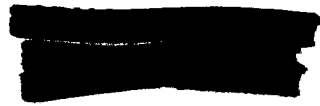


AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California



United States of America

v.

RICHARD EARL SINGER

Defendant

Case No. 4-11-70034 MAG

FILED

JAN 14 2011

CRIMINAL COMPLAINT

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

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

On or about the date of 01/13/2011 in the county of Alameda in the Northern District of California, the defendant violated 18 U. S. C. § 373, an offense described as follows:

Solicitation of Arson of a Commercial Building Used in Interstate Commerce

- PENALTIES:
10 Years Imprisonment
3 Years Supervised Release
\$125,000 Fine
\$100 Special Assessment

This criminal complaint is based on these facts:

See the attached Affidavit of ATF Special Agent Cynthia M. Cunningham in Support of Application for Criminal Complaint.

Continued on the attached sheet.

Approved As To Form:
Keslie Stewart
AUSA KESLIE STEWART

Cynthia M. Cunningham
Complainant's signature
CYNTHIA M. CUNNINGHAM, Special Agent ATF
Printed name and title

Sworn to before me and signed in my presence.

Date: *Jan. 13, 2011*

Donna M. Ryu
Judge's signature

City and state: Oakland, California

DONNA M. RYU, U.S. Magistrate Judge
Printed name and title

1/14

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR
CRIMINAL COMPLAINT, ARREST WARRANT AND SEARCH WARRANT**

I, Cynthia M. Cunningham, declare and state the following:

A. Introduction

1. I make this affidavit in support of a criminal complaint and arrest warrant for:

Richard Earl Singer

2. I also make this affidavit in support of an application for a warrant to search the business office of Richard Earl Singer at

**Hotel Des Arts
447 Bush Street, First Floor
(First room on the left immediately after entering through the exterior
door from Harlan Place, an alley behind the hotel)
San Francisco, California.**

The description of this office is set forth in Attachment A, attached and incorporated into this affidavit by reference. This description is based upon my own surveillance of the location on December 28, 2010, and January 10, 2011, as well as video surveillance of the office space and a description provided by the confidential informant ("CI").

3. As set forth below, there is probable cause to believe that Richard Earl Singer solicited, commanded, induced, and otherwise endeavored to persuade another person to engage in arson in violation of the laws of the United States in violation of Title 18, United States, Section 373. Also as set forth below, there is probable cause to believe that Richard Earl Singer maintains an office at the location described in Attachment A and that evidence, fruits, and instrumentalities of this crime will be found at this location.

B. Agent Background

4. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and I have been so employed for the past nine and one half years. My duties as a Special Agent with ATF include the investigation of arson offenses in violation of Title 18, United States Code, Section 844(i), which proscribes the malicious damage or destruction, by means of fire or explosive, of any building or real property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce. In the course of my employment as a Special Agent with ATF, I have received extensive training in arson investigations and have conducted or been involved in numerous investigations involving violations of Title 18, United States Code, Section 844(i). As a result of that training and

experience, I know that it is a violation of Title 18, United States Code, Section 373, to solicit another person to engage in a felony that has as an element the use, attempted use, or threatened use of physical force against property or against the person of another in violation of the laws of the United States, under circumstances strongly corroborative of the intent that another person engage in the conduct constituting the felony.

C. Sources of Information Supporting This Declaration

5. The facts set forth in this affidavit are based upon my personal knowledge, knowledge I obtained during this investigation from talking to witnesses and reviewing documents, and information gained through my training and experience and from talking to other law enforcement personnel. Because this affidavit is submitted for limited purposes, I have not included in it the details of every aspect of the investigation.

D. Probable Cause Supporting Arrest

6. I believe and, as set forth in this affidavit, there is probable cause to believe that Richard Earl Singer ("SINGER") solicited another to burn down a residential hotel in Oakland, California in violation of federal law. SINGER owns two residential hotels in Oakland, California, that are the subject of civil litigation due to claims of uninhabitability. According to public records, the first of these lawsuits was filed in September 2009.

7. One of those two residential hotels, the Hotel Menlo, is located at 344 13th Street in Oakland, California. It is wholly owned by the Prize Group, LLC, which is SINGER's company. The hotel appears to be approximately seven stories high. During surveillance on January 10, 2011, federal agents observed people coming and going from the hotel. On the first floor of the building there are two commercial businesses occupied by a Korean restaurant and a nail salon. I called both establishments on January 13, 2011, and confirmed that both were open for business that day. According to the CI, SINGER receives rent from these two businesses in addition to the money he receives from tenants of the residential hotel. The CI informed me that there are 96 residential units in the Hotel Menlo. On January 10, 2011, SINGER stated that there were only about four tenants remaining in the building. Based on all of these facts, there is probable cause to believe that the Hotel Menlo is used in interstate commerce and used in activities affecting interstate commerce.

8. The other residential hotel is the Ridge Hotel located at 634 15th Street, Oakland, California. Based on public records, it appears that SINGER's company the Prize Group, LLC, owns 60 percent of the Ridge Hotel.

9. Two different individuals reported to federal authorities in October, 2010, that SINGER had previously indicated that he wanted someone to burn down one of his Oakland hotels. One of those individuals is the CI, who agreed to cooperate with federal authorities. The CI used to work for a property management company that managed the Hotel Menlo. He knows

SINGER through his former boss at the management company. The CI informed us that he is currently facing charges of embezzlement of \$2800 from the Girl Scouts out of Monterey County for allegedly unauthorized paid time off. According to the Monterey County Sheriff's Office, the police report reflects allegations by the Girls Scouts of overpayment of payroll checks for approximately \$52,000 and unauthorized credit card charges of approximately \$1800. In addition, the CI is one of the named plaintiffs in a lawsuit brought by the residents of the Ridge Hotel who allege that the hotel is uninhabitable. The plaintiffs are suing for actual damages, punitive damages, and attorneys fees.

10. The CI met with SINGER on December 28, 2010, and in a recorded conversation asked if SINGER was still interested in getting rid of one of those hotels. SINGER said "yeah." The two then discussed how the CI had found someone in New York who was a professional. They settle upon the Menlo Hotel as being the better target of arson. SINGER explained that he wanted the building completely totaled to maximize the insurance payout:

SINGER: You know, like let's say your car was -- somebody breaks the window --
 CI: Yeah.
 SINGER: -- it's below your deductible.
 CI: Yeah, yeah, exactly.
 SINGER: You're screwed.
 CI: Exactly. Exactly.
 SINGER: It's actually it's worse than if -- [Voices overlap]
 CI: It's -- it's worse, right. No, we don't want that.
 SINGER: But if your call falls off a cliff --
 CI: Then it's a different story because it's totaled.
 SINGER: It's paid for. Right?
 CI: It's totaled. Right, it's totaled.
 SINGER: So, the building's the same sort of thing.

Later in that same recorded conversation, the CI tells SINGER that, "He's a pro. He's done the Bronx." SINGER immediately responds that "It's not just that it, um, it -- it's not just that it -- it -- it's -- this happens, it's also that it happens where it's insured."

11. Over the course of at least two additional recorded telephone calls and one additional recorded in-person meeting between the CI and SINGER, SINGER agrees to pay the CI \$65,000 to have the Hotel Menlo burned down. SINGER signs a business check for \$1500 made out to the CI to be provided to the arsonist for materials. The check was drawn on account number 8430167 at East West Bank. When I checked on January 10, 2011, there were insufficient funds in that account to cover the check. According to information provided by the bank, additional funds were transferred into that account over the internet by January 11, 2011. The CI cashed the check and turned the \$1500 over to me as evidence.

12. In the recorded conversation from December 28, 2010, SINGER tells the CI that

he will "hire [the CI] for something legit." SINGER explains that they will enter a contract for the CI to perform marketing work for SINGER and that all payments for the arson will be made pursuant to that agreement so the payments will look "legit." Although SINGER never explicitly mentions arson, it is clear from the context of the conversations that the marketing work is a pretext for the CI to arrange for the building to be burned down.

13. On January 10, 2011, SINGER and the CI signed a contract for the CI to work for SINGER's company (Prize Hotels, Inc.) as an independent contractor "marketing the hotel to different organizations to provide housing" and to "work with governmental agencies to help initiate funding for improvements to the hotel." The contract provides that SINGER will pay a \$1500 deposit and further payments based on value of work performed up to a total maximum of \$65,000. Based on the taped recordings of communications between the CI and SINGER, there is probable cause to believe that SINGER agreed to pay the remainder of the money for the arson 48 hours after of the hotel burned down.

14. In the recorded conversation on January, 10, 2011, SINGER and the CI discuss access to the Hotel Menlo and how the CI's guy will get into the building. SINGER contemplates whether it would look unusual if he were to ask for a key to the hotel. He ultimately concludes that the CI's guy won't need a key to access the building. SINGER confirms that the Hotel Menlo has no burglar alarm and that it does have a fire escape. He also mentions that the staff at the front desk does rounds at some point during the evening. SINGER and the CI discuss access to the roof and to the basement as well as the presence of dangerous chemicals near the nail salon. SINGER also suggests that the fire department may be slower to respond if they receive several false alarms prior to an actual fire.

15. In the most recent recorded phone call between the two on January 13, 2011, the CI tells SINGER that his guy is ready to go for Saturday, January 15, 2011, and the two agree to meet on Monday. The CI spoke to SINGER on a cell phone from Oakland, California.

E. Probable Cause That Evidence Will Be Found At SINGER's Office

16. On December 28, 2010, and January 10, 2011, I observed the CI enter the Hotel Des Arts in San Francisco while wearing a body wire. On both occasions I could hear the CI's conversations in real time with someone inside the Hotel Des Arts. On January 10, 2011, the CI was also outfitted with a concealed video recorder, and the video recording shows that the CI met with SINGER. The voice in both conversations is the same.

17. During both conversations, it is apparent that SINGER communicates with the CI by writing things down on paper. I can hear the writing in the audio recordings from both the December 28, 2010, and the January 10, 2011 meetings. I can also see SINGER writing in the video recording from January 10, 2011. According to the CI, on both dates, SINGER often communicated regarding the arson by writing on a piece of paper. In the audio recordings from both dates, I can hear pauses in the conversation and the sounds of someone writing. The CI

observed SINGER shred the paper on which he wrote on from January 10, 2011. I can also hear the sound of shredding on the audio recording from January 10, 2011. The CI does not know what SINGER did with the paper he used on December 28, 2010.

18. On January 10, 2011, SINGER appears in the video recording typing on a computer. The audio recording also reflects the sound of typing. According to the CI, SINGER typed up the pretextual marketing contract during the meeting on a computer in SINGER's office within the Hotel Des Arts.

19. Based on my training and experience, I know that it is common for individuals contemplating arson to communicate with their insurance companies to confirm or change the terms of their property insurance. I also know that it is common for individuals to communicate with their insurance companies by telephone, email, and facsimile. Based on my training and experience, I also know that it is common for individuals contemplating arson to search the internet for information about how to commit or conceal arson.

20. According to the CI, SINGER's office is the first room on the left as you enter the rear door of the Hotel Des Arts from Harlan Place. Agents observed the CI enter the Hotel Des Arts from the back door of the Hotel Des Arts which is on an alley named Harlan Place.

21. Based on all of the facts set forth above, there is probable cause to believe that SINGER maintains an office at the location described in Attachment A and that evidence, fruits, and instrumentalities of the crime of solicitation of arson will be found at this location.

F. Description of Items to be Searched for and Seized

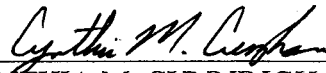
22. Attachment B, attached and incorporated into this affidavit by reference, contains a description of items to be searched for and seized during the search of SINGER's office described at Attachment A. Based on the facts and opinions set forth in this affidavit, my experience and training, and consultation with other law enforcement personnel, I believe that the items set forth in Attachment B are evidence, fruits, and instrumentalities of violations of 18 U.S.C. § 373 and that these items will be found at the location to be searched described in Attachment A. Some of the items described in Attachment B may be or may be stored on Devices or Media that store data electronically. The Protocol for searching those devices is attached as Attachment C and incorporated into this affidavit by reference.

G. Request for Sealing

23. Because this investigation is ongoing, disclosure of the criminal complaint, application and affidavit for arrest warrant, search warrant, and/or attachments to these documents might jeopardize the progress of the investigation. Such a disclosure would give the suspect an opportunity to destroy evidence, change patterns of illegal activity to avoid detection, notify confederates, and/or flee from prosecution. Disclosure of any of these documents prior to the arrest also might jeopardize the safety of law enforcement personnel attempting to execute the warrants. Accordingly, I ask that the Court seal the criminal complaint, application for criminal complaint and search warrant, this affidavit and its attachments, the arrest warrant, and all related papers.

H. Conclusion

24. Taken together, the records, evidence, and information gathered in this case support a finding of probable cause to believe that SINGER solicited arson of a commercial building in violation of Title 18, United States Code, Section 373, and that evidence, fruits, and instrumentalities of this crime will be found at SINGER's office at the Hotel Des Arts in San Francisco where SINGER met with the CI on two occasions to discuss the arson. I therefore respectfully request the issuance of a criminal complaint, arrest warrant for Richard Earl Singer, and a search warrant authorizing the search of the location described in Attachment A to this declaration for the categories of items described in Attachment B to this declaration.



CYNTHIA M. CUNNINGHAM
Special Agent, ATF

Subscribed and sworn to before me
this 13th day of January, 2011,
at Oakland, California.



DONNA M. RYU
United States Magistrate Judge

ATTACHMENT A

Address and Description of Location to be Searched:

**Hotel Des Arts
447 Bush Street, First Floor
(First room on the left immediately after entering through the exterior
door from Harlan Place, an alley behind the hotel)
San Francisco, California.**

“Hotel Des Arts” is a 5-story light green/sage colored narrow row-style building with maroon trim. A red sign with “Hotel Des Arts” written in large white lettering hangs above the single front door of the first floor (left side): “HOTEL” written vertically, and “des Arts” written horizontally below it. Over the front door is a white sign with red lettering that says “HOTEL.” Also on the front of the building is a fire escape ladder that runs the entire height of the building. There is one exterior back door to the hotel that exits onto Harlan Place. Harlan Place is an alley behind the hotel. The room to be searched is the first room on the left if one were to enter the hotel from Harlan Place.

ATTACHMENT B

Categories of Items to be Searched for and Seized:

For the time period September 1, 2009, through the present:

1. All indicia of occupancy of the location to be searched;
2. All documents relating to the Hotel Menlo and/or the Ridge Hotel in Oakland, California, including but not limited to insurance for real or personal property and indicia of ownership.
3. All documents related to communications between SINGER and the property management company that manages the Hotel Menlo and/or the Ridge Hotel in Oakland, California.
4. All documents related to communications between SINGER and the CI, including without limitation any handwritten notes, shredded documents, calendars, daily planners, and appointment books.
5. All documents related to lawsuits by residents of the Hotel Menlo and/or the Ridge Hotel in Oakland, California.
6. The computer used to create the pretextual marketing contract between SINGER and the CI on January 10, 2011. The computer will be seized as an instrumentality used to facilitate the crime.
7. All communications with any insurer of the Hotel Menlo, including but not limited to emails, telephone calls, facsimiles, and written correspondence.
8. All documents related to account number 84301647 at East West Bank from which SINGER wrote the CI a check for \$1500, including but not limited to evidence of online transfers of funds into the account.
9. Internet searches related to arson and/or the concealment of arson.
10. All documents relating to the internet service provider utilized by SINGER on the computer located in the office described in Attachment A.

ATTACHMENT C

December 10, 2010

United States District Court for the Northern District of California

***PROTOCOL FOR SEARCHING DEVICES OR MEDIA
THAT STORE DATA ELECTRONICALLY***

THIS PROTOCOL WILL BE ATTACHED TO EACH SEARCH WARRANT
THAT AUTHORIZES A SEARCH OF ANY DEVICE OR MEDIA THAT
STORES DATA ELECTRONICALLY

It Also Will Be Incorporated, At Least As An Attachment,
in the Affidavit Supporting the Warrant

1. In executing this warrant, the government will begin by ascertaining whether all or part of a search of a device or media that stores data electronically (“the device”) reasonably can be completed at the location listed in the warrant (“the site”) within a reasonable time. If the search reasonably can be completed on site, the government will remove the device from the site only if removal is necessary to preserve evidence, or if the item is contraband, a forfeitable instrumentality of the crime, or the fruit of a crime.

2. If the government determines that a search reasonably cannot be completed on site within a reasonable time period, the government must determine whether all or part of the authorized search can be completed by making a mirror image of, or in some other manner duplicating, the contents of the device and then conducting the forensic review of the mirror image or duplication off site. The government will complete a forensic review of that mirror image within 120 days of the execution of the search warrant.

3. In a circumstance where the government determines that a mirror image of the contents of a device cannot be created on site in a reasonable time, the government may seize and retain that device for 60 days in order to make a mirror image of the contents of the device.

4. When the government removes a device from the searched premises it may also remove any equipment or documents (“related equipment or documents”) that reasonably appear to be necessary to create a mirror image of the contents of the device or conduct an off-site forensic review of a device.

5. When the government removes a device or related equipment or documents from the site in order to create a mirror image of the device's contents or to conduct an off-site forensic review of the device, the government must file a return with a magistrate judge that identifies with particularity the removed device or related equipment or documents within 14 calendar days of the execution of the search warrant.

6. Within a reasonable period of time, but not to exceed 60 calendar days after completing the forensic review of the device or image, the government must use reasonable efforts to return, delete, or destroy any data outside the scope of the warrant unless the government is otherwise permitted by law to retain such data.

7. The time periods set forth in this protocol may be extended by court order for good cause.

8. In the forensic review of any device or image under this warrant the government must make reasonable efforts to use methods and procedures that will locate and expose those categories of files, documents, or other electronically-stored information that are identified with particularity in the warrant, while minimizing exposure or examination of irrelevant, privileged, or confidential files. to the extent reasonably practicable.

9. For the purposes of this search protocol, the phrase "to preserve evidence" is meant to encompass reasonable measures to ensure the integrity of information responsive to the warrant and the methods used to locate same.