

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

STATE OF CALIFORNIA)

AFFIDAVIT FOR SEARCH WARRANT

(ss.

COUNTY OF SAN DIEGO)

No. 35826

I, Special Agent (SA) Lauren A. Carney, do on oath make complaint, say and depose the following on this 2nd day of May, 2008, that I have substantial probable cause to believe and I do believe I have cause to search the premises and all parts therein, including all rooms, attics, basements, cellars, crawl spaces, safes, mail receptacles, storage areas, containers, surrounding grounds, trash areas, garages and outbuildings assigned to or part of the residences located at:

(1) 5525 55th Street, Apartment 208, City of San Diego, County of San Diego, California; further described as a 4-story, apartment building called "Fraternity Row" having a primarily yellow and brown stucco exterior, having the number "5255" on the exterior wall of the apartment complex facing 55th Street and the number "208" located on the wall on the left side of the yellow painted door on the second floor of the building;

(2) 5255 55th Street, Apartment 406, City of San Diego, County of San Diego, California; further described as a 4-story, apartment

building called "Fraternity Row" having a primarily yellow and brown stucco exterior, having the number "5255" on the exterior wall of the apartment complex facing 55th Street and the number "406" located on the wall on the right side of the yellow painted door on the fourth floor of the building;

(3) 7138 Saranac Street, Apartment #15, City of La Mesa, County of San Diego, California; further described as a two-story, apartment building having a primarily light yellow stucco exterior with blue trim, having the number "7138" on the exterior wall of the apartment complex facing Saranac Street and the number "15" located on the blue painted door to apartment 15;

(4) Theta Chi Fraternity House, 5525 Lindo Paseo, City of San Diego, County of San Diego, California; further described as the eastern house of a two house structure making up the THETA CHI Fraternity House at San Diego State University; a gray with white trim, single story multi-room residence with the number "5525" affixed on the right side of the red front door; a large Greek letter "Theta" (looks like this: Θ) is affixed to the roof; this residence also has an adjoining backyard with 5505 Lindo Paseo, the other half of the fraternity house;

(5) Theta Chi Fraternity House, 5505 Lindo Paseo, City of San Diego, County of San Diego, California; further described as the western house of a two house structure making up the THETA CHI Fraternity House at San Diego State University; a gray with white

trim, single story multi-room residence with the number "5505" affixed on the right side of the red front door; a large Greek letter "Chi" (looks like an "X") is affixed to the roof; this residence also has an adjoining backyard with 5525 Lindo Paseo, the other half of the fraternity house;

(6) 5693 Montezuma Road, City of San Diego, County of San Diego, California; further described as a two story, cream colored apartment building located in the rear alley of the main apartment complex with a staircase leading up to a door with the number "5693" affixed on the left side of the door;

(7) 5475 55th Street, Apartment #34, City of San Diego, County of San Diego, California; further described as a two story, gray apartment complex with blue trim and the number "5475" and "Scott Plaza @ Albert's College Apartments" in large letters on the front of the complex, Apartment 34 is located on the second floor of the complex with the number "34" on the blue door of the apartment;

(8) 5123 Ewing Street, City of San Diego, County of San Diego, California; further described as a cream colored, single story residence with the number "5123" in white numerals affixed on the right side of the front door and the number "5123" in black numerals painted on the curb in the front of the residence;

(9) 5067 Alumni Place, City of San Diego, County of San Diego, California; further described as a tan, two-story residence with

brown trim and the number "5067" in black numerals affixed on the front porch post;

and a vehicle further described as a dark blue 1995 Lexus sedan, bearing California license plate 4WZE082; and any other vehicles parked at or near the above-described locations provided it can be connected to an occupant of the premises by way of admissions, keys, photographs, Department of Motor Vehicles documents, insurance papers, or repair receipts; for the following property, to wit: controlled substances, including cocaine, marijuana, methamphetamine, MDMA (ecstasy), lysergic acid diethylamine (LSD), and psilocybin mushrooms and derivatives of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms; paraphernalia for the use, sale and transfer of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms including baggies, tinfoil wrapping, bottles, razor blades, mirrors, bottles, jars, beakers, vials, measuring cups, baggies, pipette tubes, eyedroppers, turkey basters, tattoo transfers, rubber stamps, paper stamps, paper stars, microdots, blotter paper, sugar cubes, tablets and scales; evidence of the transfer and sales of controlled substances including scales and other weighing devices, articles of personal property tending to establish and document sales of the above-described substance including U.S. currency, computer hardware and software and all other devices capable of digitally or electronically storing

information, including such devices as cellular phones, Blackberries, personal data assistants (PDAs) and the like; telephonic paging devices, telephonic facsimile (fax) machines, and business records, such as, fax receipts, buyer lists, seller lists, recordation of sales, address and telephone lists, other documentation reflecting the receipt or sales of controlled substances; firearms and ammunition; items evidencing the obtaining, secreting, transfer, and/or concealment, and/or expenditure of money, and/or related to the transportation, ordering, purchase and distribution of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms; proceeds from the sales and transfer of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms including United States currency, gold, precious metals, jewelry, works of art, precious collectible items such as stamps, trading cards, coins, celebrity autographs, and financial instruments including stocks and bonds which are the fruits, instrumentalities and/or evidence of controlled substance trafficking; and papers, documents and effects tending to show dominion and control over said premises, including keys, lease, rental, or mortgage agreements, utility bills, canceled mail, prescription bottles, fingerprints, clothing, photographs, photographic negatives, image disks, memory sticks, undeveloped film, homemade videotapes, handwritings, documents and effects bearing a form of

identification such as a person's name, photograph, Social Security number or driver's license number; and to answer incoming phone calls, either landline or cellular, during execution of the warrant, to view any video tapes seized pursuant to the warrant, and to open or download and forensically examine all computer software and programs seized pursuant to the warrant.

I am a Special Agent employed by the Drug Enforcement Administration (DEA) and have been so employed for about 2 years. I am currently assigned to the San Diego Field Division (SDFD), Group 5 and have been so assigned for 2 years. During this time, I have investigated illicit controlled substance trafficking in San Diego and surrounding areas. I have had formal training and experience in controlled substance investigations and I am familiar with the manner in which controlled substances, including cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms are manufactured, packaged, marketed and consumed. I have received training in the identification of all types of controlled substances by sight and odor, including cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms. I have made in excess of 15 arrests for violations involving such substances. In the course of my employment, I have become familiar with the ordinary meaning of controlled substance slang and jargon, and I am familiar with the manners

and techniques of manufacturers and traffickers of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms as practiced locally.

During the course of my duties, I have learned the following information based upon my discussions with the named witnesses or by having read the reports of or talked with other DEA agents, law enforcement officers, as well as officers in the San Diego State University Police Department who have spoken directly with either the named witnesses or their associates regarding the following locations and events described below.

BACKGROUND

On May 6, 2007, Shirley Jennifer Poliakoff, a student at San Diego State University (SDSU), was found dead of a drug overdose in her bedroom. Authorities attributed the death to acute cocaine intoxication and alcohol intoxication. At that time, the California State University Police at SDSU commenced an investigation to identify the people responsible for selling drugs to SDSU students. As a result of their initial investigation SDSU Police discovered that there was an on and off campus element of both SDSU students and non-students who were heavily involved in selling drugs to SDSU students for profit.

As part of this initial investigation, SDSU Police conducted an assessment of the drug situation on campus and determined that most drugs, including cocaine, marijuana, methamphetamine, MDMA,

LSD and psilocybin mushrooms were readily available from non-student sources of supply through actual SDSU students.

With the assessment complete and a new school semester beginning, SDSU Police requested the assistance of DEA to attempt to address the drug dealing problem at SDSU. At that point, in December of 2007, DEA, working closely with the SDSU Police, began Operation Sudden Fall.

The goal of Operation Sudden Fall was to disrupt the on-campus drug trade by conducting an undercover "buy" operation that would: infiltrate the on-campus drug trade; identify the SDSU student drug dealers and their non-student sources of supply; and collect evidence that would lead to the arrest of the individuals found to be actively engaged in the SDSU drug trade.

During this joint DEA and SDSU Police operation undercover agents purchased cocaine, marijuana, methamphetamine, MDMA, and psilocybin mushrooms. In addition, the operation identified two indoor marijuana gardens, a hash oil (concentrated tetrahydrocannabinol or THC) distributor, and some non-student sources of supply having possible gang affiliations. To date, over 80 drug purchases and seizures have been made, many of those directly from SDSU students.

As the operation continued, DEA and SDSU Police infiltrated several campus fraternities and discovered that many of their members were aware of and/or involved in the organized drug

distribution that was occurring from the fraternities. Undercover agents infiltrated several of these fraternity members, purchased cocaine, and confirmed that a hierarchy existed for the purpose of selling drugs for money. In one instance (further detailed below), a SDSU student and member of the Theta Chi fraternity sent out a mass text to his "faithful customers" stating that he and his "associates" would be traveling to Las Vegas for the weekend and would not be able to complete cocaine sales during that time. He noted that they were having a sale on cocaine until their departure at midnight on a Thursday, and listed the reduced prices for grams to ¼ ounces of cocaine.

Sadly, on February 24, 2008, a Mesa College student Kurt Baker died from a drug overdose in an SDSU fraternity house, making the importance of this operation much more evident. At this point, the operation's goal is to simultaneously serve 9 search warrants at the following locations:

1) 5525 55th Street, Apartment 208, San Diego, CA

Within the last three weeks, a DEA undercover agent (hereafter UC#1) and a DEA Confidential Source (hereafter CS#1) met with Clynton PARSONS on the campus of San Diego State University, San Diego, California, and purchased one half of an ounce of cocaine for \$420.

Prior to the transaction, CS#1 placed consensually monitored

telephone calls to PARSONS and asked if PARSONS had any cocaine for sale. PARSONS asked how much CS#1 wanted to purchase. CS#1 told PARSONS that he/she wanted to purchase one half of an ounce and then asked PARSONS for the price. PARSONS told CS#1 that it would cost \$430. CS#1 then told PARSONS that he/she would meet him on the SDSU campus near the entrance to Cox Arena.

Other DEA agents then established surveillance at Cox Arena and observed PARSONS walking down the sets of stairs of the Fraternity Row apartments located at 5255 55th Street, San Diego, California. PARSONS approached CS#1 and UC#1 and told them to walk over to the entrance to the rear elevator of the Fraternity Row apartments because it would be a less suspicious place to do the cocaine transaction. CS#1, UC#1, and PARSONS then walked over to the elevator where PARSONS removed approximately one half ounce of cocaine from his pocket and gave it to CS#1. UC#1 then handed PARSONS \$420.00 and asked PARSONS if he had change. PARSONS stated that he did not have any smaller bills and accepted \$420.00 in payment for the ½ ounce of cocaine. UC#1 then asked PARSONS if he/she could call PARSONS directly for future deals. PARSONS said that would be okay and that he would try and remember UC#1's name. After the transaction, agents observed PARSONS walk up a set of stairs adjacent to the elevator and proceed westbound out of view down a walkway on the west side of the Zeta Beta Tau (ZBT) Fraternity Building.

Within the last three days, CS#1 placed a telephone call to PARSONS. During this call, CS#1 asked PARSONS if he had any cocaine available for sale. PARSONS confirmed to the CS#1 that he did have cocaine available for sale.

A query of San Diego Gas and Electric (SDG&E) records on April 23, 2008 indicated that a Clynton PARSONS is one of the subscribers for utilities at 5525 55th Street, Apartment 208, San Diego, California.

The substance purchased from PARSONS was determined to be cocaine after it was analyzed by DEA agents using a scientifically recognized presumptive test. Agents have been trained in conducting presumptive tests using specific test kits. We obtain such kits from chemical supply companies and are trained in their use. Such kits are widely used throughout the state for conducting presumptive tests of suspected controlled substances.

During this investigation, I have learned that several Phi Kappa Psi fraternity members are involved in the distribution of controlled substances. CS#1 has told agents that he/she knows that Phi Kappa Psi Fraternity members including Clynton PARSONS and Nicholas DE LA CRUZ are involved in selling cocaine and MDMA. I believe this information was corroborated by undercover purchases of cocaine from PARSONS and DE LA CRUZ.

2) 5255 55th Street, Apartment 406, San Diego, CA; and

3) 7138 Saranac Street, Apartment #15, La Mesa, CA

Within the last three weeks, CS#1 placed a consensually monitored telephone call to Nicholas DE LA CRUZ to arrange the purchase of one half of an ounce of cocaine from DE LA CRUZ for \$400.00. During this call, DE LA CRUZ told CS#1 that "his guy" (understood by agents to mean his source of supply) was going to be there and asked CS#1 for his/her location. CS#1 said he/she was close by and would be there soon with his/her "boy" (UC#1, again posing as a drug buyer). DE LA CRUZ then asked CS#1 to call when he/she was downstairs near the entrance to Cox Arena, which was where both had agreed to meet.

A short time later, CS#1 and UC#1 drove to the vicinity of Cox Arena and met DE LA CRUZ, who then got into the back seat of the vehicle occupied by CS#1 and UC#1. At DE LA CRUZ's direction, they drove to a nearby parking structure. CS#1, UC#1 and DE LA CRUZ remained seated in the vehicle until a dark blue Lexus sedan, bearing California license plate 4WZE082, arrived and parked nearby. DE LA CRUZ exited the vehicle after being given \$400.00 in prerecorded bills by UC#1 and walked to the dark blue Lexus and spoke to the driver, later determined to be Thomas WATANAPUN with a driver's license photo obtained from the California Department of Motor Vehicles (DMV). DE LA CRUZ then returned and told UC#1 and CS#1 that the driver of the other

vehicle was "his guy." DE LA CRUZ then handed UC#1 a small plastic bag containing approximately one half of an ounce of a white powdery substance which was later determined to be cocaine after it was analyzed by agents and using a scientifically recognized presumptive test as described above.

After the meeting, surveillance agents followed WATANAPUN as he drove from the meeting location to the Washington Mutual Bank located at the northeast corner of College Avenue and El Cajon Boulevard. Agents observed WATANAPUN enter, and then exit the bank several minutes later. When WATANAPUN left the bank parking lot, he performed an illegal U-turn which prevented agents from following him any further. When WATANAPUN was last seen, he was driving in the direction of 7138 Saranac Street.

Agents then entered the bank and spoke with bank employees who said that WATANAPUN had just made a deposit of \$400.00 in cash. In addition, agents examined the serial numbers on the currency deposited by WATANAPUN and determined that many of the bills deposited by WATANAPUN were the same ones used to purchase the cocaine.

A subsequent query of the DMV database determined that California license plate number 4WZE082 belongs to a 1995 Lexus 4-door sedan, registered to Mongkon Watanapun, Song Watanapun, 543 N. Manhattan Place, Los Angeles, CA 90004.

Later the same day, agents conducted a law enforcement

database query and discovered that as of March 2008, WATANAPUN's address was listed as 7138 Saranac Street, Apartment number 15. On multiple occasions since then agents have driven past this address and observed the Lexus parked in the parking lot and/or at the curb in front of the apartment complex. In addition, a check of SDG&E records indicate the subscriber for utilities at 7138 Saranac Street, Apartment 15, La Mesa, California is Thomas WATANAPUN.

On April 19, 2008, agents spoke with CS#1 who said DE LA CRUZ told him/her that WATANAPUN is a student at SDSU and distributes "everything". CS#1 said he/she understood this to mean WATANAPUN is a source of supply for marijuana, cocaine, ecstasy and acid (LSD). DE LA CRUZ also said that WATANAPUN supplied LSD to DE LA CRUZ's suitemate, another SDSU student, who suffered a near fatal acid overdose several days before causing SDSU police to respond.

CS#1 told agents that on April 24, 2008, he/she met with DE LA CRUZ. During this brief meeting, DE LA CRUZ told CS#1 that he could provide the CS#1 with ecstasy pills at a cheap price.

I believe DE LA CRUZ resides at the apartment complex called Fraternity Row, 5255 55th Street, Apartment 406 for the following reasons: In April 2008, agents went to the rental office for Fraternity Row and were told by employees that Nicholas DE LA CRUZ occupied Apartment 406. In addition, SDSU Police stated DE

LA CRUZ reported his address was 5255 55th Street, Apartment 406 during a consensual encounter with police officers in March-April 2008. Lastly, a query of SDG&E records indicate a co-applicant for utilities at 5255 55th Street, Apartment 406, San Diego, California was Nicholas DE LA CRUZ.

4) Theta Chi Fraternity House, 5525 Lindo Paseo, San Diego, CA;

and

5) Theta Chi Fraternity House, 5505 Lindo Paseo, San Diego, CA

Kenneth CIACCIO, aka, "Kenny" is a member of Theta Chi Fraternity that sells cocaine and runs a highly organized cocaine distribution organization out of the Theta Chi Fraternity and their two adjoining fraternity houses at 5525 and 5505 Lindo Paseo. These two houses share a common, enclosed backyard and an adjoining front yard. The houses are also connected in appearance by identical paint schemes with the Greek letters Theta and Chi spanning both houses' roofs. Agents have observed fraternity members travel freely between both houses. Further, your affiant has viewed a "You Tube" video that I found on the internet titled "Theta Chi SDSU Fall 2007" which includes a photograph of a "Kenny 'Chacho' Ciaccio," who I recognize from my involvement in this investigation as Kenneth CIACCIO.

In early April of 2008, an undercover DEA agent, posing as a drug buyer (hereafter UC#2,) met with Kenneth CIACCIO, aka "Kenny," in the alley off 55th Street behind the Theta Chi

Fraternity house on Lindo Paseo and purchased one eighth of an ounce of cocaine from CIACCIO. Prior to this meeting, CIACCIO sent a text message to UC#2 saying that his driver was "lagging" and asked UC#2 to come to the alley off 55th Street instead of the initial meeting location a few blocks away.

Upon arriving in the alley, UC#2 called CIACCIO and told him that he/she had arrived in the alley. Agents then observed Kenneth CIACCIO walk from the vicinity of the Theta Chi Fraternity House located at 5525 Lindo Paseo toward the alley. CIACCIO entered the alley from 55th Street and got into UC#2's undercover vehicle. CIACCIO handed UC#2 a plastic baggie containing what appeared to be cocaine and UC#2 gave CIACCIO \$120 cash for the cocaine.

During the deal, UC#2 asked CIACCIO if he could sell a quarter ounce of cocaine in the future and CIACCIO stated that he had access to larger quantities of cocaine up to a quarter pound of cocaine. CIACCIO told the agent to contact him for future deals. After the deal, agents observed CIACCIO exit UC#2's vehicle, walk from the alley and enter the front door of the Theta Chi Fraternity House located at 5525 Lindo Paseo.

Within the last three weeks, UC#2 purchased approximately one half of an ounce of cocaine for \$460 from CIACCIO. Upon arriving in the same alley off 55th Street behind the Theta Chi Fraternity house on Lindo Paseo, UC#2 text messaged CIACCIO that

he/she was in the alley. Surveilling agents then observed CIACCIO and another unidentified male exit the front door of the Theta Chi Fraternity House located at 5525 Lindo Paseo and walk into the alley. When the pair arrived at UC#2's vehicle, CIACCIO sat on the passenger seat of the vehicle. The unidentified male approached the passenger side of UC#2's vehicle, then stood at the rear of the vehicle facing away and looking from side to side as if he were a lookout for the drug transaction occurring inside the vehicle.

Upon entering the vehicle, CIACCIO handed UC#2 a plastic baggie of cocaine with "14.12" (14 grams) written in red pen on the outside of the bag. UC#2 handed CIACCIO \$460.00 in cash. CIACCIO asked UC#2 if it was \$460.00 and UC#2 agreed, telling CIACCIO to count the money if he wanted. UC#2 said that the price was expensive for one half of an ounce of cocaine. CIACCIO replied that the quality of this cocaine was better than the previous cocaine purchased by UC#2. CIACCIO told UC#2 that he could lower the price a little for future deals. UC#2 then asked CIACCIO about the price for a quarter pound of cocaine. CIACCIO said it would be \$2300.00.

On April 10, 2008, agents interviewed an untested Source of Information (SOI) regarding his/her knowledge of the drug trafficking that was occurring at SDSU. The SOI stated he/she had purchased quantities of cocaine and marijuana from "ANDREW"

at the Theta Chi Fraternity House on the campus of SDSU in the past two - three weeks. The SOI explained he/she purchased marijuana directly from "ANDREW" inside "ANDREW's" room at the Theta Chi Fraternity House.

However, when selling cocaine, "ANDREW" acted as an intermediary and led the SOI to another room inside the Theta Chi Fraternity House occupied by "Kenny". The SOI subsequently identified a DMV photograph of Kenneth CIACCIO as being the individual who sold him/her cocaine while inside the SDSU Theta Chi Fraternity House on multiple occasions. The SOI stated he/she has seen at least two ounces of cocaine inside CIACCIO's room in the past while purchasing cocaine. In addition, the SOI stated CIACCIO utilized a scale in his/her presence to measure out the amount of cocaine desired by the SOI.

The SOI further stated that Theta Chi Fraternity members distribute drugs in an organized manner for the benefit of the Fraternity itself as opposed to being strictly a personal endeavor by several Theta Chi Fraternity members. The SOI believed the Fraternity utilizes profits derived from the sale of drugs as income to pay Fraternity related expenses. The SOI explained the Theta Chi Fraternity requires younger or junior members to accompany older more senior members while they conduct drug transactions. The SOI believes this "apprentice" training method is utilized in order to teach the younger members the

intricacies of selling drugs as well as how to conduct a drug transaction.

The SOI stated Theta Chi Fraternity members used to conduct drug transactions inside the Fraternity House. However, the members have recently changed this pattern and have begun selling drugs outside the Fraternity House in order to keep foot traffic in and out of the Fraternity House down and avoid suspicion and/or detection by law enforcement.

On April 21, 2008, UC#2 received two text messages from Kenny CIACCIO stating the following over two text messages: "Attn faithful customers both myself and my associates will be in vegas this coming weekend bad news is we will not be here to complete sales good news is Now until midnight thursday, gs (grams of cocaine) are 35 (\$), eights (1/8 ounce of cocaine) 110(\$), quads (1/4 ounce of cocaine) are 210 (\$) so stock up, we will be back Sunday night." I know that the source of this message was Kenny CIACCIO because the message came from the same telephone number used to contact him throughout this investigation.

On April 29, UC#2 received another text message from Kenny CIACCIO stating: "Back in town! Hope to hear from all u guys soon ima hook u guys up!!" I believe this text message demonstrates CIACCIO's has cocaine readily available for sale and indicates a large base of customers.

In addition to CIACCIO's presence at 5525 Lindo Paseo during

2 previous undercover transactions, I also conducted a law enforcement database query and confirmed an address for CIACCIO is 5525 Lindo Paseo, San Diego, CA. It is my opinion that despite the fact that the Theta Chi Fraternity house occupies two adjoining addresses, 5525 and 5505 Lindo Paseo, it is essentially one residence. I base this opinion on the matching appearances of the houses, the adjoining Greek letters on the roof and the shared backyard connected by an awning structure. Agents have observed fraternity members move freely between both houses. In addition, based on SOI information, surveillance, undercover purchases and text messages, I believe CIACCIO and "his associates" are running a highly organized cocaine distribution organization out of the Theta Chi Fraternity located on Lindo Paseo.

The suspected controlled substances obtained from CIACCIO were later determined to be cocaine after they were analyzed by me using a scientifically recognized presumptive test as described above.

6) 5693 Montezuma Road, San Diego, CA

In late February of 2008, UC#2 met with Hung DO, aka "Leo" at 5693 Montezuma Road, San Diego, California so that UC#2 could purchase ten pills of MDMA (ecstasy) from DO for \$100. Prior to the meeting, UC#2 and DO exchanged several text messages and telephone calls arranging for UC#2 to meet DO in the rear alley

of DO's apartment complex to purchase the ecstasy. Upon parking in the alley of the apartment complex, UC#2 saw DO wave at him/her from the second floor window of the apartment complex. DO then called UC#2 and asked how many ecstasy pills he/she wanted. UC#2 told him that he/she wanted ten pills of ecstasy. DO asked UC#2 to come upstairs to the apartment to get the pills but UC#2 said that he/she did not want to go to the apartment and asked DO to come downstairs to UC#2's undercover vehicle.

A few moments later, UC#2 watched DO walk from the vicinity of the apartment complex to his/her vehicle and get in the front passenger seat. DO then handed UC#2 a small clear plastic bag filled with ten blue pills with a Toyota logo on them. UC#2 then handed DO \$100 cash which he counted.

Afterward, other DEA agents saw DO walk away from the vehicle and return to the apartment building. Agents observed DO walk up the stairs and enter into the door marked with the number "5693".

A week later in February of 2008, UC#2 purchased another ten ecstasy pills for \$100 from Hung DO in San Diego, California. Prior to the transaction, UC#2 and DO spoke on the telephone and agreed to meet in the area of DO's apartment in order to conduct the transaction. Upon arriving in the rear alley of 5693 Montezuma Road, San Diego, CA UC#2 called DO and told him that he/she was in the rear alley of the apartment complex. DO asked

UC#2 to come upstairs to the apartment to get the pills but the UC#2 said he/she did not want to go to the apartment and asked DO to come downstairs to the car.

Moments later, other DEA agents observed DO walk from the vicinity of the apartment complex and get in the front passenger seat of UC#2's vehicle. DO then handed UC#2 a small clear plastic bag filled with ten blue pills with a Toyota logo on them. UC#2 then handed DO the \$100.

UC#2 asked DO if the pills were the same ecstasy pills as he/she had purchased the previous week and DO said they were. DO stated that he should be going home in two weeks to pick up some more ecstasy. Agents then observed DO walked away from the vehicle and return to apartment complex.

In March of 2008, UC#2 received a text message from Hung DO, aka, Leo on the UC telephone. The text message originated from the phone number used to contact DO throughout this investigation. DO texted "Hey I just got back and I got these new pills that will blow your mind away. I got 3 different types of quad stacks, so holla at me if you need some". Based on previous UC conversations, text messages and meetings, agents believe this is code confirming that DO has high quality ecstasy pills available to sell.

On April 26, 2008, UC#2 text messaged DO at the same telephone number DO used during previous transactions. The

undercover agent text messaged "Can i pick up?" inquiring if DO had any ecstasy available to sell. DO responded "Im actually in san jose right now picking up and wont be back till Monday morning" indicating that DO is in San Jose purchasing ecstasy for future sales. The agent then text messaged DO "Cool. Can I get w u (with you) next week?" DO responded "All day and its going to be red playboys" describing the color and type of ecstasy pill. Based on these text messages, I believe DO is still selling ecstasy and will have ecstasy readily available for purchase next week.

On Monday, April 28, UC#2 received another text message from DO stating "Hey guys im back in sd so holla at me" indicating that DO has ecstasy available to sell to his customer base.

I conducted a law enforcement database query and confirmed an address for DO is 5693 Montezuma Road, San Diego, CA. In addition, a query of SDG&E records indicate that as of April 25, 2008, the subscriber for utilities at 5693 Montezuma Road, San Diego, California is Hung DO.

The controlled substances sold by DO were analyzed by the DEA Southwest Regional Laboratory. The DEA Southwest Regional Laboratory confirmed that the exhibits purchased from DO tested positive for MDMA.

7) 5475 55th Street Apartment #34, San Diego, CA

In late January of 2008, CS#2 and UC#2 agent met with

Terrance BLACKMAN in San Diego, California to purchase one quarter of an ounce of marijuana for \$100. Prior to this meeting, CS#2 arranged to meet BLACKMAN at Scott Plaza Apartments in Albert's College Apartments near San Diego State University. BLACKMAN told CS#2 that he was at home by the gym in Albert's College Apartments, Scott Plaza, Apartment #34. BLACKMAN stated that CS#2 should come over to BLACKMAN's apartment to purchase the marijuana. When CS#2 and UC#2 met BLACKMAN on 55th Street, BLACKMAN handed UC#2 a baggie containing what appeared to be marijuana and CS#2 then handed BLACKMAN \$100. Afterward, other DEA agents observed BLACKMAN walk into the Scott Plaza Apartment Complex at 5475 55th Street, San Diego, CA.

In February of 2008, UC#2 purchased another quarter ounce of marijuana for \$100 from Terrance BLACKMAN on the street in front of 5475 55th Street, Scott Plaza @ Albert's College Apartments in San Diego, California. After the transaction, agents observed BLACKMAN walk into Scott Plaza Apartment Complex.

In March of 2008, Terrance BLACKMAN text messaged UC#2 saying that he had not forgotten about UC#2's previous requests for ecstasy and his source of supply for ecstasy now had ecstasy pills available. UC#2 and BLACKMAN exchanged several phone calls attempting to arrange a meeting with BLACKMAN and BLACKMAN's ecstasy source so UC#2 could purchase ecstasy. During these calls, UC#2 and BLACKMAN discussed purchasing fifty ecstasy pills

for \$7 each from the source of supply. BLACKMAN also stated that he was with his friends who were "tripping" on acid. Later in the evening, UC#2 received a text message from BLACKMAN stating that his source of supply tried to steal marijuana from him so he was looking for a new source for ecstasy.

A few days later in March, UC#2 made a recorded phone call to BLACKMAN. During the call, UC#2 stated that he/she was interested in purchasing several hits of acid. BLACKMAN stated that he would speak to his friends to see if they had any more acid. BLACKMAN asked UC#2 how many hits of acid he/she wanted and BLACKMAN stated that the acid was packaged on sugar cubes. BLACKMAN stated that he would also look for another ecstasy source. BLACKMAN told UC#2 that he was going to start selling cocaine if UC#2 was interested in purchasing cocaine.

On April 26, 2008, UC#2 text messaged BLACKMAN at the same telephone number BLACKMAN used during previous transactions. UC#2 text messaged "Hey terrance. u around? can I pick up?" inquiring if BLACKMAN had any marijuana available to sell. BLACKMAN responded "surre cum thru" indicating that BLACKMAN is still selling marijuana and had marijuana readily available for sale. This text message also confirms that BLACKMAN is still selling marijuana from the same apartment complex where the undercover met BLACKMAN on two previous occasions.

I conducted a law enforcement database query and confirmed

the address for BLACKMAN is 5475 55th Street, San Diego, CA.

During the first transaction with BLACKMAN, BLACKMAN instructed CS#2 and UC#2 to come over to the above referenced address and apartment #34. A query of SDG&E records indicate the subscriber for utilities at 5475 55th Street, #34, San Diego, California (location to be searched) is Nick JOHNSON. Agents believe JOHNSON to be BLACKMAN's roommate who is also involved in the distribution of controlled substances.

The controlled substances sold by BLACKMAN were analyzed by the DEA Southwest Regional Laboratory. The DEA Southwest Regional Laboratory confirmed that the substances sold by BLACKMAN tested positive for marijuana.

8) 5123 Ewing Street, San Diego, CA; and

9) 5067 Alumni Place, San Diego, CA

On April 17, 2008, CS#1 and UC#1 an undercover agent met Tarek ELHADIDI and Chad FRAZIER in San Diego, CA, and purchased approximately 3 grams of cocaine for \$120. Prior to the purchase, CS#1 telephoned ELHADIDI at (530)200-6417 and asked if he had an "8 ball" of cocaine for sale. ELHADIDI told CS#1 that he did and quoted a price of \$120. ELHADIDI told CS#1 to come over to his house located at 5123 Ewing St, San Diego, CA. ELHADIDI then told CS#1 that his cocaine source of supply, later identified as Chad FRAZIER, would be coming over to his house to deliver it.

When UC#1 and CS#1 arrived at the ELHADIDI's house, ELHADIDI told CS#1 that his source of supply, FRAZIER, had been at his house earlier but he went home when CS#1 did not arrive. ELHADIDI told CS#1 and UC#1 to give him a ride and they could go over to FRAZIER's house and buy the cocaine. ELHADIDI told UC#1 that FRAZIER lived nearby and then gave directions to FRAZIER's residence located at 5067 Alumni Place, San Diego, CA. Upon arriving at 5067 Alumni Place, San Diego, California, ELHADIDI exited the vehicle and entered the front door of the residence while UC#1 and CS#1 remained in the vehicle. A brief moment later, other DEA agents observed ELHADIDI and FRAZIER exit the residence and approach the UC vehicle. ELHADIDI then leaned in the driver's side window and handed UC#1 one eighth of an ounce of cocaine and UC#1 then paid ELHADIDI \$120.

Agents then observed ELHADIDI and FRAZIER walk away and head toward FRAZIER's residence. Prior to reaching FRAZIER's residence, ELHADIDI turned around and returned to the vehicle as FRAZIER continued on to his residence at 5067 Alumni Place. UC#1 then asked ELHADADI who was with him when he exited FRAZIER's house and approached the vehicle. ELHADIDI told UC#1 that was his source of supply, "Chad". CS#1 and UC#1 then drove back to 5123 Ewing St, San Diego, CA and dropped ELHADIDI off at his residence.

On April 18, 2008, SDSU Police Sergeant Michael Johnson, in

full police uniform, knocked on the front door of 5067 Alumni Place and questioned Brandon Young and James Shurr, the persons who answered the door, about the residence. SGT. Johnson was told that the residence located at 5067 Alumni Place, San Diego, CA is a rental and occupied by the 5 individuals including Chad Michael FRAZIER. I also conducted a law enforcement database query and confirmed the address for FRAZIER is 5067 Alumni Place, San Diego, CA.

I believe ELHADIDI resides at the 5123 Ewing Street, San Diego, California based on his conversations and meeting at that location with CS#1 and UC#1. A query of SDG&E records indicates the subscriber utilities for 5123 Ewing Street, San Diego, CA is Fawn ELHADIDI. Tarek ELHADIDI is listed as a co-applicant for utilities at the residence.

The suspected controlled substance obtained from FRAZIER via ELHADIDI was later determined to be cocaine after it was analyzed by agents and using a scientifically recognized presumptive test as described above.

I believe CS#1 to be credible and reliable for the following reasons. SA Kevin Evans tells me that he has known CS#1 for about five weeks. CS#1 has, in the past, given him information that controlled substances, including marijuana and cocaine were to be found at specified locations and on persons who were named and described by the CS#1. The locations and persons were

subsequently investigated and the information was determined to be correct in all respects. Information furnished by CS#1 has resulted in the arrest for controlled substance violations of at least four persons, and the recovery of substantial amounts of contraband. CS#1 has never given false or misleading information to my knowledge, nor has SA Evans been given reason to doubt CS#1's ability to identify controlled substances, including marijuana and cocaine. SA Evans has told me that CS#1 has previously identified such substances in his presence and he knows CS#1 to be familiar with the methods of packaging, consumption and transfer of that substance.

I believe CS#2 to be credible and reliable for the following reasons. SA Helton tells me that he has known CS#2 for about three months. CS#2 has, in the past, given him information that controlled substances, including marijuana and ecstasy were to be found at specified locations and on persons who were named and described by the CS#2. The locations and persons were subsequently investigated and the information was determined to be correct in all respects. Information furnished by CS#2 has resulted in the arrest for controlled substance violations of at least two persons, and the recovery of substantial amounts of contraband. CS#2 has never given false or misleading information to my knowledge, nor has SA Helton been given reason to doubt CS#2's ability to identify controlled substances, including

marijuana and ecstasy. SA Helton has told me that CS#2 has previously identified such substances in his presence and he knows CS#2 to be familiar with the methods of packaging, consumption and transfer of that substance.

I desire to keep both CS#1 and CS#2 confidential because they have requested me to do so, because it is my training and experience that such CSs suffer physical, social and emotional retribution when their identities are revealed, because it is my experience that to reveal the identity of such CSs seriously impairs their utility to law enforcement, and because it is my experience that revealing the identity of such CSs dissuades other citizens from disclosing confidential information about criminal activities to law officers.

I plan to execute this search warrant at approximately 0600 hours, which will require night service. I want to execute this search warrant at that hour for several reasons. First, several of the locations to be searched are located on or near the SDSU campus which in my experience will have increasing numbers of students, faculty members, and staff present in this area as the day progresses. I believe that executing this warrant at approximately 0600 hours will minimize the disruption to the normal activities that occur on and around campus as the day progresses. Second, as the locations to be searched are on and around the SDSU campus, I know it will be safer for agents and police officers to approach at

the earlier hour. Lastly, there is less vehicular and pedestrian traffic near the locations to be searched at the earlier hour, thus reducing the risk to civilians should the operation pose any risk of harm to the general public.

I know Penal Code section 1533 requires the magistrate to consider public and officer safety when considering nighttime service and I believe the above establishes good cause for a nighttime endorsement.

Though the information regarding some of the individuals described above does not involve observations or conversations within the past ten days, I am confident, based on my training and experience, and my familiarity with the drug trafficking patterns and "business methods" employed by them, that all persons described in this affidavit continue to deal in the contraband as described above. Though the least current transactions, observations, or conversations with any of the individuals described in this affidavit occurred within the last three weeks, I believe that in each situation described in the affidavit, the persons involved demonstrate through their conduct, familiarity with the manner of conducting controlled substance transactions, and the quantities of controlled substances sold, that that they are established drug dealers who

have been in the "business" for substantial periods of time. Consequently, my experience and training has consistently demonstrated that individuals such as those described above or those involved in making their living through illicit controlled substance trafficking do so on a continuing basis. Like legitimate careers, a certain expertise and 'networking' is developed over time which criminals are reluctant to abandon, even if facing charges. Arrests and convictions are generally regarded as merely costs of doing business. The rewards are so high, however, and these persons frequently have no other marketable talents, that arrest often merely provides incentive to do more business in order to raise cash for bail and attorneys fees.

Thus, I have no doubt, the suspects continue in the 'business' of controlled substance trafficking. Thus, I believe I have substantial evidence to support a fair probability the described property, or a portion thereof, will be either at the suspects' residences or in suspects' vehicles when this warrant is executed.

Based on my training and experience, I believe both the amount of controlled substance as well as the fact that substances were individually packaged in ready-to-sell bags indicate the cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms were possessed for sale. Likewise, I know

that people involved in the sale and/or transportation of illicit substances will not carry their entire inventory with them as 1) cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms are a valuable commodity in the dope underworld, 2) it represents either a large cash outlay by the dealer or it represents a large debt owing to a source of supply if the controlled substance was advanced ("fronted") on credit, and 3) because the dealer is always afraid of being "ripped off," that is, having his inventory stolen by either a rival dealer or a user unable to pay for his next "high."

Dope dealers must, nevertheless, have a supply of their illicit product on-hand in order to maintain the confidence of their customers and satisfy their own habit. Also, the selling of such contraband is an ongoing type of business because it takes time to develop "clientele," the nature of drug abuse requires a steady supply, and the business tends to be too lucrative to abandon. Consequently, I know from my training and experience most dope dealers are likely to have the rest of their inventory, as well as other indicia of their illegal business, stored at their residence. This phenomenon is widely known in law enforcement and is commonly referred to as "doper stuff in doper houses."

Deputy DA Steve Walter also informs me there is a wealth of both state and federal case law supporting this theory. People

v. Terrones (1989) 212 CA3d 139 (information regarding cocaine in residence and vehicle; search warrant for residence and vehicle); People v. Sandlin (1991) 230 CA3d 310 (selling marijuana from vehicle; search warrant for residence); People v. Cleland (1990) 225 Cal.App.3d 388 (arrested with lots of cash and marijuana away from residence; search warrant for residence); People v. Johnson (1971) 21 CA3d 235 (narcotics in apartment rented by defendant; search warrant for defendant's separate residence); United State v. Terry (9th Cir. 1990) 911 F.2d 272 (transporting methamphetamine in vehicle; search warrant for residence); United States v. Ayers (9th Cir. 1991) 924 F.2d 1468 (tip defendant selling cocaine; search warrant for residence); United States v. Peacock (9th Cir. 1985) 761 F.2d 1313 (barrels with methamphetamine residue found in desert traced to defendant; search warrant for residence).

Based on the above investigation and my training and experience, including the sales of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms to undercover agents, I believe the suspects herein are involved in the sale of cocaine, marijuana, MDMA, LSD and psilocybin mushrooms from the above-described premises.

Based on my training and experience, I know plastic baggies are common methods for transferring cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms at the

'street' level; that persons who possess and sell cocaine and marijuana frequently are users of same and will possess the above described paraphernalia for the packaging and use of same as such paraphernalia can be used on a continuing basis and will commonly have said contraband on hand, secreted at their premises or on their person or in their vehicle, in order to maintain the confidence of their customers as well as to satisfy their own habits; and, that the selling of such contraband is an ongoing type of business because it takes time to develop 'clientele,' the nature of drug abuse requires a steady supply, and the business tends to be too lucrative to abandon.

Business records, as more fully described above, are frequently maintained by those engaged in the 'business' of manufacturing and selling controlled substances. Also, those so engaged will frequently maintain writings, books, business ledgers, lists, notations, and other memoranda to assist them in their criminal enterprises. These materials are created and maintained in much the same way and for the same reasons as persons involved in legitimate business keep similar materials. I know drug dealers commonly adapt modern technology to further their criminal enterprises and will often maintain such records on computer hard drives or floppy disks. Likewise, personal computers with modems allow users to communicate through phone or cable television lines via e-mail and the Internet. Such

messages may be stored on computer disks or on the computer's hard drive and would tend to show communications in furtherance of a conspiracy as well as those with buyers and larger dealers.

Based on the above investigation and my training and experience I believe the suspects herein are involved in the sales of cocaine, marijuana, methamphetamine, MDMA, LSD and psilocybin mushrooms from the above-described premises.

Furthermore, my training and experience indicates persons in control of premises leave evidence of their identification such as fingerprints and handwritings, which are subject to expert identification, routinely in the normal course of living within their premises. Also, clothing, photographs, canceled mail and the like are routinely maintained in a person's premises as necessary and incident to maintaining such premises.

Furthermore, my training and experience indicates persons dealing in controlled substance trafficking frequently arm themselves with firearms and ammunition and keep them available either in their premises, in their vehicles or on their person. This phenomenon is primarily due to the large amounts of cash or valuable contraband involved in the drug trade and the fact that people so inclined tend to resort to violence to resist robbery, settle disputes or thwart capture by law enforcement. The California Supreme Court has stated, "it is common knowledge that drug dealers typically use firearms and ammunition in the course

of their drug sale operations." (People v. Bland (1995) 10 Cal.4th 991, 1005). Also, presence of firearms, along with the other described evidence, will tend to circumstantially establish sales and provide a basis for alleging a violation of Penal Code section 12022(a).

In addition, by answering phone calls at the premises while the search warrant is being executed, I expect to talk with persons who are familiar with the persons in control of the premises and will so testify. Such callers and described dominion and control evidence is vital to proving control over the described property to be seized. Also, persons involved in the manufacture, sale and purchase of controlled substances, often utilize telephones, telephone answering machines and paging devices for communication purposes between others involved in this illicit enterprise. Persons attempting to arrange for the sale, purchase, transportation and manufacture of controlled substances frequently will contact their illegal business customers and associates to negotiate business deals. Incoming calls may be received during the execution of the warrant, and persons on the other end of the line will ask for various suspects or make orders for controlled substances. Such evidence will be probative as to the identity of the suspects involved, the issue of dominion and control, and the issue of whether any controlled substance located in the premises are possessed for

sale, and whether a suspect is involved in the illegal trafficking or manufacture of controlled substances from the premises to be searched.

Like most modern businessmen, narcotics dealers also use telephonic facsimile (fax) machines to communicate with each other. Fax machines can work off a regular phone line as well as a dedicated hardline. Records of transmittals are often maintained in these machines which would tend to help identify co-conspirators, as well as the transmittal "receipts" produced by the fax machine after each message.

Therefore, based on my training, experience, and the above facts, which I believe to be true, I believe I have probable cause to believe the above-described properties or a portion thereof will be at the described premises when the warrant is served.

Based on the aforementioned information and investigation, I believe grounds for the issuance of a search warrant exist as set forth in Penal Code section 1524.

I, the affiant, hereby pray a search warrant be issued for the seizure of said properties, or any part thereof, from said premises at any time of the day or night, good cause being shown

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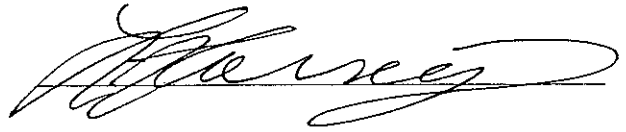
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therefore, and the same be brought before this magistrate or retained subject to the order of this Court.

This affidavit has been reviewed for legal sufficiency by Deputy District Attorney Steven J. Walter.

Given under my hand and dated this 2 day of May, 2008.



Subscribed and sworn to before me
this 2 day of May, 2008,
at 2:15 a.m. (p.m.)



Judge of the Superior Court
San Diego County