have complex web addresses, generated by a computer algorithm, ending in ".onion" and can only be accessed through specific web browser software, including a major dark-web browser known as "Tor Browser," designed to access the Tor network.

d. "Bitcoin" (or "BTC") is an online digital currency that allows users to transfer funds more anonymously than would be possible through traditional banking and credit systems. Users store their bitcoins in digital "wallets," which are identified by unique electronic "addresses." Although they are legal and have known legitimate uses, bitcoins are also known to be used by cybercriminals for money-laundering purposes, and are believed to be the most oft-used means of payment for illegal goods and services on "dark web" websites operating on the Tor network. By maintaining multiple bitcoin wallets, those who use bitcoins for illicit purposes can attempt to thwart law enforcement's efforts to track purchases within the dark web marketplace. As of August 21, 2017, one bitcoin was worth approximately \$4,014, though bitcoins' value is much more volatile than that of fiat currencies.

The Former Dark Web Market Known as AlphaBay

6. As set forth in more detail below, based on my participation in the investigation, my training and experience, my conversations with others including other law enforcement agents, my review of Internet websites used to conduct narcotics trafficking, and my review of records obtained from an Internet service provider, I have learned, among others things, that:

a. AlphaBay was a dark web market launched in late 2014, after the closure of dark web market Silk Road. AlphaBay grew to become the largest market on the dark web and was frequently used to facilitate sales of drugs in addition to

other contraband (e.g., stolen credit card numbers, firearms, etc.). Sales on AlphaBay are believed to have generally exceeded \$500,000 per day. AlphaBay remained in operation until early July 2017, when law enforcement shut it down, partly because many vendors sold synthetic opioids on AlphaBay, including more than 100 vendors who advertised fentanyl for sale.

A Vendor Named "Zane61" Sold Fentanyl and Oxycodone on AlphaBay

7. Based on my participation in the investigation, my training and experience, my conversations with other law enforcement agents and others, and my review of Internet websites used to conduct narcotics trafficking, I have learned, among other things, that:

a. From on or about February 1, 2016, through at least on or about June 29, 2017, a vendor with the username "Zane61" maintained a user profile page on AlphaBay (the "User Profile") used to sell narcotics. Zane61 had been a member of AlphaBay since on or about February 1, 2016.

b. On or about June 29, 2017, the User Profile represented, among other things, that:

i. Within the twelve preceding months, AlphaBay users had provided feedback on purchases from Zane61 that included items described as:

1. "75mcg Sandoz Fentanyl HCL patch";
2. "100mcg PAR Fentanyl gel patch";
3. "3 100mcg mallinckrodt Fentanyl HCL patch"; and
4. "10 (Ten) 10mg Oxycodone IR tablets."

ii. Zane61 typically described these items being sold as being "from a U.S. pharmacy."

iii. Within the twelve months prior to June 29, 2017, other AlphaBay users who purchased items from Zane61 had provided feedback to Zane61 on approximately 113 occasions. On approximately 112 occasions, that feedback was positive.

Approximately 101 instances of feedback were from the past six months. For example:

iv. On or about June 24, 2017, a reviewer provided the following feedback on a purchase of "20 (20) 10mg Oxycodone IR tablets Immediate release Oxy tabs from a U.S. pharmacy" from Zane61: "Great stealth, fast shipping, legit product. Perfect 10/10."

v. On or about June 24, 2017, a different reviewer provided the following feedback on a purchase of "3 100mcg mallinckroft Fentanyl HCL patch SALE with 100 mcr/hr for 72 hrs, fentanyl Hcl from a U.S. pharmacy now on sale" from Zane61: "Great vendor! Very fast and great stealth. Thanks!"

vi. On or about June 26, 2017, another reviewer provided the following feedback on a purchase of "20 (20) 10mg Oxycodone IR tablets Immediate release Oxy tabs from a U.S. pharmacy" from Zane61: "Fast shipping, Great vendor. Good stealth, price, and A+ product."

1. Based on my training, experience, and participation in this investigation, I have learned, among other things, that the term "stealth" is frequently used on dark web markets to indicate concealment of contraband, for instance by hiding contraband inside of a legitimate-looking item or by packaging contraband inside of many layers, such that the contents of the package are not readily apparent to the touch or perhaps discernible to a scanning machine. As noted below, law enforcement conducted a controlled buy of fentanyl from Zane61, and received a package containing fentanyl that was concealed within a medical device.

vii. Zane61 had also provided feedback for approximately 48 other AlphaBay users, suggesting that Zane61 was also a customer on AlphaBay.

Fentanyl and Oxycodone Are Being Sold, on the Dark Web, From A Particular Residence in Staten Island

8. Based on my participation in the investigation, my training and experience, my conversations with other law enforcement agents and others, my review of Internet websites used to conduct narcotics trafficking, and my review of records obtained from an Internet service provider, I have learned, among other things, that:

March 11, 2017: Customs and Border Protection Seized Fentanyl
Destined for A Particular Residence in Staten Island

a. On or about March 11, 2017, the U.S. Department of Homeland Security, U.S. Customs and Border Protection ("CBP") intercepted a package ("Package-1") addressed to a "Mike Luciano" at a specific residential address in Staten Island, New York (the "Staten Island Residence"), which was being sent from an address in China. CBP officers opened and searched Package-1. Inside of Package-1, they found 64 grams of fentanyl and 37 grams of an unknown powdered substance.

April 26, 2017: Arrest of Drug Dealer Who Shipped Fentanyl to
Zane61 at the Staten Island Residence

b. On or about April 26, 2017, in the District of South Carolina, federal law enforcement agents investigating an accidental fatal drug overdose obtained and executed arrest warrants and search warrants associated with an AlphaBay vendor with the username "PeterTheGreat."

c. During the search, law enforcement found, among other things, printed computer records of transactions and accompanying communications between "PeterTheGreat" and AlphaBay purchasers. The records included approximately seven orders from an individual under the username "Zane61," along with accompanying communications. The seven orders by Zane61 occurred between April 10, 2017 and April 20, 2017 -- the days leading up to the arrest of "PeterTheGreat." The records describe the seven transactions as sales by "PeterTheGreat" to Zane61, in various weights and quantities, of the following substances:

- i. "ACRYL Fentanyl."
- ii. "4f-iBF Maleate (long lasting fent analogue)."

d. In the accompanying communications, Zane61 informed "PeterTheGreat," among other things, of the addresses to which the items should be shipped. Zane61 provided two recipient addresses -- both for the Staten Island Residence -- and one associated with "M. Luciano," the other with "Adam Case."

e. Law enforcement agents arrested "PeterTheGreat" on or about April 26, 2017.

June 15, 2017: Undercover Purchase of Fentanyl from Zane61

f. On or about June 15, 2017, HSI officers acting in an undercover capacity placed an order of fentanyl on AlphaBay from the vendor, Zane61. In making this purchase, the HSI officers requested that the order be sent to a particular address in the Bronx ("Address-1"), addressed to a particular name ("Name-1").

g. HSI officers paid Zane61 in Bitcoin for this fentanyl purchase.

h. On or about June 19, 2017, federal law enforcement agents seized a package ("Package-2") at a U.S. Post Office located in the Bronx. Package-2, which was addressed to Name-1 at Address-1, contained fentanyl, which was concealed within a medical device. Package-2 listed a return address of "T. Jackson, 115 Ward Avenue, Staten Island, NY 10304".

1. I have spoken to an employee with the U.S. Postal Service, who stated that this return address -- 115 Ward Avenue, Staten Island, NY 10304 -- does not exist as a viable mailing address (even though if one searched this address on Google, it would appear).

The Search of the Staten Island Residence

9. On or about July 18, 2017, based in part on the information set forth above, the Honorable Steven I. Tiscione, United States Magistrate Judge for the Eastern District of New York, authorized a search of the Staten Island Residence and of any electronic devices found therein (the "Search Warrant").

10. On or about July 25, 2017, I and other law enforcement officers executed that Search Warrant at the Staten Island Residence.¹ During the execution of the Search Warrant, I and other law enforcement officers encountered approximately five individuals: MICHAEL LUCIANO and PHILIP LUCIANO, the

¹ Based on my participation in this investigation and my participation in the execution of the Search Warrant, I know, among other things, that there are at least approximately four surveillance cameras (total), which are located at both the front and side entrances to the Staten Island Residence, which seemingly were installed by occupants of the Staten Island Residence. These surveillance cameras may indicate that the residents of the Staten Island Residence were taking counter-surveillance measures to detect law enforcement.

defendants; two relatives of theirs ("Relative-1" and "Relative-2"); and Relative-2's significant other ("SO-1").

MICHAEL LUCIANO's Admissions

11. Based on my participation in this investigation (including the execution of the Search Warrant), my review of reports, and my conversations with others including law enforcement officers, I know, among other things, the following:

a. MICHAEL LUCIANO, the defendant, was present during the search of the Staten Island Residence. After being advised of his *Miranda* rights, MICHAEL LUCIANO agreed to speak with myself and other law enforcement officers and said, in substance and in part, that:

i. He and his son PHILIP LUCIANO, the defendant, sold fentanyl over the dark web.

ii. MICHAEL LUCIANO had started ordering fentanyl online about two years ago from China. Fentanyl from China was inexpensive -- about 100 grams for \$1,000. At first, he bought fentanyl over the regular internet, not the dark web. But after law enforcement intercepted and seized two attempted importations of fentanyl, they switched to buying fentanyl on the dark web.

iii. He got his son, PHILIP LUCIANO, involved. They were selling drugs on AlphaBay under the name "Zane61." PHILIP was the one who knew how to use the dark web: PHILIP set up their account on the dark web and handled the transactions. PHILIP used an iPad when he went on the dark web market.

iv. PHILIP has a Master's Degree as a Physician's Assistant and recently received another degree in Nursing.

v. He (*i.e.*, MICHAEL LUCIANO) was medically prescribed fentanyl patches due to an injury. At times, he and PHILIP sold these fentanyl patches online in order to purchase more fentanyl. He and PHILIP started selling his prescription fentanyl patches on AlphaBay about six months earlier.

vi. MICHAEL had prescription fentanyl patches in the Staten Island Residence in a safe downstairs.²

vii. He knew that PHILIP was also selling Oxycodone pills online using the Zane61 account.

viii. As to how packages were sent, PHILIP told him about orders they received online. Then he (MICHAEL) took packages to a local post office, where he dropped them off by handing them to a post office clerk. At first, he (MICHAEL) hand-wrote shipping labels, but then he started printing them on his computer. The return address was a fake address.

ix. As to money made from sales on AlphaBay, MICHAEL and PHILIP used that money to offset the cost of the fentanyl they purchased. PHILIP bought the Bitcoins. When AlphaBay was taken down, MICHAEL and PHILIP had about five Bitcoins in their AlphaBay account, which they lost.

b. Law enforcement officers questioned three other occupants of the Staten Island Residence -- Relative-1, Relative-2, and SO-1 -- each of whom denied any involvement in selling drugs over the dark web. PHILIP LUCIANO did not wish to speak with law enforcement.

The Search of Certain Devices Recovered
From the Staten Island Residence

12. During the execution of, and pursuant to, the Search Warrant, I and other law enforcement officers seized several devices from the Staten Island Residence, including an iPad from the bedroom of PHILIP LUCIANO, the defendant (the "iPad"); several computers; and several cellphones. Based on my participation in the investigation, my review of documents, and conversations with other law enforcement agents and others, I have learned, among other things, the following about some of those devices:

a. A particular cellphone is believed to belong to PHILIP LUCIANO, the defendant, partly because -- during the execution of the Search Warrant at the Staten Island Residence

² Based on my participation in this investigation, including my review of reports and my conversations with other law enforcement agents, I have learned, among other things, that other law enforcement officers accessed that safe, with MICHAEL LUCIANO's permission, where they found several 75 mcg and 100 mcg fentanyl patches, which they seized.

-- PHILIP picked up that particular cellphone ("PHILIP'S Cellphone"), in front of law enforcement officers, as PHILIP went to depart the Staten Island Residence. One of the officers who saw PHILIP pick up PHILIP'S Cellphone told PHILIP that he needed to leave the cellphone. In addition, a subsequent search of PHILIP'S Cellphone, revealed, among other things, that the user accounts accessed on PHILIP'S Cellphone include (1) an email account associated with "philip.luciano" followed by a number; (2) an email account associated with "philluciano" followed by a number; (3) an email account, at an educational institution, associated with "philip.luciano"; and (4) a popular online dating application account associated with "Philip." Based on my training, experience, and participation in this investigation, I believe that each of these accounts belongs to PHILIP LUCIANO, the defendant.

b. A search of PHILIP'S Cellphone also revealed the following, among other things:

Digital Currency

i. Bitcoin were recovered and Coinbase was accessed. Based on my training and experience, I know that Coinbase is an online marketplace that, among other things, operates Bitcoin exchanges. Coinbase therefore permits individuals to buy or sell Bitcoin using fiat currencies, including the U.S. Dollar.

ii. Two screenshots -- from in or about June 2017 -- of a Coinbase wallet. The first photograph - - labeled "Mike's BTC Wallet" -- shows more than 6 Bitcoin in that wallet. The second photograph is of a wallet sending 0.17852 BTC, or Bitcoin.

Photographs of Fentanyl and Oxycodone

iii. Four photographs of fentanyl patches from in or about April 2017.

iv. Photographs of an oxycodone prescription and oxycodone pills from in or about November 2016.

v. Photographs of oxycodone pills from in or about both April 2017 and May 2017.

Text Messages Concerning Narcotics and Narcotics Distribution

vi. On or about March 15, 2017, PHILIP had the following exchange with an individual whose account name started with "Mike":

MIKE: Wake up

PHILIP: Yea

MIKE: The rent is here!!!
(sent with iMessage effect)

MIKE: Rent

MIKE: Fent..

Based on my training, experience, and involvement in this investigation, I believe that "Mike" is MICHAEL LUCIANO, the defendant, and he was urging his son PHILIP to wake up because a new shipment of fentanyl had arrived at their home.

vii. Over the course of many months in 2015, PHILIP exchanged various text messages with an apparent purchaser of narcotics ("Customer-1"), including the following:

Customer-1: I got 40..can i get something?

PHILIP: Sry...my pop isn't home but
he's waiting on another order
so I'm not sure if he's selling
more

* * *

Customer-1: Yo. Yall got anything?

* * *

Customer-1: My buddy is able to give me a
ride there now, so please ask
your dad soon. I'll def bring
the hundred tomorrow

PHILIP: Omw home, I'll call u soon

Customer-1: You home yet? My boy is waiting
to find out if he can get that
or if he should go elsewhere /

It's the same kid that drove me
to your house that morning

PHILIP: Im home but my pop isn't so if
he can go elsewhere than I
guess do it cause my moms gonna
be home soon so idk what he
will say

Customer-1: He'd prefer to get from your
dad, so try to anyway.
Obviously then i can too. See
if you can get ahold of him so
at least I'll have an answer

* * *

PHILIP: I was in class taking a test I
can't text or call when my
phone isn't allowed to be on me
/ Last night I fell asleep
after you called me I'm sorry.
I had tests Monday and today I
was exhausted

Customer-1: No worries. I called you / Your
dad at the house and saw him /
I got back home and shot some.
I thought it might have been
too much, especially
considering my last dose of sub
was Saturday. I became
unresponsive and my friend
called an ambulance. They gave
me narcan and I'm at the
hospital now / Can I settle up
and get 60 more tomorrow?

PHILIP: Give me a call when u can

* * *

Customer-1: Hey man. Your dad told me to
hit you up since he's with your
mom / I always pour everything
out on a cd case when i get
home and yesterday i knocked

over a glass of coke over everything i had left, like 3/4. your dad said hed spot me a half. Or if y'all are running low I'll take one of those residue packets.

PHILIP: Hey, just got up...come by if u want.

Customer-1: K. Thanks / I'll be there in 20 min

* * *

Customer-1: K. When you do come by can you break me off a little fent and i wont take any white?

* * *

Customer-1: And can you bring me some fent? Residue is fine

PHILIP: I can get u a little resin but we are out so not a lot

Customer-1: Great. Thanks. See you soon / I'm sure a small amount will fuck me up since I'm on only 2 msgs sub

PHILIP: Yea I would think

Based on my training, experience, and involvement in this investigation, I believe that PHILIP LUCIANO is engaging in narcotics-related conversations with Customer-1, concerning, among other things, selling narcotics to Customer-1 ("can you bring me some fent? Residue is fine"; "I can get u a little resin"); arranging the time and place of these sales ("come by if u want"; "K. Thanks / I'll be there in 20 min"); Customer-1's overdose ("I became unresponsive and my friend called an ambulance. They gave me narcan and I'm at the hospital now"); Customer-1's desire for fentanyl ("And can you bring me some fent?"); and whether PHILIP and his father, MICHAEL LUCIANO, have narcotics available at various times ("Sry...my pop isn't home but he's waiting on another order").

iPad Evidence of Distributing Narcotics Over the Dark Web

c. A search of the iPad³ recovered from the bedroom of PHILIP LUCIANO, the defendant, revealed the following, among other things:

i. A "Note", in the Notes application, that lists "Zane61" and an accompanying password. This Note is from in or about October 2016.

ii. Photographs of a box of fentanyl patches from in or about both January 2017 and April 2017. Photographs of fentanyl patches (not inside of a box) from in or about May 2017.

iii. Photographs of pills from in or about January 2017, March 2017, and July 2017.

iv. A "cookie" indicating that Coinbase was accessed in or about May 2017.⁴

v. A cookie indicating that BitcoinChart was accessed in or about May 2017.

vi. A screenshot photograph, from in or about June 2017, of a Bitcoin payment.

vii. A web browser search, in or about July 2017, of "safest btc wallet to transfer tumble."

1. Based on my training and experience, I know that a Bitcoin wallet is essentially a software program where Bitcoins are stored online.

viii. A web browser search, in or about July 2017, of "how to use electrum."

³ The name of this device is "Michael's iPad."

⁴ Based on my training and experience, I know that a cookie is a small text file that is created by a website -- once the user visits that website -- and is stored in the user's device. A cookie is therefore akin to a digital fingerprint, and indicates that the iPad accessed Coinbase.

1. Based on my training and experience, I know that electrum is a Bitcoin wallet application.

ix. A Note, in the Notes application, stating in part: "Our email in case markets go down. DarkNetCartel@[].com DarkNetCartel@[].com Here are Links for anonymous e-mail providers on Tor."

x. Applications on the iPad include, among others, Bitcoin ticker; Bitcoin ticker widget; Bitpay; and Bitsboard.

Evidence that PHILIP LUCIANO Regularly Used the iPad

d. A search of the iPad recovered from the bedroom of PHILIP LUCIANO, the defendant, also revealed the following, among other things:

i. The user accounts that accessed the iPad include (1) an email account associated with "philip.luciano" followed by a number; (2) an email account, at an educational institution, associated with "philip.luciano"; (3) a social media application account associated with "luciano philip"; and (4) a popular online dating application account associated with "Philip." Based on my training, experience, and participation in this investigation, I believe that each of these accounts belongs to PHILIP LUCIANO, the defendant.

ii. A "Note," in the Notes application, that "Dad Owes Me: \$247." This Note is from in or about September 2016.

iii. Screenshot photographs, from in or about October 2016, showing exam grades for classes of a medical nature. There are also photographs, from in or about November 2016, of "Philip Luciano"'s grades.

iv. Chats on a dating application, from in or about both October 2016 and July 2017, from "Philip"'s account.

v. Screenshot photographs, from in or about November 2016 and June 2017, of a fantasy football application, with a login name of "Phil" followed by four numbers.

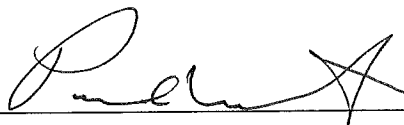
vi. Web browser searches, from July 2017, for "graduated rn ny next step to get to take nclex" and "how to sign up to take nclex in ny after getting bs." These searches occurred within minutes of the aforementioned search for "how to use electrum."

1. Based on my participation in this investigation and my review of publicly available information, I know that "NCLEX" is a nationwide examination (taken after graduation from nursing school) to obtain a nursing license. As noted above, MICHAEL LUCIANO, the defendant, stated that PHILIP has a Master's Degree as a Physician's Assistant and recently received another degree in Nursing.

vii. The "Favorites" in a web browser - - i.e., the websites that a user has labeled as "Favorites" -- include "ATI Testing / Nursing Education / NCLEX Exam Review / TEAS."


e. In light of the foregoing, I believe, among other things, that PHILIP LUCIANO was a user of the iPad, and that he used the iPad, among other things, to distribute, and to facilitate the distribution of, fentanyl and oxycodone on the dark web.

WHEREFORE, I respectfully request that warrants be issued for the arrests of MICHAEL LUCIANO and PHILIP LUCIANO, the defendants, and that they be arrested and imprisoned, or bailed, as the case may be.



PAUL NUGENT
Special Agent
Department of Homeland Security,
Homeland Security Investigations

Sworn to before me this
22nd day of August 2017


THE HONORABLE HENRY B. PITMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK