

SA091 (Rev. 8/01) Criminal Complaint

UNITED STATES DISTRICT COURT

FILED

WESTERN

DISTRICT OF

NOV 21 2008
TEXAS CLERK DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature] DEPUTY CLERK

UNITED STATES OF AMERICA
V.
JOHN PHILLIP MARTIN
Austin, Texas

CRIMINAL COMPLAINT

Case Number: A08-M-650

(Name and Address of Defendant)

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about Feb. 2005 to Sept. 2008 in Travis County, in the Western District of Texas defendant(s) did,

(Track Statutory Language of Offense)

knowingly and intentionally devise and intended to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice and attempting to do so caused to be deposited matters and things to be sent and delivered by a private or commercial interstate carrier, to wit: United Parcel Service, and took and received such matters and things from United Parcel Service

in violation of Title 18 United States Code, Section(s) 1341

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:
Official Title

See Affidavit attached hereto and incorporated herein by reference.

Continued on the attached sheet and made a part of this complaint: X Yes, [] No

[Signature of Holly Easter]
Signature of Complainant

Holly Easter
Printed Name of Complainant

Sworn to before me and signed in my presence,

11/21/08
Date

ROBERT PITMAN
U.S. MAGISTRATE JUDGE

Name and Title of Judicial Officer

at Austin, Texas
City and State

[Signature of Robert Pitman]
Signature of Judicial Officer

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WESTERN DISTRICT OF TEXAS
AUSTIN, TEXAS

United States of America)
vs)
John Phillip Martin)

AFFIDAVIT

I, Holly Easter, being duly sworn, do hereby depose and state, as follows:

Affiant is a Special Agent (SA) of the Federal Bureau of Investigation, Austin, Texas, assigned to criminal investigative matters. Affiant has held this position in excess of four years. During this time, Affiant has participated in the investigation of financial crimes, including mail fraud, mortgage fraud, financial institution fraud, and securities fraud. In the above capacity, Affiant has participated in a fraud investigation, wherein the American Cancer Society is the victim.

The following information is derived from Affiant's personal investigation. In addition, Affiant has reviewed documents and other information provided by the American Cancer Society, Fraud and Security Risk, Internal Control Risk Management Unit.

John Phillip Martin was employed at the American Cancer Society in Austin, Texas from approximately 1991 to September 2008. John Phillip Martin held the titles

1 Associate Vice President of TeleResources and Office Support
2 and/or Director of Office Support for the American Cancer
3 Society from approximately 1995 to September 2008.

4 At various times during John Phillip Martin's
5 employment with the American Cancer Society, he was
6 responsible for ordering employee mobile telephones from
7 Sprint, charging the orders to the account of the American
8 Cancer Society. John Phillip Martin ordered mobile telephone
9 devices utilizing two distinctive descriptions, "provisioned"
10 or "unprovisioned." Provisioned mobile telephones are
11 directly linked to an American Cancer Society employee's
12 telephone number. Unprovisioned mobile telephones are not
13 linked directly to any American Cancer Society employee's
14 telephone number. On or about June 2007, the American Cancer
15 Society changed its policy and discontinued regularly
16 providing unprovisioned mobile telephone devices to their
17 employees.

18
19 John Phillip Martin ordered mobile telephones
20 utilizing the email address John.Martin@cancer.org or by
21 telephone. The email provider for John.Martin@cancer.org
22 utilizes the American Cancer Society's servers located in
23 Austin, Texas. In or about June 2008, John Phillip Martin
24 began to email Sprint purchase requests which he represented
25 were for his employer, the American Cancer Society, to
26 Jennifer.F.White@sprint.com, a Sprint representative. Prior
27 to that date, John Phillip Martin emailed Sprint purchase
28 requests to a number of other Sprint representatives.

1
2 Beginning in or about February, 2005 and continuing
3 through September, 2008, John Phillip Martin fraudulently
4 ordered at least 90 "unprovisioned" telephones from Sprint
5 and directed Sprint to charge the purchases to the account of
6 the American Cancer Society. John Phillip Martin either
7 personally obtained these unprovisioned mobile telephones
8 from a local Sprint location or directed Sprint to ship the
9 unprovisioned mobile telephones to the American Cancer
10 Society's address located at 2433 Ridgepoint Dr-A, Austin,
11 TX, to the attention of John Martin. Sprint deposited the
12 unprovisioned mobile telephones with United Parcel Service, a
13 commercial interstate carrier, to be sent and delivered by
14 United Parcel Service to John Phillip Martin.

15
16 John Phillip Martin took and received from the
17 United Parcel Service the unprovisioned mobile telephones
18 and, thereafter, sold the unprovisioned mobile telephones.
19 At times, he used the internet to sell the unprovisioned
20 mobile telephones, utilizing Ebay and/or Craig's List. John
21 Phillip Martin received the sales proceeds and used them to
22 pay for personal expenses.

23
24 In furtherance of the scheme, John Phillip Martin
25 emailed the American Cancer Society's Regional Division, in
26 Oklahoma City, OK, false and fraudulent Sprint statements.
27 Martin advised Christopher Bolt with the American Cancer
28 Society that he accessed the Sprint online statements, which

1 allowed Martin to cut and past in numbers. Martin inflated
2 the amount of other charges to cover for the mobile
3 telephones purchased. Martin prepared the false and
4 fraudulent Sprint statements in order to prevent the
5 detection of his scheme to defraud and obtain property by
6 means of fraudulent pretenses.

7
8 Affiant reviewed specific documents to determine
9 the following:

10 On June 17, 2008, John P. Martin, utilizing email
11 address John.Martin@cancer.com, emailed Jennifer White at
12 Jennifer.F.White@sprint.com requesting the purchase of
13 unauthorized unprovisioned mobile telephones. Following is
14 an excerpt from the email message:
15 "This weeks order... 6 - Blackberry Pearl 8130 unprovisioned
16 handsets... account #775889719." On June 17, 2008, Jennifer
17 White, utilizing the email address,
18 Jennifer.F.White@sprint.com, responded she would order the
19 Pearls for Martin. Sprint utilized UPS to deliver the mobile
20 telephones and received a UPS tracking number IZ 5EY 382 01
21 1305 710 1. On June 19, 2008, UPS delivered the package to
22 John Phillip Martin in Travis County, Texas.

23
24 On June 26, 2008, John P. Martin, utilizing email
25 address John.Martin@cancer.com, emailed Jennifer White at
26 Jennifer.F.White@sprint.com, requesting the purchase of
27 unauthorized unprovisioned mobile telephones. Following is an
28 excerpt from the email message:

1 "Please order the following for delivery tomorrow or Monday:
2 PPC 6800 Mogul - Qty 3, Blackberry 8130 - Qty 5, account
3 #775889719. Ship to MY ATTENTION JOHN MARTIN to our billing
4 address on account." On July 2, 2008, Jennifer White,
5 utilizing the email address, Jennifer.F.White@sprint.com,
6 responded she ordered the items. Sprint utilized UPS to
7 deliver the mobile telephones to John Martin and received two
8 UPS tracking number IZ 5EY 382 01 1573 512 4 and IZ 5EY 382
9 13 1738 752 9.

10 On June 30, 2008, the UPS package with tracking number IZ 5EY
11 382 01 1573 512 4 was delivered. On July 7, 2008, the UPS
12 package with tracking number IZ 5EY 382 13 1738 752 9 was
13 delivered to John Phillip Martin in Travis County, Texas.

14
15 On July 17, 2008, John P. Martin, utilizing email
16 address John.Martin@cancer.com, emailed Jennifer White at
17 Jennifer.F.White@sprint.com, requesting the purchase of
18 unauthorized unprovisioned mobile telephones. Following is an
19 excerpt from the email message:

20 "Can you let me know if these are in stock and place this
21 order asap... Instinct Handsets unprovisioned - Qty 6,
22 account #775889719. ship to MY ATTENTION JOHN MARTIN to our
23 billing address on our account." On July 17, 2008, Jennifer
24 White, utilizing the email address,
25 Jennifer.F.White@sprint.com, responded she placed the order
26 but there were none in stock. She added they were fulfilling
27 the inventory every day or every few days. Sprint utilized
28 UPS to deliver the mobile telephones and received UPS

1 tracking number IZ 5EY 382 13 2161 727 2. On July 22, 2008,
2 the UPS package with tracking number IZ 5EY 382 13 2161 727 2
3 was delivered to John Phillip Martin in Travis County, Texas.
4

5 On July 24, 2008, John P. Martin, utilizing email
6 address John.Martin@cancer.com, emailed Jennifer White at
7 Jennifer.F.White@sprint.com, requesting the purchase of
8 unauthorized unprovisioned mobile telephones. Following is
9 an excerpt from the email message:

10 "Please place an order for the following today... Treo 800w
11 handsets unprovisioned - Qty 7, Instinct Handsets
12 unprovisioned - Qty 4, account #775889719. ship to MY
13 ATTENTION JOHN MARTIN to our billing address on our account."

14 On July 25, 2008, Jennifer White, utilizing the email
15 address, Jennifer.F.White@sprint.com, responded she ordered
16 the telephones; however the Instinct telephones were on back
17 order. Sprint utilized UPS to deliver the mobile telephones
18 and received two UPS tracking numbers IZ 5EY 382 13 2296 191
19 5 and IZ 5EY 382 13 2375 248 9. On July 28, 2008, the UPS
20 package with tracking number IZ 5EY 382 13 2296 191 5 was
21 delivered. On July 30, 2008, the UPS package with tracking
22 number IZ 5EY 382 13 2375 248 9 was delivered to John Phillip
23 Martin in Travis County, Texas.
24

25 On July 30, 2008, John P. Martin, utilizing email
26 address John.Martin@cancer.com, emailed Jennifer White at
27 Jennifer.F.White@sprint.com, requesting the purchase of
28 unauthorized unprovisioned mobile telephones. Following is

1 an excerpt from the email message:

2 "Please place this small order for the following day...

3 Blackberry Curve handsets unprovisioned - Qty 2, Treo 800w

4 unprovisioned - Qty 2, account #775889719. ship to MY

5 ATTENTION JOHN MARTIN to our billing address on our account."

6 On July 25, 2008, Jennifer White, utilizing the email

7 address, Jennifer.F.White@sprint.com, responded "done and

8 ordered." Sprint utilized UPS to deliver the mobile

9 telephones and received UPS tracking number IZ 5EY 382 13

10 2430 749 5. On August 1, 2008, the UPS package with tracking

11 number IZ 5EY 382 13 2430 749 5 was delivered to John Phillip

12 Martin in Travis County, Texas.

13

14 On September 11, 2008, the High Plains Division of

15 American Cancer Society located at 2433 Ridgepoint Drive,

16 Suite A, Austin, Texas eliminated four positions in the

17 TeleResources Department. One of the eliminated positions

18 was held by John Phillip Martin, who was then terminated. In

19 early October 2008, a Sprint representative contacted the

20 American Cancer Society regarding an outstanding invoice in

21 the amount of approximately \$119,000. Thereafter, the

22 Internal Audit Services of the American Cancer Society began

23 performing an internal investigation. The internal

24 investigation revealed the Sprint statements submitted by

25 Martin to the American Cancer Society for payment did not

26 match the itemized statements the American Cancer Society

27 ultimately obtained directly from Sprint. The review by the

28 American Cancer Society, disclosed that John Phillip Martin

1 purchased a large quantity of high end mobile telephones and
2 other equipment allegedly on behalf of the American Cancer
3 Society even after the American Cancer Society ceased
4 providing mobile telephones to employees.

5 In the middle of October 2008, John Phillip Martin
6 contacted William Dalton, General Counsel for the American
7 Cancer Society, inquiring about his severance check, which
8 was approximately \$46,338. Martin was told the check was
9 being held pending an internal investigation.

10 On October 26, 2008, John Phillip Martin contacted
11 William Dalton the General Counsel for the American Cancer
12 Society, Austin, Texas. According to William Dalton, Martin
13 admitted that he embezzled approximately \$200,000 from the
14 American Cancer Society; however, Martin stated he was not
15 certain of the total amount of embezzlement.

16
17 On October 28, 2008, John Phillip Martin contacted
18 Christopher Bolt, Manager, Fraud and Security Risk, Internal
19 Control Risk Management of the American Cancer Society.
20 According to Bolt, Martin admitted that he began taking
21 unprovisioned mobile telephones to sell for personal gain in
22 the early part of 2005. Martin admitted he sold the
23 unprovisioned mobile telephones on EBay and on Craig's List.
24 His user name for his EBay account was BOOMWOW. Martin sold
25 the PPC6800 Mogul telephones for an average of \$300 each, the
26 Instinct phones for more than \$300 each, and the Blackberry
27 Pearl and Curve phones for a little less than \$300 each.
28 Martin admitted to Bolt that none of the Instinct phones,

1 Blackberry Pearl, and the Blackberry Curve phones that he
2 ordered from Sprint were, in fact, for employees of the
3 American Cancer Society, since the American Cancer Society
4 adopted in June 2007, a policy of not regularly providing
5 mobile telephones to employees. Martin admitted he accessed
6 the Sprint online statements, which allowed Martin to cut and
7 past in numbers. Martin admitted to Bolt he inflated the
8 amount of other charges, which he previously indicated was
9 for cancellation and early terminations of mobile telephones
10 and the amount of the monthly services. Martin inflated
11 those figures to conceal the unprovisioned mobile telephones
12 he purchased. Martin produced the false Sprint statements on
13 his old American Cancer Society computer.

14
15 On November 4, 2008, John Phillip Martin advised
16 Affiant that he was responsible for ordering mobile
17 telephones for employees of the American Cancer Society.
18 John Phillip Martin advised me that in or about February
19 2005, Martin began ordering mobile telephones and selling the
20 telephones on EBay and Craig's List. Martin admitted he used
21 the sales proceeds to pay for personal expenses.

22
23 The American Cancer Society's Division headquarters
24 estimates a loss in excess of \$590,000. The American Cancer
25 Society is located at 8400 Silver Crossing, Oklahoma City, OK
26 73132.

27 Affiant reviewed open source information, which
28 indicated John Phillip Martin resided at 12007 Sovran Lane,

1 Austin, TX 78750 from 1997 through August 2008.
2

3 Based upon the facts and circumstances detailed in
4 this affidavit, Affiant believes there is probable cause to
5 conclude that John Phillip Martin violated Title 18, United
6 States Code, Section 1341, Mail Fraud. Affiant seeks
7 authority to arrest the defendant, John Phillip Martin, for
8 this violation of federal law as detailed herein.
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Holly Easter
Special Agent
Federal Bureau of Investigation
Austin, TX

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Subscribed and sworn to before me this 21st day of November,
2008.

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U.S. Magistrate Judge