

## AFFIDAVIT

### I, STANLEY E. ORNELLAS, being duly sworn, declare and state:

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been so employed for more than 26 years. For the past nine years, I have been assigned to investigate organized crime matters within the Los Angeles Division of the FBI. Since June 2002, I have been the case agent involved in an investigation by the FBI, in conjunction with the U.S. Attorney's Office and the Los Angeles Police Department (LAPD), of defendant Alexander Proctor ("Proctor"). The investigation has included gathering evidence concerning Proctor's involvement with, among other things, extortion.
2. I submit this affidavit in support of an application for a search warrant to search for, and seize evidence of violations of: Title 18, United States code, Section 371 (Conspiracy); and Title 18, United States Code, Section 1951 (Interference With Commerce By Threats Of Violence), as specified further below and in Attachment B, which is incorporated herein by reference.

### PREMISES TO BE SEARCHED

3. The premises to be searched (the "Subject Premises"), as described in Attachment A, which is incorporated herein by reference, are described as follows:  
Pellicano Investigative Agency, Ltd., is located in Suite 322 at 9200 Sunset Boulevard (also known as "The Luckman Plaza"), Beverly Hills, California, 90210. The Luckman Plaza has twelve floors plus a penthouse, a central bank of elevators, and a predominantly glass facade with white stone. Suite 322 is on the third floor in the southwest corner of the building. The entrance to the suite consists of double doors with an oak finish, on the left door are gold letters spelling out "Forensic Audio Lab/Syllogistic Research Group." On the right door are gold numbers and letters setting forth "322/Pellicano Investigative Agency, Ltd."

### COMPUTER DATA

4. Based upon my training, experience and information related to me by agents and others involved in the forensic examination of computers, I know that computer data can be stored on a variety of systems and storage devices including hard disk drives, floppy disks, compact disks, magnetic tapes and memory chips. I also know that during the search of the premises it is not always possible to search computer equipment and storage devices for data for a number of reasons, including the following:
  - a. Searching computer systems is a highly technical process which requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all of the necessary technical manuals and specialized equipment necessary to conduct a thorough search, in addition, it may also be necessary to consult with computer personnel who have specific expertise in the type of computer, software application or operating system that is being searched.

b. Searching computer systems requires the use of precise, scientific procedures which are designed to maintain the integrity of the evidence and to recover "hidden,\* erased, compressed, encrypted or password-protected data. Computer hardware and storage devices may contain "booby traps" that destroy or alter data if certain procedures are not scrupulously followed. Since computer data is particularly vulnerable to inadvertent or intentional modification or destruction, a controlled environment, such as a law enforcement laboratory, is essential to conducting a complete and accurate analysis of the equipment and storage devices from which the data will be extracted.

c. The volume of data stored on many computer systems and storage devices will typically be so large that it will be highly impractical to search for data during the execution of the physical search of the premises. A single megabyte of storage space is the equivalent of 500 double-spaced pages of text. A single gigabyte of storage space, or 1,000 megabytes, is the equivalent of 500,000 double-spaced pages of text. Storage devices capable of storing fifteen gigabytes of data are now commonplace in desktop computers. Consequently, each non-net worked, desktop computer found during a search can easily contain the equivalent of 7.5 million pages of data, which, if printed out, would completely fill a 10' x 12' x 10' room to the ceiling.

d. Computer users can attempt to conceal data within computer equipment and storage devices through a number of methods, including the use of innocuous or misleading filenames and extensions. For example, files with the extension ".jpg" often are image files, - however, a user can easily change the extension to ".txt" to conceal the image and make it appear that the file contains text. Computer users can also attempt to conceal data by using encryption, which means that a password or device, such as a "dongle" or "keycard," is necessary to decrypt the data into readable form. In addition, computer users can conceal data within another seemingly unrelated and innocuous file in a process called "steganography." For example, by using steganography a computer user can conceal text in an image file which cannot be viewed when the image file is opened. Therefore, a substantial amount of time is necessary to extract and sort through data that is concealed or encrypted to determine whether it is evidence, contraband or instrumentalities of a crime.

### C. ITEMS TO BE SEIZED

5. Based on the facts set forth herein, and based on my training, education, experience, and participation in this investigation, as well as my discussions with the other case agents and investigators working on this matter, I believe that there is probable cause to conclude that in the Subject Premises described in Attachment A there are being concealed and will be found certain items which constitute evidence of violations of Title 18, United States Code, Section 371 (Conspiracy), and Title 18, United States Code, Section 1951 (Interference With Commerce By Threats Of Violence). These items are further described in Attachment B and are, specifically, the following:

a. The following documents and records establishing relationships among and between Anthony Pellicano, Alexander Proctor, John Rottger, Steven Seagal, Anita Busch, and Ned Zeman.-retainer agreements, photographs, videotapes, correspondence, letters, cards, notes, postcards, telephone and address books and listings, telephone bills

and records, and information contained in electronic memory of cellular telephones and paging devices, hand-held electronic storage devices, including CD-ROMs, optical disks/ printer buffers, smart cards, memory calculators, electronic dialers, electronic notebooks and other items reflecting names, addresses, telephone numbers, and pager numbers;

b. The following documents and records reflecting payment, receipt, concealment, transfer, or movement of money between Anthony Pellicano and Alexander Proctor, John Rottger, or Steven Seagal: bank account records, wire transfer records, bank statements, safe deposit box keys and records, money containers, financial records, and notes; and ,

c. Keys, access cards, and documents which tend to show ownership for storage facilities, residences, and other businesses.

6. As used above, the terms "documents" and "records" include records, documents, programs, applications or materials created, modified or stored in any form, including storage or maintenance on a computer, computer network, or other storage device.

7. in searching for data capable of being read, stored or interpreted by a computer, law enforcement personnel executing this search warrant will employ the following procedure:

a. Upon securing the premises, law enforcement personnel trained in searching and seizing computer data (the "computer personnel") will make an initial review of any computer equipment and storage devices to determine whether these items can be searched on-site in a reasonable amount of time and without jeopardizing the ability to preserve the data.

b. If the computer equipment and storage device\* cannot be searched on-site in a reasonable amount of time, then the computer personnel will determine whether it is practical to copy the data during the execution of the search in a reasonable amount of time without jeopardizing the ability to preserve the data.

c. If the computer personnel determine it is not practical to perform an on-site search or make an on-site copy of the data within a reasonable amount of time, then the computer equipment and storage devices will be seized and transported to an appropriate law enforcement laboratory for review. The computer equipment and storage devices will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized set forth herein.

d. Any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offense, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offenses specified above.

e. In searching the data, the computer personnel may examine all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized as set forth herein. In addition, the computer personnel may search for and attempt to recover "deleted," "hidden" or encrypted data to determine whether the data falls within the list of items to be seized as set forth herein.

f. Absent a further order of the Court upon a showing of good cause, the government will return the computer equipment and storage devices within a reasonable period of time not to exceed 60 days from the date of seizure.

g. Any passwords, password files, test keys, encryption codes or other information necessary to access the computer equipment, storage devices or data; and

h. Electronically stored communications or messages, including any of the items to be seized that may be found in electronic mail ("e-mail").

#### PROBABLE CAUSE

9. On June 20, 2002, I interviewed Anita Busch ("Busch"), who told me the following:

a. Busch was working as a contract employee for the Los Angeles Times.

b. Busch arrived at home at approximately 8:45 p.m. on June 19, 2002, and parked her car across the street from her residence.

c. At approximately 8:00 a.m. on June 20, 2002, Busch was informed by her neighbor that her car window had been "punctured." Busch walked to her car to assess the damage and noticed: (1) a note taped to the windshield which said "STOP"; (2) a shatter mark just below the note; and (3) a tin foil baking tray turned upside down on the windshield. Busch called the LAPD, which treated the baking tray as a suspicious package. After rendering the package safe, the LAPD determined that it contained a dead fish and a rose.

d. Busch believed that the incident was related to her investigative work for the Los Angeles Times on an as-yet unpublished article regarding Julius Nasso and actor Steven Seagal- Busch began her work for the Times on June 3, 2002, and was contracted through October 15, 2002.

10. On June 21, 2002, I again interviewed Busch, who told me the following:

a. An individual, whose name Busch provided to me and who shall be referred to herein as "CW," had left her six messages on her voice mail at her Los Angeles Times office during the morning hours of June 21, 2002. CW had indicated that it was "urgent" that he speak to Busch in person concerning the article she was writing about actor Steven Seagal.

b. At approximately 11:45 a.m. on June 21, 2002, Busch telephoned CW. CW stated that he had run into a guy a few days ago by the name of "Alex," and that Alex had told CW that he had been hired by a detective agency to blow up Busch's car. Alex was aware that Busch had been doing a series of articles concerning actor Steven Seagal,

11. On June 21, 2002, I interviewed CW, who told me the following:

a. He had left messages for Busch because he did not want to see anyone get hurt.

b. He has known an individual named "Alex" for approximately a year.

Approximately four or five days earlier, CW met Alex at a car repair business. Alex told CW that he had been recently hired by a detective agency that had been contracted by "some people back east" to set fire to the car of a female reporter who had written a series of articles concerning actor Steven Seagal. Alex said that this was to serve as a warning because "they" wanted the reporter to stop writing the article. Alex stated that he had

been by the reporter's residence and noted the difficulty in setting her car on fire because of the close proximity of an apartment building. Alex was also concerned about an individual who lived in an apartment above the reporter's parked vehicle who stayed up late at night walking from room to room. Alex said that this was going to be a "tough job." Alex told CW that he was going to decline the job, but that the people back east were "ruthless" and would "get somebody to do it."

c. Alex was described as a white male, U.S. citizen, in his 40's or 50's, 5'6", 130 pounds, light brown hair, balding, blue eyes, no facial hair, tattoos or glasses.

12. On or about July 1, 2002, I spoke with CW who informed me that the "Alex" to whom CW previously referred is in fact Alex Proctor.

13. I learned from CW and from Assistant United States Attorney Daniel Saunders that CW is currently under indictment for conspiracy, mail and wire fraud, uttering forged securities, and interstate transportation of stolen property in a case pending in the Central District of California.

14. On July 3, 2002, CW met with Proctor at CW's residence. CW recorded the conversation with a digital recording device that I provided to him. I have reviewed the recording of the conversation, which revealed the following:-

a. Proctor stated that actor Steven Seagal had hired a private investigative firm to threaten the reporter who was preparing an article on Seagal. Proctor said that the private investigator is very famous and a big investigator in Los Angeles. Proctor identified the investigator as "Anthony" and Seagal as Anthony's "client."

b. Proctor acknowledged that he had been hired to set the reporter's car on fire. Uncomfortable with that idea, Proctor had purchased a fish and a rose and placed them on the reporter's car. Proctor stated that he also placed a cardboard sign on the windshield with the word "stop" and put a bullet hole in the windshield. Proctor emphasized that "They wanted... he wanted to make it look like the Italians were putting the hit on her so it wouldn't reflect on Seagal."

15. On August 13, 2002, CW met with Proctor at CW's residence. CW recorded the conversation with a digital recording device that I provided to him. I have reviewed the recording of the conversation, which revealed the following:

a. Proctor acknowledged that the "Anthony" who had hired him was private investigator Anthony Pellicano.

b. Proctor stated that he had owed Pellicano \$14,000 as a debt. Proctor further stated that "they" had agreed to pay Proctor \$10,000 for the job involving the reporter, but that "they" were so pleased with Proctor's work that Pellicano wiped out the entire debt and told Proctor they were even. Proctor stated that Pellicano had also said he would have another job upcoming for Proctor.

16. On August 20, 2002, CW met with Proctor at CW's residence. CW recorded the conversation with a digital recording device that I provided to him. I have reviewed the recording of the conversation, which revealed the following:

a. Proctor stated that he had been waiting to hear from Pellicano regarding the "other jobs," but Pellicano was waiting for clients to pay the money up front. One job that Pellicano had discussed with Proctor involved an Israeli who was wanted for murder, whom Proctor was supposed to get out of the country to Mexico and then back to Israel. Pellicano had said that the price for this job would be \$100,000.

b. Proctor stated that Pellicano had paid him another \$3,000 out of Pellicano's own pocket. Proctor said that Pellicano had complained that what Proctor had done "didn't really help, she's back at it again." Proctor said that he had told Pellicano that Pellicano had overpaid him for the job, that the job was worth \$7,000, and that Proctor still owed Pellicano \$7,000.

17. On October 3, 2002, a federal grand jury in the Central District of California returned an indictment charging Alexander Proctor with interfering with interstate commerce by threats of violence, in violation of Title 18, United States Code, Section 1951.

18. On October 16, 2002, I participated in the arrest of Proctor outside a residence at 10620 Wellworth Avenue, West Los Angeles, California. Later that evening, I spoke with Cecilia Glorious, the owner of that residence, who informed me that Proctor had sporadically occupied a room attached to the residence. Glorious signed a written content form authorizing a search of that room, to which she had access. During the subsequent search, LAPD Detective Mike Howard located two address books containing Proctor's name and business card. One of those address books contains the entry "Anthony P." with three telephone numbers, one of which, (310)859-8755, I have confirmed is the telephone number of Pellicano Investigative Agency, Ltd.

19. I have conducted a preliminary review of telephone toll records for a cellular telephone used by Proctor and on which CW has regularly contacted Proctor. Those toll records reflect 19 telephone calls from Proctor to (310) 859-8755 (Pellicano Investigative Agency, Ltd.) from July 22, 2002, to August 16, 2002. The records also reflect two calls from Proctor to Pellicano at (310) 859-8755 on June 17 and June 18, 2002 (the two days immediately preceding the threat to Busch). The records also reflect two calls, one from Proctor to Pellicano and one from Pellicano to Proctor, on August 27, 2002 (the day after the threat to reporter Ned Zeman, described below).

20. On September 6, 2002, I interviewed Ned Zeman ("Zeman"), who told me the following:

a. Zeman is a contributing editor for Vanity Fair magazine. Approximately two months to ten weeks earlier, Vanity Fair officials had asked Zeman to prepare an article concerning Steven Seagal's associations with the Gambino organized crime family. Zeman had been warned by Busch of the possibility of receiving threats regarding this article.

b. On a Saturday morning shortly before August 26, 2002, Zeman walked outside his house to retrieve the newspaper and noticed a figure of a toy soldier with a decapitated head.

c. On the evening of August 26, 2002, Zeman left a restaurant on Doheny Boulevard in Los Angeles at approximately 10:00 or 10:15 p.m. As Zeman drove

northbound on Laurel Canyon Boulevard at the intersection of Hollywood Boulevard, he noticed a car behind him flashing its headlights at him. Zeman pulled his car to the curb and reduced his speed. The other vehicle pulled alongside Zeman's vehicle. The passenger of the other vehicle rolled down the window, and Zeman observed the driver shining a flashlight on him and the male passenger pointing a semi-automatic stainless steel weapon at Zeman's head, Zeman immediately ducked, and he heard the trigger click. At the same time, Zeman heard the driver say "bang" or "bam" and the passenger say "stop" or "stop it." Zeman heard the passenger laugh, and the other vehicle left the scene at a high rate of speed.

d. Zeman believed that this incident may be related to the Seagal article he was writing.

21. On September 20, 2002, CW met with Proctor at CW's residence. CW recorded the conversation with a digital recording device that I provided to him. I have reviewed the recording of the conversation, which revealed the following:

a. CW told Proctor that he had read a newspaper article on the computer about another writer who was stopped in Los Angeles by two gunmen who told him to stop writing. Proctor said he was not involved. CW suggested that Pellicano was involved, and Proctor said he did not think so, but he could be wrong. Proctor said that if Pellicano had people "out here," he would have used them to "take care of her" (Busch) rather than using Proctor.

b. Proctor said that Pellicano was nervous and didn't want Proctor to do any more jobs. Proctor said Pellicano had initially told Proctor that he had done a good job, but had later told Proctor that "it really didn't do anything." Proctor said Pellicano had told him that he had received a telephone call from an unknown individual, who had told Pellicano that he knew Pellicano had hired someone to threaten the reporter. Proctor said he had told Pellicano that he was safe and that no one could prove anything. Proctor said he believed Pellicano was losing it.

22. On September 24, 2002, I spoke with Bill McMullin, a private investigator in New York, who told me the following:

a. McMullin has a client who told him that the individual who confronted Zeman with the weapon was named John Rottger.

b. Rottger is a former Navy SEAL and a very good friend of Seagal's, and has appeared in a few of Seagal's movies.

23. On October 28, 2002, I showed Zeman a photo display of six individuals with similar appearances, including a DMV photograph of John Rottger, Jr., in position number 1. After reviewing the photo display, Zeman said that photograph number 1 looked like the man who had pointed the gun at him, but he was not sure and needed to see a profile photograph to be certain.

24. Based upon on my training and experience, I know that data and information stored in an electronic format may be found not only on the hard disk drive of a computer, but on

other computer equipment and related peripherals, including back-up tapes, floppy disks, and other devices capable of storing information in an electronic format.

25. Based on my own training and experience, as well as that of other FBI SAs with whom I have spoken, I am aware that individuals engaged in criminal conspiracies with others, including individuals who are paying or being paid by others to commit crimes, frequently keep records of their dealings with and payments to and from their co-conspirators. These records are sometimes kept in ledgers, notebooks, computers, and other electronic storage devices.

26. On November 2, 2002, I spoke with Michael Wacks, a former FBI SA who has been a licensed private investigator for approximately three years. He told me the following:

a. He is familiar with common practices of private investigators.

b. It is standard practice for private investigators to maintain client files at their places of business. These client files will typically contain retainer information indicating the identity of the client and the purpose for which the investigator has been retained, as well as records of client contacts, work performed for clients, and billing/payment information. Such records are commonly retained in paper "hard copy" form or on computers or other data storage devices or both.

27. I have also been a licensed private investigator for approximately three years, and I am aware from my own personal experience that records of retainers, work done for clients, and payment information are likely to be found at a private investigator's office.

28. On November 12, 2002, I again spoke with Michael Wacks, who told me the following:

a. On November 12, 2002, he conducted a check on the Lexis/Nexis database of records of the California Bureau of Security and Investigative Services, which maintains records of the places of business of all licensed private investigators in California.

b. The sole place of business listed for Pellicano Investigative Agency, LTD, is 9200 Sunset Boulevard, Suite 322, Beverly Hills, California 90210.

29. On November 18, 2002, I used the publicly available Internet search tool Yahoo! to locate a web site for Pellicano Investigative Agency, LTD, at url [www.pellicano.com](http://www.pellicano.com). The web page allows prospective customers either to request information or to contact the Pellicano Investigative Agency by e-mail at [pellicano@pellicano.com](mailto:pellicano@pellicano.com), further indicating that some of the documents or records to be searched for may be maintained on computer systems or networks or on electronic, magnetic, or optical storage devices.

#### F. SEALING OF AFFIDAVIT

31. Contemporaneously with the submission of this search warrant and affidavit in support thereof, the government is filing an ex parte application for an order sealing this affidavit, on the grounds set forth in the supporting memorandum of points and authorities and declaration. If that sealing application is granted, the searching agents

will give to the owner or occupant of the premises copies of the face page of the Search warrant, Attachments A and B thereto, and Schedule 1 to this affidavit, but not of this affidavit in support, of the search warrant, which shall remain under seal. All agents participating in the search, however, will be provided with a copy of this affidavit, and will be required to sign a statement declaring that they have read the affidavit and schedule 1 thereto, as well as the search warrant and Attachments A and B, prior to participating in the search.

#### G. CONCLUSION

32. Based upon the facts set forth in this affidavit and my training and experience as a law enforcement agent, I believe that there is probable cause to believe that evidence of violations of Title 18, United States Code, Section 371 (Conspiracy) and Title 18, United States Code, Section 1951 (Interference With Commerce By Threats Of Violence), as set forth in this affidavit and attachment B incorporated herein by reference, will be found at the Subject Premises, as set forth in this affidavit and attachment A incorporated herein by reference.

STANLEY E. ORNELLAS  
Special Agent, FBI

Sworn and subscribed to before me  
on this \_\_\_\_ day of November, 2002.

UNITED STATES MAGISTRATE JUDGE