AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

United States of America)
v.)
) Case No. 12MJ7168 JCB
RICHARD KELLER)
Defendant)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of Oct. 2009– Nov. 2010 in the county of Essex in the _____ District of Massachusetts, the defendant violated Title 18 U. S. C. § 2252(a)(2), an offense described as follows:

On or about October 2009 and November 2010, RICHARD KELLER received visual depictions using any means or facility of interstate or foreign commerce or that have been mailed, or have been shipped or transported in or affecting interstate or foreign commerce, or which contain materials which have been mailed or so shipped or transported, by any means including a computer, and the producing of the visual depictions involved the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct, in violation of 18 USC § 2252(a)(2).

This criminal complaint is based on these facts:

See Affidavit of US Postal Inspector Scott W. Kelley, attached hereto.

☑ Continued on the attached sheet.

Complainant's signature

US Postal Inspector Scott W. Kelley
Printed name and title

Sworn to before me and signed in my presence.

Date: 09/13/2012

Judge's signature

City and state: Boston, Massachusetts US Magistrate Judge Jennifer C. Boal
Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Scott W. Kelley, being first duly sworn, hereby depose and state:

1. I am a Postal Inspector with the United States Postal Inspection Service (USPIS), having been appointed to this position in June 2007. I am currently assigned to the Boston Division and I am responsible for the investigation of various crimes relating to the United States Mail. Prior to my appointment as a Postal Inspector, I was a Special Agent with the Naval Criminal Investigative Service (NCIS) for approximately one year and I was responsible for investigations in the interest of the United States Navy and Marine Corp. Prior to my NCIS employment, I was a Postal Inspector with USPIS between approximately September 2003 and June 2006. I have attended training at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA and have completed Basic Inspector Training (BIT) in Potomac, MD. I have received training in the investigation of crimes involving the sexual exploitation of children by attending numerous seminars and courses. I have investigated child pornography cases and related sexual offenses for approximately seven years.

2. As a federal agent, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.

3. I have conducted numerous investigations relating to the possession, receipt, transportation, distribution, and production of child pornography and obscene visual representations of the sexual abuse of children over the Internet and the US Mail. I have received training in investigations relating to the sexual exploitation and physical sexual abuse of minors. I have reviewed thousands of images and videos of actual and suspected child pornography, child erotica, and obscene visual representations of the sexual abuse of children.

4. This affidavit is submitted in support of a criminal complaint charging RICHARD KELLER, of Andover, MA, with receipt of child pornography, in violation of Title 18, United States Code, Section 2252(a)(2).

5. Title 18, United States Code, Section 2252(a)(2), makes it illegal for any person receive any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contain materials which have been mailed or so shipped or transported, by any means including a computer, if the producing of such visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct.

6. The statements contained in this affidavit are based upon my personal observations, training and experience, and review of relevant records related to this investigation, as well as information provided to me by other law enforcement officers involved in this investigation to include Postal Inspector Brian Bone.

7. Postal Inspector Bone has been employed by USPIS since February 2007 and he is currently assigned to the U.S. Department of Justice's Child Exploitation and Obscenity Section in

Washington, D.C. Postal Inspector Bone has participated in numerous investigations and search warrant executions involving child exploitation offenses. Postal Inspector Bone has received extensive training in computer forensics and digital investigations from the Treasury Computer Forensic Training Program, National White Collar Crime Center, and the International Association of Computer Investigative Specialists ("IACIS"), including specialized training on digital data recovery, and the investigation and analysis of e-mail communications and Internet activities, such as "Instant Messaging" programs, newsgroups, and forums. Postal Inspector Bone also has received training on the use of specialized forensic software programs, including I-Look, Encase by Guidance Software, and Forensic Tool Kit by Access Data. Prior to becoming a Postal Inspector, he worked as a sworn law enforcement officer within the State of Illinois for over 8 years and was employed during that time by the Office of the State's Attorney, Lake County, Illinois, and the Office of the Sheriff, Lake County, Illinois. In this position, he was assigned to the Cyber Crimes Division and the Child Exploitation Unit, which investigated child exploitation related offenses and various computer related crimes.

8. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth the facts that I believe are necessary to establish probable cause to believe that RICHARD KELLER received child pornography in violation of 18 U.S.C. § 2252(a)(2). Where statements of others are set forth in this affidavit, they are set forth in substance and in part.

RELEVANT STATUES

9. This investigation concerns alleged violations of 18 U.S.C. § 2252(a)(2), relating to the sexual exploitation of minors.

    a. Title 18 U.S.C. § 2252(a)(2) prohibits a person from receiving any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contain materials which have been mailed or so shipped or transported, by any means including a computer, if the producing of such visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct.

DEFINITIONS RELATED TO THIS SEARCH WARRANT

10. The following definitions apply to this Affidavit and its Attachments:

    a. "Child" means "minor," as defined by 18 U.S.C. § 2256(1) (any person under the age of eighteen years).

    b. "Child Pornography," as used herein, is defined in 18 U.S.C. § 2256 (any visual depiction of sexually explicit conduct where (a) the production of the visual depiction

involved the use of a minor engaged in sexually explicit conduct, (b) the visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaged in sexually explicit conduct, or (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaged in sexually explicit conduct).

c. "Minor" means any person under the age of eighteen years. *See* 18 U.S.C. § 2256(1).

d. "Sexually explicit conduct" means actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any person. *See* 18 U.S.C. § 2256(2).

e. "Visual depictions" include undeveloped film and videotape, and data stored on computer disk or by electronic means, which is capable of conversion into a visual image. *See* 18 U.S.C. § 2256(5).

INVESTIGATION OF "Company"[1]

11. In October of 2010, USPIS and the foreign law enforcement (FLE) began an investigation into a movie production company that operated a website offering DVDs and streaming videos (collectively "films") for sale. The majority of these films feature young minor boys. FLE and USPIS determined that this production company, "Company", was located in outside the United States and was the subject of more than 20 complaints to the National Center for Missing and Exploited Children's Cyber TipLine regarding the sale of child pornography.

12. In October 2010, USPIS Inspectors accessed the Company's website ("www.[company].com") and were able to review film previews, website movie summaries, and customer ordering information. On six occasions between February and April, 2011, USPIS Inspectors from Brentwood, Tennessee conducted controlled purchases of DVDs via the Company's online ordering system. By way of example, one of the videos purchased from the Company via an undercover purchase was described as follows:

> "we...bring you...action-packed discs of ooey-gooey slippery goodness.... This two disc set features [name] and his buddies going commando in a very unique way. They're sweet enough, but that didn't stop them from breaking out the sugary cupcakes and giving you a whole new perspective on nudist food fighting! One this is for sure . . . there's no laundry to do tonight!"

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[1] For purposes of the confidentiality and integrity of the investigations involved in this matter, specific names and other identifying factors have been replaced with generic terms.

13. The video depicts minor boys seen naked in an apartment living room setting eating desserts and other food. There are several close-ups of the minors' genitals and pubic area as they eat desserts and towards the end of the film several of the boys are seen sitting naked on the desserts and placing the remnants in their anuses.

14. Law enforcement determined that the Company has a shipping facility located in New York State and that the undercover online orders were transferred from the Company to this New York based shipping facility for fulfillment. These undercover orders were then shipped from New York State via USPS Priority Mail to a post office box in Tennessee.

15. FLE executed a search warrant on the Company's business premises in May 2011 and seized hundreds of DVD movies, photo DVDs, computers, and business records, including customer shipping labels and customer order histories. Many of the DVD movies included the exhibition of the genitals of nude minors. Law enforcement determined that these films were being shipped to customers worldwide, including hundreds of individuals residing in the United States. Law enforcement also determined that for those orders placed from the United States, the Company would fill those orders via USPS Priority Mail.

16. The Company, as well as its operating principals, were subsequently criminally charged and are being prosecuted outside the United States for child exploitation offenses, including the production and distribution of child pornography.

IDENTIFICATION OF RICHARD KELLER

17. Law enforcement conducted a review of certain records contained in the Company's customer database and located one customer, RICHARD KELLER, with two addresses – one of XX XXXXXXXX Street, Andover, MA, and a second of P.O. Box XXXX, Andover, MA. From the review of the Company's records and customer database, it was determined that, on multiple occasions, KELLER purchased child pornography from the Company's website.

18. From the customer database, law enforcement extracted the invoices and a purchase summary detailing the transactions made by KELLER. His transactions showed that between July 2009 and January 2011, KELLER purchased and ordered 19 times. Those orders included over 50 separate titles via the Company's website, totaling over $2695.00 (United States Currency).

19. KELLER's 19 transactions showed one of two billing address: (a) XX XXXXXXXX Street, Andover, MA, or (b) P.O. Box XXXX, Andover, MA.

    a. The shipping address for 13 of the 19 transactions was XX XXXXXXXX Street, Andover, MA.
    b. For the six other transactions, five reflect a billing address of XX XXXXXXXX Street, Andover, MA.

20. The customer records related to KELLER reveal that the purchaser used the email address of "richard.keller4@comcast.net" for receipt of confirmation in 17 transactions.

21. Below is information on KELLER's last order for which the Company had records:

ORDER NUMBER	100162
DATE	January 3, 2011
NAME	Richard Keller
BILLING DETAILS	XX XXXXXXXX Street, Andover, MA 01810
PHONE	XXXXXXXXXX
EMAIL	richard.keller4@comcast.net
AUTH CODE	Capture Card
ORDER STATUS	Shipped 1/4/2011 14:42
Product ID	70247 and 90399
Product Name	BF v2.0: Black Sea 2.0 [3-disc] (2010) DVD Nene (1977) DVD
Grand Total Price	$39.41

22. The flowing is a description of the movie files of "BF v2.0: Black Sea 2.0":[2]

(a) <u>70247-1.avi</u>

This movie file contains two minor males under the age of 18 years. The first minor male removes all of his clothes and enters the shower and starts to wash himself exposing his genitals. The second minor then removes all of his clothes and enters the shower and starts to wash himself exposing his genitals. The two minor males proceed to the bed, and while they are both naked, they begin to begin to wrestle and play around on the bed. During this period the genitals and sometimes the anuses of the minor males are lascivious displayed. The movie file ends with the minor males at a fair with friends. (1:14:00)

(b) <u>70247-2.avi</u>

This movie file contains three minor males under the age of 18 years. The minor males are in various stages of undress on a bed. After a short period, the minor males all become fully undressed. At this time the three minor males are naked on the bed and start to have a pillow fight and are playing. During this playing, the minor males have their legs apart exposing their genitals. The movie file ends with numerous minors playing in the ocean clothed. (1:17:16)

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[2] A copy of the DVD "Nene (1977)" was not recovered in the FLE search warrant of the Company (see paragraph 15).

(c) 70247-3.avi

This movie file starts with numerous males under the age of 18 years swimming in the ocean. The movie then shows two minor males under the age of 18 years on a bed naked with their legs apart exposing their genitals. (28:54)

23. Below is information on an earlier order by KELLER:

ORDER NUMBER	93674
DATE	November 1, 2010
NAME	Richard Keller
BILLING DETAILS	XX XXXXXXXX Street, Andover, MA 01810
PHONE	XXXXXXXXXX
EMAIL	richard.keller4@comcast.net
Product ID	70245 and 90328
Product Name	BF v2.0: FKK On Tour (2010) DVD Daydreams of Youth:The Films of Jeff Erbach (2010) DVD
Grand Total Price	$55.91

24. The flowing is a description of the movie files of "BF v2.0: FKK On Tour":[3]

(a) 70245.avi

This movie file starts with three minor males at the zoo. After a short time the three minor males are in various stages of undress in a bedroom. They proceed to become naked on the bed with their legs apart exposing their genitals. The minor males rub a white toothpaste-like substance on each other over their stomach, face, and chest area and then each proceed to take a shower to wash the substance off, again exposing their genitals. (1:22:29)

25. Below is information on another previous order by KELLER:

ORDER NUMBER	60044
DATE	October 14, 2009
NAME	Richard Keller
BILLING DETAILS	P.O. Box XXXX, Andover, MA 01810
PHONE	XXX-XXX-XXXX
SHIPPING DETAILS	XX XXXXXXXX Street, Andover, MA 01810
PHONE	XXXXXXXXXX
EMAIL	richard.keller4@comcast.net
Product ID	70131
Product Name	Igor (2009) DVD
Grand Total Price	$179.51[4]

[3] A copy of the DVD "Daydreams of Youth: The Films of Jeff Erbach (2010)" was not recovered in the FLE search warrant of the Company (see paragraph 15).

26. The flowing is a description of the movie files of "Igor (2009)":

(a) 70131.avi

This movie file starts with minor males at an amusement park and then moves to a clip with minor males naked in the shower and playing Twister, all exposing their genitals. The movie then reverts to the amusement park. After a short time, approximately 4 to 5 minor males are inside a type of spa and begin to undress until all are naked. The minor males are in the shower, playing Twister naked, sitting on the couch with their legs apart exposing their genitals. (1:38:57)

27. The DVD files described in paragraphs 22, 24, and 26, were previously made available for the Court's review with an affidavit in support of a search warrant at KELLER's residence in Andover, MA.

28. Based on your affiant's review of the order information related to KELLER, as well as my review of the videos purchased by KELLER, I have probable cause to believe that KELLER purchased and received child pornography via the Company's website, and that KELLER received this child pornography through the US Mail at his residence in Andover, MA.

VERIFICATION OF RICHARD KELLER

29. The child pornography ordered and purchased were addressed and delivered to Richard KELLER, XX XXXXXXXX Street, Andover, MA 01810, on multiple occasions. Investigation revealed that XX XXXXXXXX Street, Andover, MA 01810, was on the grounds of Phillips Academy – specifically, the Isham Student Health Center.

30. A check of open source information from the Internet regarding Richard Keller revealed that he was employed by Phillips Academy as the medical director until 2011.[5]

31. The billing address on five occasions reflected the address of the school's student health center; in the remaining 14 transactions, the billing address was P.O. Box XXXX, Andover, MA 01810. Investigation revealed that P.O. Box XXXX, Andover, MA 01810 is rented to Richard KELLER since on or about August 2004. KELLER produced a driver's license to confirm his identity when the box was opened. The P.O. Box is still active and belongs to Richard KELLER.

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[4] In the October 14, 2009 order, KELLER ordered a total of six DVDs. Copies of the other five DVDs – "Boy Fights XX: Late Night Party (2009)"; "Summer Rejoice (Sommerjubel) (1986); "Pelle der Eroberer (Pelle the Conqueror) (1986)"; "Seven Freckles (1978)"; and "Small Windows (1981)" were not recovered in the FLE search warrant of the Company (see paragraph 15).

[5] A further check of open source information from the Internet regarding Richard Keller revealed he is a licensed Pediatric Endocrinologist at Boston Children's Hospital, and an instructor of Pediatrics at Harvard Medical School.

32. A records database search found Richard KELLER as previously residing at XX XXXXXXXX Street, Andover, MA 01810, as recently as September 2011. The database search also noted a new address of XX XXX Circle in Andover, MA 01810, since September 2011.

33. Investigation revealed on August 4, 2011, KELLER submitted a change of address form with the US Postal Service. The change of address forwarded all mail from XX XXXXXXXX Street, Andover, MA 01810, to a new address of XX XXX Circle, Andover, MA 01810. This change of address was effective on August 16, 2011.

34. On August 4, 2011, the U.S. Department of Justice, Criminal Division, Child Exploitation and Obscenity Section (CEOS) issued an administrative subpoena to Comcast Cable Communications for information concerning the email address of "richard.keller4@comcast.net". On or about August 9, 2011, Comcast Communications provided the following relevant information:

Subscriber Name:	Richard Keller
Service Address:	XX XXXXXXXX Street
	Andover, MA 01810
Telephone:	XXX-XXX-XXXX
Type of Service:	High Speed Internet
Account Status:	Active
Account Created:	11/5/1999
E-mail Users Ids:	richard.keller4@comcast.net

35. On May 2, 2012, CEOS issued another administrative subpoena to Comcast Cable Communications for information concerning the email address of "richard.keller4@comcast.net". On or about May 4, 2012, Comcast Communications provided the following relevant information:

Subscriber Name:	Richard Keller
Service Address:	XX XXX Circle
	Andover, MA 01810
Telephone:	XXX-XXX-XXXX
Type of Service:	High Speed Internet Service
Account Status	Active
Start of Service:	8/12/2011
E-mail Users Ids:	richard.keller4@comcast.net

36. This affiant confirmed with US Postal Service officials that Richard KELLER is receiving mail at XX XXX Circle, Andover, MA 01810.

37. On September 12, 2012, the Court authorized a search warrant for XX XXX Circle, Andover, MA 01810, the residence of Richard KELLER. On September 13, 2012, the search warrant was executed at KELLER's residence.

38. At the time of the search warrant execution, Richard KELLER was present.

39. During execution of the search warrant, multiple items of computer media were seized. Also seized from a bedroom were approximately 500 high-gloss print-outs of child pornography and approximately 60 to 100 DVDs of child pornography.

40. Among the DVDs in the bedroom, law enforcement recovered one titled "BF v2.0: FKK On Tour", and another titled "Igor (2009)". Your affiant has reviewed these two DVDs, and determined that they are the same as those detailed in paragraphs 24 and 26, among those that were ordered by KELLER.

CONCLUSION

41. Based on the above information, there is probable cause to believe that Title 18, United States Code, Section 2252(a)(2) (receipt of child pornography) has been violated by Richard KELLER on or about October 2009 and November 2010.

42. Based upon the foregoing, I respectfully request that this Court issue a criminal complaint and arrest warrant for Richard KELLER for receipt of child pornography, in violation of 18 U.S.C. § 2252(a)(2).

Sworn to under the pains and penalties of perjury,

Scott W. Kelley
Inspector
United States Postal Inspection Service

SUBSCRIBED and SWORN before me on September 13th, 2012.

JENNIFER C. BOAL
UNITED STATES MAGISTRATE JUDGE

I have previously reviewed copies of the movies/films referenced in paragraphs 22, 24, 26, and 40 above, and I found probable cause to believe they depict minors engaging in sexually explicit conduct. The United States Attorney's Office shall continue to preserve the movies/films provided to the Court, for the duration of the pendency of this matter, including any relevant appeal process.

JENNIFER C. BOAL
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JS 45 (5/97) - (Revised U.S.D.C. MA 3/25/2011)

Criminal Case Cover Sheet — **U.S. District Court - District of Massachusetts**

Place of Offense: **Category No.** II **Investigating Agency** USPIS

City Andover

County Essex

Related Case Information:

Superseding Ind./ Inf. _____ Case No. _____
Same Defendant _____ New Defendant X
Magistrate Judge Case Number _____
Search Warrant Case Number 12-MJ-7163-JCB
R 20/R 40 from District of _____

Defendant Information:

Defendant Name Richard Keller Juvenile: ☐ Yes ☑ No

Is this person an attorney and/or a member of any state/federal bar: ☐ Yes ☑ No

Alias Name N/A

Address (City & State) Andover, MA

Birth date (Yr only): 1956 SSN (last4#): 2228 Sex M Race: White Nationality: US

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Michael Yoon Bar Number if applicable _____

Interpreter: ☐ Yes ☑ No List language and/or dialect: _____

Victims: ☑ Yes ☐ No If yes, are there multiple crime victims under 18 USC§3771(d)(2) ☐ Yes ☑ No

Matter to be SEALED: ☐ Yes ☑ No

☑ Warrant Requested ☐ Regular Process ☐ In Custody

Location Status:

Arrest Date September 13, 2012

☑ Already in Federal Custody as of September 13, 2012 in _____.
☐ Already in State Custody at _____ ☐ Serving Sentence ☐ Awaiting Trial
☐ On Pretrial Release: Ordered by: _____ on _____

Charging Document: ☑ Complaint ☐ Information ☐ Indictment

Total # of Counts: ☐ Petty _____ ☐ Misdemeanor _____ ☑ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☑ **I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.**

Date: September 13, 2012 Signature of AUSA: Michael Yoon

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Richard Keller

U.S.C. Citations

	Index Key/Code	Description of Offense Charged	Count Numbers
Set 1	18 U.S.C. 2252(a)(2)	Receipt of Child Pornography	1
Set 2			
Set 3			
Set 4			
Set 5			
Set 6			
Set 7			
Set 8			
Set 9			
Set 10			
Set 11			
Set 12			
Set 13			
Set 14			
Set 15			

ADDITIONAL INFORMATION: _____