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Superior Court of California
County of Mendocino

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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **IN AND FOR THE COUNTY OF MENDOCINO**

16
17 EZEKIAL FLATTEN, WILLIAM KNIGHT,
18 CHRIS GURR and ANN MARIE BORGES,

19 Plaintiffs,

20 v.

21 BRUCE SMITH, STEVE WHITE and DOES
22 1-50, inclusive.

23 Defendants.

Case No: 21CV00588

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

1 INTRODUCTION

2 1. Although RICO (18 United States Code sections 1961 – 1968) is a federal
3 statutory scheme, it is well settled that state courts have concurrent jurisdiction with federal courts
4 over alleged violations of the civil provisions of RICO. *Cianci v Superior Court*, 40 Cal. 3d 903,
5 910-916 (1985). The elements of a civil RICO claim include (1) conduct that harms plaintiff's
6 business or property; (2) in connection with an enterprise that affects interstate commerce; and (3)
7 a pattern of racketeering activity. *Gervase v Superior Court*, 31 Cal. App. 4th 1218, 1228-1234
8 (1995)
9

10 2. RICO applies to both private and government entities generally and includes law
11 enforcement activities. *Diaz v Gates*, 420 F.3d 897 (9th Cir. 2005) (en banc); *U.S. v Thompson*,
12 685 F. 2d 993 (6th Cir. 1982) (en banc). It is one of few civil remedies available for citizens to
13 challenge government corruption. In this case, the government officials responsible for acting as
14 the checks and balances on corrupt police practices authorized, encouraged and/or condoned
15 those activities.
16

17 3. In Mendocino County certain corrupt law enforcement officers are above the law
18 because the Sheriff's Office and the District Attorney's Office have given officers the green light
19 to steal marijuana, guns and cash under color of law. At least some of the local judges have been
20 willfully blind to unlawful conduct by local law enforcement that is common knowledge among
21 many in the community. According to Wikipedia Mendocino County has a population of less
22 than 90,000 residents, and one-third of the local economy centers around marijuana.
23

24 4. In *Boyle v. United States*, 556 U.S. 938 (2009) the U.S. Supreme Court clarified
25 the broad range of organized, repeated criminal activities which could be caught in the net of the
26 Racketeer Influenced and Corrupt Organizations Act codified at 18 U.S.C §§ 1961-1968 and
27 popularly known as RICO. Petitioner Boyle was convicted of violating the RICO provision
28

1 forbidding “any person ... associated with any enterprise engaged in, or the activities of which
2 affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the
3 conduct of such enterprise’s affairs through a pattern of racketeering activity,” 18 U.S.C.
4 §1962(c). 18 U.S.C. 1962(d) provides: “It shall be unlawful for any person to conspire to violate
5 any of the provisions of subsection. . .(c) of this section.”
6

7 5. The Complaint instanter alleges a long standing and continuing RICO conspiracy
8 involving law enforcement officers in Mendocino County and surrounding jurisdictions
9 conducting the affairs of an enterprise including the Mendocino County Sheriff’s Department and
10 the Mendocino County District Attorney’s Office through a pattern of racketeering activity
11 consisting of extortion to obtain marijuana, guns and cash from victims in possession of
12 marijuana (18 U.S.C. §1951) by unlawfully searching their residences, stopping, detaining
13 Plaintiffs and hundreds of other victims, committing robbery, obstruction of justice, (18 U.S.C.
14 §1512) money laundering (18 U.S.C. §1956), tax evasion (26 U.S.C. §7201), and structuring
15 currency transactions to evade the currency transaction reporting requirement (31 U.S.C. §5313).
16

17 6. The RICO statute begins with a list of predicate offenses constituting “racketeering
18 activity” in 18 U.S.C. 1961(1) and provides that a “pattern of racketeering activity’ requires at
19 least two acts of ‘racketeering activity,’ one of which occurred after [1970] and the last of which
20 occurred within ten years . . . after the commission of a prior act of racketeering activity.” 18
21 U.S.C. §1961(1) “racketeering activity” includes defendants’ and their co-conspirators’
22 obstruction of justice (18 U.S.C. §1512), extortion (18 U.S.C. §1951), money laundering (18
23 U.S.C. §1956) and tax evasion (26 U.S.C. §7201).
24

25 7. Petitioner Boyle challenged the definition of the “association-in-fact” enterprise in
26 18 U.S.C. §1961(4). Boyle and others participated in a series of bank thefts in New York, New
27 Jersey, Ohio and Wisconsin. The participants included a core group, along with others who were
28

1 are produced every year in that emerald triangle and in recent years that translates to billions of
2 dollars in sales proceeds. Power tends to corrupt; absolute power tends to corrupt absolutely.
3 Like law enforcement communities around the United States during the roaring 1920's, most
4 famously Cook County, Illinois, Mendocino County law enforcement succumbed to the same
5 temptations created by Prohibition -- enormous power and profits.
6

7 10. On information and belief co-conspirator Tom Allman's family members have
8 been cannabis growers in Humboldt County for decades. Co-conspirator Undersheriff Randy
9 Johnson's brother and father were raided by the DEA in 2012 and 500 cannabis plants were
10 seized from their property located next door to Randy's residence in Mendocino County. But no
11 charges were ever filed. On January 30, 2014 in Smith County, Texas co-conspirator Jacy
12 Tatum's brother-in-law was arrested while transporting \$1.2 million worth of cannabis to Florida.
13 On information and belief Jacy Tatum provided the funds for bail, defense counsel and assisted in
14 arranging release and a sentence of probation.
15

16 11. As detailed herein Tatum has been charged with three felonies including
17 Conspiracy to Commit Extortion Under Claim of Official Right (18 U.S.C. §1951), Tax Evasion
18 (26 U.S.C. §7201), and Falsifying Records in a Federal Investigation (18 U.S.C. §1519). His
19 fellow former Rohnert Park Police Officer Joseph Huffaker has been charged with Conspiracy to
20 Commit Extortion Under Claim of Official Right (18 U.S.C. §371) along with Tatum. Based on
21 details included in the Affidavit of FBI Special Agent William B. Roberts filed March 9, 2021, in
22 U.S. District Court for the Northern District of California it is apparent that Tatum and Huffaker
23 are co-operating as witnesses for the United States government's investigation of law
24 enforcement corruption in Mendocino County which investigation has included grand jury
25 proceedings from at least as early as 2018 and continuing to the present.
26
27
28

1 12. According to FBI Agent Roberts' affidavit, IRS agents have obtained bank records
2 of accounts controlled by Tatum and his wife which establish cash deposits of \$443,059 in 2016
3 alone -- above and beyond the combined \$158,000 non-cash legitimate income Tatum and his
4 wife reported on their 2016 income tax returns. The cash deposits were all made in amounts
5 below \$10,000 to evade the Currency Transaction Reports required by 31 U.S.C. §5313 -- "a
6 common method of narcotics traffickers, money launderers, and income tax evaders as they seek
7 to avoid scrutiny of law enforcement for conducting voluminous amounts of cash transactions,"
8 according to Agent Roberts' affidavit, which also notes that the IRS agents reviewed records of
9 seven (7) bank accounts controlled by Tatum and his wife for the period January 1, 2013, through
10 September 30, 2019.

11
12 13. On information and belief including purchasing a \$2 million home using a
13 nominee name, for years 2013, 2014, 2015 and 2017 Tatum obtained millions more from his
14 extortionate appropriation of millions of dollars of cannabis and cash while pretending to be
15 enforcing the law -- much of it in Mendocino County.

16
17 14. Perhaps Tatum, Huffaker and their co-conspirators would never have been held
18 responsible for their crimes, but Tatum and defendant Bruce Smith made 2 fatal mistakes: first,
19 on December 5, 2017, Tatum's partner in crime, Joseph Huffaker, and Defendant Smith robbed
20 Plaintiff Ezekial Flatten of three (3) pounds of marijuana after stopping him illegally while he
21 was driving a white SUV in Mendocino County; second, at the behest of co-conspirator
22 Mendocino County Sheriff Allman on February 13, 2018 Tatum published a press release
23 purportedly exonerating Mendocino County law enforcement -- an overt act in furtherance of the
24 conspiracy alleged herein as part of a cover-up.

25
26 15. But Tatum's press release confused and conflated the details of the robbery of
27 Flatten on December 5, 2017, with another similar cannabis robbery on December 18, 2017, in
28

1 Mendocino County when 30 pounds of cannabis was stolen by Tatum and another officer from a
2 different victim -- also driving a white SUV.

3 16. Flatten immediately complained of the theft, via certified mail, to the Mendocino
4 County Sheriff's office, District Attorney's office and Mendocino County Grand Jury. He was
5 interviewed by the FBI on December 11, 2017. In response to Flatten's complaints to the
6 Mendocino County Sheriff's Office and District Attorney, (1) on January 30, 2018 co-conspirator
7 Undersheriff Randy Johnson telephoned Flatten in response to Flatten's certified mail complaint,
8 telling Flatten "no crime was committed" and "we [Mendocino County law enforcement] will not
9 investigate;" and (2) on February 5, 2018 District Attorney ("DA") co-conspirator David Eyster
10 advised Flatten that the DA's office would not investigate Flatten's allegations.
11

12 17. On February 11, 2018, an investigative reporter, Kym Kemp, published two
13 articles about the marijuana seizure in Mendocino County on December 5, 2017, on Kemp's
14 "Redheaded Blackbelt" website covering news in Mendocino, Humboldt and Trinity counties.
15 Two days after Kemp's articles appeared containing accusations against unidentified law
16 enforcement officers in Mendocino County, Tatum issued the press release as part of the cover-up
17 to protect corrupt Mendocino County law enforcement, claiming it was a lawful stop by Rohnert
18 Park police officers.
19

20 18. Flatten was formerly a police officer and the first among hundreds of victims of
21 Mendocino County's corrupt cannabis law enforcement cabal to publicly accuse law enforcement
22 officers of stealing his cannabis. On information and belief, Flatten's life has been threatened by
23 co-conspirator Tatum and defendant Smith; a GPS device was installed in Flatten's automobile in
24 Texas. On and before February 19, 2018, Kym Kemp interviewed co-conspirator Randy Johnson
25 concerning Flatten's accusations. Undersheriff Johnson claimed Flatten was lying, Flatten had
26
27
28

1 more marijuana than he claimed, they had video of the entire incident, and he was retiring -- so do
2 not contact him about this incident again. Shortly thereafter he resigned.

3 19. Undersheriff Johnson and Sheriff Allman along with District Attorney Eyster were
4 and are co-conspirators with Tatum and Huffaker, Defendants Smith and White and John DOES
5 1-50 in a “hub-and-spokes” conspiracy, described by the United States Court of Appeals for the
6 First Circuit in *U.S. v. Newton*, 326 F.3d 253, 255 (2003):
7

8 In a “hub-and-spokes conspiracy” a central mastermind, or “hub,” controls
9 numerous “spokes,” or secondary co-conspirators. These co-conspirators
10 participate in independent transactions with the individual or group of individuals
11 at the “hub” that collectively further a single, illegal enterprise.

12 20. The U.S. Supreme Court and Courts of Appeal have employed the hub-and-spokes
13 conspiracy doctrine many times since the seminal case of *Interstate Circuit, Inc. v. U.S.*, 306 U.S.
14 218 (1939) to uphold conspiracy prosecutions in antitrust and narcotics prosecutions. Beginning
15 in 2007 when Tom Allman took over as Sheriff, Johnson became Undersheriff and Bruce Smith
16 was put in charge of COMMET, and throughout the relevant period, Undersheriff Johnson
17 oversaw the searches and seizures of many tons of cannabis by the County of Mendocino
18 Marijuana Eradication Team (“COMMET”) and the Mendocino Major Crimes Task Force
19 (“MMCTF”).

20 21. From 2007 through 2011 Defendant Smith worked with and mentored co-
21 conspirator Tatum on a “task force” of which both were members or participants. Defendants
22 Smith and White recently testified that each has participated in one thousand (1,000) searches and
23 seizures. Defendant White was in charge of the Wetlands Enforcement Team (“WET”) of the
24 California Department of Fish and Wildlife (CDFW) which participated with COMMET, led by
25 defendant Smith, in hundreds of cannabis seizures. Although Smith and White have testified that
26 the vast majority of the many tons of seized cannabis was destroyed, there is no credible evidence
27 that the bulk of the seized cannabis was actually destroyed.
28

NON-PARTY CO-CONSPIRATORS WITH DEFENDANTS

1
2
3 29. Co-conspirators Brendan Jacy Tatum and Joseph Huffaker were police officers
4 employed by the Department of Public Safety for the City of Rohnert Park. They acted in the
5 course and scope of their employment and under color of state law at all times mentioned herein.

6 30. Co-conspirator Tom Allman was Sheriff of Mendocino County from January 2007
7 until he announced his retirement on December 12, 2019, one year into his fourth term in office.
8 He is now employed as a Deputy Sheriff for the Humboldt County Sheriff's Office. He acted in
9 the course and scope of his employment and under color of state law at all times mentioned herein
10 unless otherwise stated hereinbelow.

11
12 31. Co-conspirator Randy Johnson was Undersheriff of Mendocino County from
13 January 2007 until his sudden retirement effective March 25, 2018. He acted in the course and
14 scope of his employment and under color of state law at all times mentioned herein unless
15 otherwise stated hereinbelow.

16
17 32. Co-conspirator David Eyster was, and currently is, the District Attorney for
18 Mendocino County and he acted in the course and scope of his employment and under color of
19 state law at all times mentioned herein unless otherwise stated hereinbelow.

20 33. Plaintiffs do not presently know the true names and capacities of defendants
21 DOES 1 through 50, inclusive, and therefore sue them by these fictitious names. Plaintiffs are
22 informed and believe that DOES 1 through 50, and each of them, were responsible in some
23 manner for the acts or omissions alleged herein. Plaintiffs will seek leave to amend this
24 Complaint to add their true names and capacities when they have been ascertained.

25
26 34. In doing the acts and/or omissions alleged herein, defendants, their co-conspirators
27 and each of them acted under color of authority and/or under color of state law, and, in concert
28 with each other.

1 informed him that he had been pulled over for riding the fog line, which was not true, and is not a
2 violation of California's Vehicle Code.

3 39. John Doe 1 immediately directed Mr. Payne to exit his vehicle and began
4 searching the vehicle without consent or other legal justification, despite Mr. Payne's
5 protestations. Once the officer was inside Mr. Payne's vehicle, Mr. Payne informed the officer
6 that he had five pounds of cannabis in his bag. The officer then removed the bag from Mr.
7 Payne's truck and informed him that he would be confiscating the marijuana, this despite Mr.
8 Payne being a lawful medical marijuana patient, lawfully possessing the cannabis. The officer
9 then told Mr. Payne to get back in his truck and leave. Mr. Payne protested that what was
10 happening was not right. The officer then threatened to arrest Mr. Payne for felony marijuana
11 sales if he didn't leave, so Mr. Payne got back in his vehicle and left the scene.

12
13
14 40. Once back on the road, Mr. Payne realized that the officer had kept his driver's
15 license, and that he had never identified himself or said what agency he was working for. Upon
16 this realization, Mr. Payne pulled off the roadway and dialed 911 to report that he had been
17 robbed. The 911 operator was able to confirm that officers from the Rohnert Park Department of
18 Public Safety were performing interdiction operations in the area.

19
20 41. The officer failed to issue a receipt for any seized property and issued no citation
21 for any crime or traffic infraction to Mr. Payne.

22 42. On or about December 1, 2015, at approximately 11:00 a.m. plaintiff **Jesse**
23 **Schwartz** was a passenger in a car driven by Evan Jones travelling northbound on Highway 101.
24 For no legal reason co-conspirator Tatum, accompanied by another officer, initiated a traffic stop
25 near Cloverdale. Tatum was in uniform and driving a marked police vehicle. Jesse Schwartz was
26 ordered to step out of the car and was handcuffed. Tatum then searched the car without consent
27 or legal justification. While searching the trunk he discovered a small box containing \$55,000
28

1 that belonged to Schwartz. Tatum took the money and told Schwartz he had two options: (1) he
2 could be arrested, taken to jail and then attempt to get the money back or (2) he could deny it was
3 his money and avoid arrest, jail and legal proceedings. Schwartz was coerced into signing a
4 “disclaimer” form prepared by Tatum and was given a citation to appear in court at a later date.
5 Tatum kept the \$55,000.
6

7 43. Approximately two or three days later, Tatum came to Schwartz’s home without a
8 warrant or legal cause and persuaded his roommate to allow him to search Schwartz’s room while
9 Schwartz was away. Later that day Schwartz was informed that his storage locker had also been
10 searched by Rohnert Park police, also without a warrant or legal cause. None of his belongings
11 were seized or damaged.
12

13 44. Approximately three months later Jesse Schwartz appeared at the Superior Court
14 for the County of Sonoma on the day and time indicated on the citation. The District Attorney’s
15 office had rejected his case for lack of sufficient evidence of a crime. His money was never
16 returned.
17

18 45. In December of 2015, **Joshua Surratt** was travelling southbound on Highway 101
19 in the area of the Mendocino-Sonoma County line. He was travelling with twenty-six pounds of
20 legal cannabis being delivered to a medical marijuana dispensary in Santa Cruz. As Mr. Surratt
21 approached Cloverdale, he noticed a Rohnert Park Patrol Vehicle parked on the shoulder of the
22 northbound part of the highway. As Mr. Surratt passed, the patrol vehicle darted out across the
23 highway median and pulled alongside Mr. Surratt’s vehicle. The patrol vehicle stayed alongside
24 Mr. Surratt’s vehicle for a considerable distance, then dropped behind him and initiated a traffic
25 stop unsupported by legal cause. Mr. Surratt yielded to the patrol vehicle and pulled off the side
26 of the road.
27
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1 46. Sergeant Tatum and Officer Huffaker got out of the police cruiser and contacted
2 Mr. Surratt at his vehicle, immediately accusing Mr. Surratt of having cannabis in his vehicle.
3 When Mr. Surratt advised that he did not, the officers became increasingly aggressive, asking Mr.
4 Surratt if he was calling them liars. The officers removed Mr. Surratt from his vehicle and placed
5 him in handcuffs. Then for the first time the officers asked him for his license and proof of
6 insurance. Already handcuffed, Mr. Surratt told Tatum that the officer could retrieve his driver's
7 license from his wallet located in his pants pocket. Mr. Surratt volunteered to get his insurance
8 paperwork from his glove compartment, but Tatum told him no, that the officers would retrieve it.
9 Mr. Surratt protested, saying that he did not give consent for the officers to enter his vehicle.
10

11 47. While Tatum guarded Mr. Surratt, Officer Huffaker entered his vehicle and opened
12 the glove box, retrieving the insurance paperwork. Huffaker continued searching about the
13 interior of the vehicle, in the center console and under the seats. He then exited the vehicle
14 finding nothing of interest and shrugged his shoulders at Sergeant Tatum as if to say, "I guess
15 there's nothing here." Tatum became angry and began yelling at Mr. Surratt, demanding to know
16 where the money or marijuana was. Mr. Surratt did not reply.
17

18 48. On the back of Mr. Surratt's pickup truck was a camper top with tinted windows.
19 The officers began trying to peer through the dark glass but could not see anything. They
20 demanded to know what Mr. Surratt had in the back of his truck. Mr. Surratt informed them that it
21 was not marijuana and offered to retrieve the contents for them. Sergeant Tatum replied that that
22 would not be necessary, as he opened the back of the truck without consent or legal justification.
23

24 49. Tatum began unloading the contents of Mr. Surratt's truck bed onto the side of the
25 road as Mr. Surratt protested the intrusion more. Ultimately Sergeant Tatum discovered a bin
26 filled with twenty-six pounds of cannabis. Mr. Surratt then explained that he was lawfully
27 transporting the cannabis, and that he was in possession of all the required paperwork. Tatum told
28

1 him his paperwork was invalid. Mr. Surratt said that he didn't think a judge would see it that way.
2 In response, Tatum became enraged and told Mr. Surratt that he had two options: The officers
3 could seize his truck, his belongings, and his marijuana and arrest him for felonies, or Mr. Surratt
4 could surrender the cannabis and the officers would be on their way.

5
6 50. Mr. Surratt answered, "Obviously option B, if you put it like that." Tatum then
7 moved very close to Mr. Surratt's face and said, "You don't tell anyone about this either. Not
8 your lawyer, not the collective where the herb is going, no one. If we don't hear from you, you
9 won't hear from us. If your lawyer comes calling asking around the department or anything like
10 that, we will come up to your property in Ukiah. I bet we could find some more felonies if we
11 came up there, huh?"

12
13 51. Officer Huffaker then pulled out Mr. Surratt's driver's license and took a picture
14 of it with his phone, then took a picture of Mr. Surratt's license plate. Tatum repeated, "Do you
15 understand me? We don't hear from you, you don't hear from us."

16
17 52. The officers then unhandcuffed Mr. Surratt and began to pull away, leaving Mr.
18 Surratt and the contents of his vehicle on the side of road, but then stopped as Huffaker rolled
19 down his window and asked Mr. Surratt "What strains are in here?"

20
21 53. On October 3, 2016, **Jason Harre** was traveling southbound on Highway 101
22 north of the Mendocino-Sonoma County line, lawfully transporting thirty-four pounds of medical
23 cannabis to a medical collective in Los Angeles when a police SUV pulled next to his vehicle and
24 began following him. The patrol vehicle continued to follow Mr. Harre into Sonoma County,
25 through the town of Cloverdale, ultimately initiating a traffic stop without legal justification at the
26 Asti Exit, a remote and secluded portion of the roadway. Mr. Harre yielded to the traffic stop.
27 Officer Huffaker and Sergeant Tatum got out of the patrol vehicle and contacted Mr. Harre at the
28 side of his vehicle. The officers were dressed in commando-like uniforms wearing tactical vests

1 marked "ATF" with chest holsters for their firearms. The officers advised Mr. Harre that he had
2 not been maintaining his lane, ordered him out of his vehicle, and began peppering him with
3 questions about whether he was transporting marijuana.

4 54. Mr. Harre denied that he was transporting marijuana. He admitted, however, that
5 his driver's license had been suspended for failure to pay a traffic ticket. The officers then told
6 Mr. Harre that they would probably have to tow his truck. They again asked what they would find
7 in his vehicle if they searched it. Mr. Harre then acknowledged that he was carrying legal
8 cannabis, and that he had documentation for the cannabis in his vehicle.

9 55. The officers placed Mr. Harre in handcuffs and began to search the vehicle,
10 locating the thirty-four pounds of medical cannabis. The officers told Mr. Harre that they found
11 no documentation for the cannabis, so Mr. Harre asked them to call the dispensary to confirm the
12 delivery. Sergeant Tatum phoned the dispensary and confirmed the delivery. Mr. Harre's phone
13 then rang, and Sergeant Tatum answered. The caller was the dispensary's lawyer who confirmed
14 the validity of the shipment.

15 56. Despite this information, the officers continued interrogating Mr. Harre asking him
16 questions about the techniques he used to grow the cannabis, what strains he was transporting,
17 and other questions which Mr. Harre believed would only be relevant to a broker of marijuana
18 looking to sell another person's product. The officers took Mr. Harre's cannabis and confiscated
19 \$7,000 in cash, providing no receipts for either. Mr. Harre was released with a citation to appear
20 in court.

21 57. Officer Huffaker and Sergeant Tatum submitted the case to the Sonoma County
22 District Attorney for prosecution, but it was rejected for lack of sufficient evidence. Mr. Harre's
23 property was never returned.

1 58. On October 18, 2016, **Jacob Ford** was driving southbound on Highway 101 near
2 the Sonoma-Mendocino County line carrying twenty-three pounds of legal cannabis. Just north of
3 Cloverdale, Mr. Ford began being followed by a Rohnert Park Department of Public Safety Patrol
4 SUV. He was pulled over at the Asti Exit for an expired registration. Sergeant Tatum and Officer
5 Christopher Snyder approached Mr. Ford's vehicle and immediately asked if he was in possession
6 of cannabis. Mr. Ford acknowledged that he was in possession of legal cannabis, that it was
7 secured and properly marked and barcoded in compliance with state law.

9 59. The officers then ordered Mr. Ford out of his vehicle and began asking him
10 questions about what strains of marijuana were in his possession. The officers then told him he
11 had a choice: he could surrender the cannabis and he would be free to go on his way, or they
12 would arrest him for a felony. Mr. Ford protested that what the officers were doing was wrong
13 and stated that he would rather go to court than lose the cannabis. As a result, Mr. Ford was
14 arrested and cited for felony sales, transportation, and conspiracy. Mr. Ford was cited to appear in
15 court on February 17th. The officers searched his vehicle without legal justification and
16 confiscated the marijuana.

18 60. Mr. Ford immediately contacted his attorney in an attempt to reclaim the stolen
19 cannabis. Mr. Ford's attorney contacted the Rohnert Park Department of Public Safety and
20 demanded the cannabis be preserved, but according to the Department, the cannabis had already
21 been destroyed, notwithstanding the fact that Mr. Ford's court date had not yet arrived, and no
22 disclaimer of ownership had been signed.

24 61. On February 17, 2017, Mr. Ford appeared in Sonoma County Superior Court, but
25 there was no record of his arrest before the court, and no report had been received by the
26 prosecutor's office. His property was never returned.

1 62. On December 8, 2016, **Sean Haar** was travelling southbound on Highway 101
2 between Cloverdale and Geyserville at approximately 1:00 pm., lawfully transporting
3 230 pounds of legal, medical cannabis. It was raining, and Mr. Haar's cruise control was
4 set to the speed limit. About this time Mr. Haar noticed an unmarked police vehicle
5 behind him which activated it's forward facing lights and initiated a traffic stop without
6 legal justification. Mr. Haar yielded to the patrol vehicle's lights and pulled off the side of
7 the road. Inside the patrol vehicle were Sgt. Tatum and another unidentified officer. Both
8 were dressed in plainclothes but wore ballistic vests and had guns visible on their belts as
9 they approached both sides of Mr. Haar's vehicle simultaneously. The officers informed
10 Mr. Haar that they had stopped him for speeding, and Mr. Haar told them that they were
11 mistaken. The officers requested Mr. Haar's license, registration, and insurance which he
12 provided without delay.
13

14 63. The officers ordered Mr. Haar out of his vehicle in the rain and informed
15 him that they were part of a drug interdiction team looking for cash and contraband, and
16 that they had reason to believe Mr. Haar was carrying both. They asked Mr. Haar for
17 consent to search his vehicle, which Mr. Haar declined to give. Mr. Haar disagreed that
18 he had done anything to warrant the detention and that he certainly hadn't been speeding.
19 The officers told Mr. Haar that it was only their intent to interdict illegal cannabis, and
20 that they were not going to take legitimate "medicine." They told Mr. Haar that they
21 really didn't want to have to arrest him, and that he should simply consent to the search.
22

23 64. At this point Mr. Haar was getting soaked in the rain and given the
24 assurances of the officers that they were not concerned with legitimate medical
25 marijuana, agreed that the officers could search his vehicle. The officers then demanded
26 that Mr. Haar unlock his iphone and allow them to search its contents, or he would be
27
28

1 arrested and taken to jail. Mr. Haar acquiesced to their demands, and one officer began
2 searching through Mr. Haar's phone while Sgt. Tatum began searching through Mr.
3 Haar's vehicle.

4 65. Sgt. Tatum discovered the cannabis in the covered back of Mr. Haar's
5 pickup truck. The officers asked for Mr. Haar's medical paperwork, which he provided.
6 The officers returned Mr. Haar's phone, confiscated his cannabis despite being provided
7 legal documentation, issued Mr. Haar a citation for possession of more than an ounce of
8 cannabis, and drove away. Believing he had been robbed, Mr. Haar opened his phone to
9 call his attorney, and found that the phone's screen open to photos of his girlfriend in a
10 state of undress. Mr. Haar contacted the City of Rohnert Park and the Sonoma County
11 courthouse, but no one had any record of him being issued a citation.

12 66. On September 6, 2016, **Terence McGilbra** was travelling southbound on
13 Highway 101 just outside of Cloverdale. He was the president of a medical marijuana
14 collective with approximately 200 members and was lawfully transporting fifteen
15 pounds of medical cannabis as part of a legal delivery service associated with the
16 collective. Shortly before arriving at the Asti Exit, a black police SUV pulled alongside
17 Mr. McGilbra's vehicle and two uniformed officers began staring at him. They matched
18 speed alongside Mr. McGilbra's vehicle for some time, and Mr. McGilbra began to feel
19 uncomfortable and slowed his speed. The patrol vehicle slowed down with him, and then
20 dropped behind him and initiated a traffic stop without any legal justification.

21 67. Sgt. Tatum and another officer got out of the patrol vehicle and contacted
22 Mr. McGilbra at the side of his vehicle. They asked for his license, which Mr. McGilbra
23 provided, and told him they had stopped him for speeding. Mr. McGilbra explained that
24 the officers were mistaken. The officers then asked whether there was anything in Mr.
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1 McGilbra's car they should know about. Mr. McGilbra responded that there was not. The
2 officers then ordered Mr. McGilbra out of his vehicle and commanded him to sit on the
3 gravel shoulder in front of his car. He complied. The officers then requested consent to
4 search Mr. McGilbra's vehicle. Mr. McGilbra declined. The officers responded that they
5 could "get the dogs" if he refused to consent, and then ultimately told Mr. McGilbra that
6 they were going to search his vehicle anyway.
7

8 68. Sgt. Tatum opened the trunk of Mr. McGilbra's vehicle and discovered the
9 cannabis inside. The other officer approached Mr. McGilbra and said, "Terence, I
10 thought you said you didn't have anything. We can take you, or we can take the bag."
11 Mr. McGilbra was taken aback by the officer's comments and believed he may have
12 misheard him. "What?" asked Mr. McGilbra. "We can take you, or we can take the bag," the
13 officer stated again.
14

15 69. Mr. McGilbra knew he was being robbed. "Take the bag," he said. The officers
16 loaded the cannabis in their patrol vehicle and drove away, leaving Mr. McGilbra on the side
17 of the road. During this encounter, at least one of the officers had their body-worn camera
18 running, which captured these events.
19

20 70. On December 29, 2016, **Huedell Freeman** was traveling southbound on Highway
21 101 near Cloverdale transporting 47 pounds of legal cannabis. He was subjected to a pre-textual
22 traffic stop by Brendan Jacy Tatum and Joseph Huffaker. After confirming that the marijuana
23 was being lawfully transported to the Higher Path dispensary in southern California, Tatum and
24 Huffaker took possession of the marijuana and issued a citation to Freeman for possession of
25 marijuana. Freeman was notified before his first court appearance that the marijuana had been
26 destroyed though a destruction order was never filed. Mr. Freeman's case was filed in U.S.
27 District Court for the Northern District of California. Mr. Freeman received several hundred
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1 thousand dollars as a settlement from the City of Rohnert Park. *Freeman v. City of Rohnert Park*,
2 Case No. 18-cv-7661 HSG.

3 71. On December 5, 2017, Plaintiff **Ezekial Flatten** was travelling southbound on
4 Highway 101 in the County of Mendocino between the cities of Hopland and Cloverdale. He was
5 driving a rental car and transporting approximately three pounds of legal cannabis to be delivered
6 to a testing facility for use in lawful commerce.

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8 72. At approximately 12:00 p.m., defendant Bruce Smith and co-conspirator Joseph
9 Huffaker were parked on the side of Highway 101 in an unmarked, black police SUV. As Mr.
10 Flatten passed their position, the defendants initiated a pretextual traffic stop of his vehicle
11 without reasonable suspicion to believe a crime had been committed. Instead, defendants intended
12 to stop and search Mr. Flatten on a hunch that he might have been transporting cannabis and/or
13 the proceeds from cannabis sales.

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15 73. Mr. Flatten yielded to the patrol vehicle's forward-facing emergency lights and
16 pulled off of the road. The defendants contacted plaintiff at the side of his vehicle. They were
17 wearing green military-style uniforms with no badges, insignia, or nametags, and were armed
18 with handguns and wearing bulletproof vests. They asked plaintiff if he knew how fast he was
19 going, to which he replied, "61 or 62." Bruce Smith countered, "You were going a little faster
20 than that," and offered no further explanation for the traffic stop. Instead he began questioning
21 Mr. Flatten as to where he was going to and coming from. Once outside the vehicle Flatten was
22 asked if he had weapons followed by a brief pat down search. He was then asked if he had any
23 drugs, weapons or cash in the vehicle.

24
25 74. Smith and Huffaker informed Mr. Flatten that they were going to search his
26 vehicle and its contents. Without consent or other legal justification, the defendants removed a
27 sealed cardboard box from the rear of plaintiff's vehicle and cut it open with a knife, discovering
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1 the marijuana inside. The officers then took pictures of plaintiff, plaintiff's driver's license, and
2 his license plate.

3 75. Smith and Huffaker informed Mr. Flatten that they were with the ATF,
4 commented that marijuana was taking over in California, and advised him that he may be getting
5 a letter from Washington. In less than five minutes, they had left the scene with Mr. Flatten's
6 cannabis without ever having run his name for wants and warrants, and without so much as
7 issuing a citation for even a traffic infraction.

8 76. Co-conspirator Huffaker was, at the time of these events, a member of a drug
9 interdiction task force (hereinafter "Task Force"), and as such participated in numerous traffic
10 stops along the 101 corridor ostensibly for the purposes of narcotics enforcement.

11 77. The Task Force's most active members were co-conspirators Tatum and Huffaker.
12 At its inception, Rohnert Park's use of the Task Force was designed to buttress the small
13 department's failing budget through the seizure of cash believed to be associated with narcotics
14 transactions. Between 2016 and 2017, the Rohnert Park Department of Public safety kept \$1.2
15 million in seized funds for its own use.

16 78. Together with others, Tatum and Huffaker conspired to expand the legitimate
17 interdiction mission to one of person financial gain, and over the years seized thousands of
18 pounds of marijuana and hundreds of thousands of dollars of currency without issuing receipts for
19 the seizures, without making arrests for any crimes, and without any official report of the
20 forfeitures being made. Oftentimes when arrests or reports were made, the cash and cannabis
21 seized was significantly underreported in furtherance of the conspiracy allowing the officers to
22 skim off the top of even otherwise legal interdictions.

23 79. In furtherance of the conspiracy, co-conspirators Tatum and Huffaker sold the
24 seized marijuana to black market vendors without declaring the proceeds as income, and engaged
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1 in money laundering activities through the purchase, improvement, and sale of real property with
2 the proceeds of these illegal activities.

3 80. Co-conspirator Jacy Tatum was recognized as Rohnert Park’s Officer of the Year
4 in 2015 for the substantial revenues he brought to the department. He was further recognized for
5 his interdiction efforts by the private law enforcement intelligence network known as “Desert
6 Snow,” a for-profit entity specializing in interdiction training for police officers. Desert Snow
7 operates a privately maintained criminal intelligence network known as “Black Asphalt Law
8 Enforcement Network.” Through the course of the conspiracy, co-conspirators Tatum and
9 Huffaker, defendant Smith, and Does 1-50 used information from Black Asphalt in determining
10 what automobiles to intercept, even though the drivers of those automobiles had committed no
11 crimes to justify a detention.
12

13 81. Working in concert with other officers from Rohnert Park and from outside
14 agencies, Smith and Huffaker acted under color of official right and under color of state law to
15 take the personal property of Mr. Flatten and others against their will by intimidation and implied
16 threats of force, or by obtaining the consent of their victims through the wrongful use of
17 threatened force, violence, and fear.
18

19 82. On December 7, 2017, two days after Flatten’s traffic stop, Flatten reported the
20 robbery to local media outlets and federal and state law enforcement. On February 11, 2018, an
21 article appeared on a Mendocino County journalist’s blog reporting on Mr. Flatten’s story. Two
22 days after that publication, Defendant Tatum issued a press release from his department
23 attempting to explain the traffic stop (which he mistakenly believed himself to have been a part
24 of), and clarifying that “no other agencies including the Mendocino County Sheriff’s Office or
25 Hopland Tribal Police were involved...”
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1 83. These interdictions became so lucrative to the officers involved that the conspiracy
2 required protection from outside scrutiny. Thus, when plaintiff came forward publicly, co-
3 conspirator Tom Allman contacted co-conspirator Tatum to quash plaintiff's accusations by
4 issuing a press release. But Tatum's statement to the press was too hastily contrived, and his
5 involvement in the illegal seizures too prolific. As a result his press release defended *the wrong*
6 *illegal seizure*, and instead of diffusing the scrutiny plaintiff's allegations had brought, it
7 confirmed the existence of a more expansive, continuing criminal conspiracy.
8

9 84. Following the bogus press release, an internal investigation was launched at the
10 Rohnert Park Department of Public Safety. Shortly thereafter, co-conspirator Tatum resigned
11 from the force, co-conspirator Huffaker was placed on administrative leave, and the Director of
12 the Department announced his retirement.
13

14 85. Mr. Flatten's statements to the press became a matter of public concern and were
15 reported on widely across California and the nation.
16

17 86. Beginning in April of 2018 and continuing to the time of this filing, plaintiff has
18 become the subject of surveillance, harassment, threats, and intimidation by agents of the
19 defendants and/or co-conspirators whose identities are unknown at this time. On September 27,
20 2018, plaintiff discovered a GPS tracking device hardwired beneath his car's dashboard. On
21 November 11, 2018, plaintiff received an anonymous message via social media that he was
22 "playing with fire."
23

24 87. On March 9, 2021 FBI agent William B. Roberts filed the following Affidavit In
25 Support of Criminal Complaint in case number 3-21-70422 MAG in the United States District
26 Court for the Northern District of California, including felony charges against co-conspirators
27 Tatum and Huffaker:
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1 93. While in escrow the plaintiffs hired Bob Franzen of Redwood Water System to
2 perform a well test. They learned the water well produced 22 GPM and was dug 30 feet deep.
3 The plaintiffs also consulted with three licensed cannabis farmers who visited the site.

4 94. Plaintiffs property was zoned agricultural (AG40) as opposed to residential,
5 commercial, recreational, environmental or other designated purpose. From a zoning perspective
6 the plaintiffs were desirable applicants. On May 1, 2017 plaintiffs completed their application to
7 cultivate medical cannabis. On May 4, 2017 – while accompanied by an attorney – plaintiffs met
8 with Commissioner Diane Curry and Christina Pallman of her staff. Their application to relocate
9 to a new site was approved by Commissioner Curry based on the information contained in the
10 application, documents provided, and proof of prior cultivation experience.

11 95. Plaintiffs were given an application receipt relating to a provisional permit signed
12 by Commissioner Curry dated May 4, 2017. It provides, in part, that; “The garden at this site is
13 considered to be in compliance, or working toward compliance, until such time as a permit is
14 issued or denied.” The plaintiffs were told by Commissioner Curry they could immediately begin
15 cultivation activities; and they did.

16 96. During 2017 and prior to her resignation in March 2018 Commissioner Curry was
17 given broad discretion as the final decisionmaker for the County of Mendocino to interpret and
18 implement the new ordinance allowing qualified applicants to receive permits to cultivate
19 cannabis in the County. During that time Commissioner Curry approved permits for numerous
20 applicants, including but not limited to the plaintiffs, to immediately cultivate cannabis so long as
21 the site met zoning requirements.

22 97. Beginning on or about June 20, 2017 Sue Anzilotti, a colleague of defendant Bruce
23 Smith, contacted defendant Steve White of the California Department of Fish and Wildlife
24 (CDFW) on behalf of “concerned homeowners” who lived adjacent to Plaintiffs’ property.

1 Anzilotti made false allegations that the water source for Plaintiffs' approved cultivation site was
2 not approved for use in commercial cultivation operations. In furtherance of the conspiracy
3 alleged herein Defendant White decided to use a false allegation of water diversion as a pretext to
4 obtain a warrant and seize the plaintiffs' property.

5
6 98. During July 2017 Commissioner Curry contacted CDFW agents and requested an
7 opportunity to meet with them on the Gurr/Borges property in order to better understand the
8 requirements relating to creeks located near cannabis farms. On July 25, 2017 two CDFW
9 employees came to the Gurr/Borges property unannounced, and without prior notice, after
10 cancelling appointments scheduled through Commissioner Curry. Without performing any tests,
11 they purportedly concluded it was likely water was being diverted from the creek and sent a letter
12 to Commissioner Curry stating that they suspected water diversion. At that time the Plaintiffs
13 Gurr and Borges offered to turn off the well and purchase water for irrigation while this issue was
14 further investigated.
15

16 99. On or about July 26, 2017, Plaintiffs hired a hydrologist, Donald G. McEdwards,
17 to take samples from the well and the creek in order to perform an extensive hydrology study to
18 determine whether the well contained creek water. The samples were provided to Alpha Labs in
19 Ukiah. Plaintiffs were advised the results would be available on or about August 10, 2017.

20
21 100. On August 10, 2017 at approximately 10:30 a.m. a convoy of CDFW vehicles,
22 under the direction and supervision of defendant Bruce Smith, arrived at Plaintiffs' property and
23 agents, with guns pointed, immediately placed the Plaintiffs in handcuffs. They were
24 accompanied by defendant Bruce Smith. Smith took the plaintiffs into temporary custody,
25 searched their home, and prevented them from observing the seizure of marijuana plants and the
26 destruction of equipment relating to their farming operation. Plaintiffs informed defendant White
27 they had an application receipt/provisional permit from the County and were in full compliance
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1 with all County regulations. They also informed defendant White that they were awaiting a
2 report from Alpha Labs for tests of the creek water and the well water. The CDFW/WET team,
3 without any evidence, claimed they believed the water was being diverted from the nearby creek
4 and proceeded to cutdown and eradicate marijuana, i.e., 100 plants growing indoors under a hoop
5 and 171 plants growing outdoors in an approved location of 10,000 square feet. The garden was
6 within County guidelines and took up approximately one quarter acre on the 11 acres farm.
7 During the August 10, 2017 search CDFW Warden Mason Hemphill, Warden Ryan Stephenson,
8 Warden Wyatt Cole and other Wardens, under the direction and supervision of defendant White,
9 searched the property. Hemphill executed a return on search warrant declaring that he took
10 custody and possession of 163 living marijuana plants and 98 living marijuana plants and guns.
11 This is a list of guns taken by CDFW on 8/10/2017: Ruger LCP .380 pistol, Marlin 30-30
12 w/scope, Browning A5 12 gauge, and S&W Model 36 .38 cal.
13
14

15 101. Plaintiffs Borges and Gurr brought an action in federal court 1 year ago seeking, in
16 part, the return of the plants and guns. Defendant White now claims that he and defendant Smith
17 put the plants into a dump truck at the COMMET office. According to defendant Smith the
18 plants were later taken to an undisclosed location. There are no documents reflecting the chain of
19 custody of the plants after they were seized. The guns are still unaccounted for and reportedly in
20 the possession or control of the District Attorney's office.
21

22 **The September 21, 2017 Seizure of William Knight's Marijuana and Guns by**
23 **Defendants Smith and White**

24 102. Plaintiff William Knight was born in 1960 and raised in Napa, California. As a
25 teenager he worked with his father, a contractor, building bridges, dams, septic systems and other
26 major projects.

27 103. In 1977 Mr. Knight joined the Local 180 Carpenter's Union in Vallejo, California.
28 For the next 6 years he worked for the Northern California Roofing Company headquartered in

1 Vallejo. Beginning in 1983 he was employed by the Chevron Research Group in Richmond,
2 California building research grids for a pilot plant.

3 104. In 1990 Mr. Knight moved to Mendocino County and worked building houses for
4 Affordable Homes located in Ukiah, California. In 1992 he obtained his Contractor's License
5 and was hired by Fetzner Vineyards to perform various tasks.
6

7 105. Beginning in 1999 and continuing to the present Mr. Knight has been self-
8 employed as a contractor building and remodeling houses.

9 106. Beginning in 2015, as a means of supplementing his income, he began legally
10 growing marijuana in Mendocino County as part of the 9.31 (zip-tie) program. In order to qualify
11 his property was inspected by Under Sheriff Randy Johnson – a nearby neighbor who also resided
12 in Potter Valley along Highway 20. He was required to fence the area and comply with other
13 requirements which included paying a \$25/plant zip tie fee for each plant. He grew 99 plants and
14 made annual payments to the Sheriff's Office of approximately \$2,500 in 2015 and 2016 to
15 participate in the program.
16

17 107. Beginning in 2017 Mendocino County implemented a new program to allow
18 qualified residents to obtain "provisional permits" to legally grow marijuana. This provisional
19 permit program was implemented through the County Department of Agriculture and headed by
20 Diane Curry, the Interim Commissioner of the Department of Agriculture. Mr. Knight applied for
21 and was issued a provisional permit in May of 2017 by Ms. Curry to legally grow marijuana,
22 subject to many conditions. Because of his participation in the program he stopped paying zip-tie
23 fees to the Sheriff's Office.
24

25 108. Mr. Knight fully cooperated with the County Department of Agriculture and
26 related agencies including the Department of Fish and Wildlife and the Sheriff's Office. At the
27 request of Under Sheriff Randy Johnson, Mr. Knight moved his garden in 2017 so that it was
28

1 clearly visible from Highway 20. Prior to the September 21, 2017 raid by defendants Bruce Smith
2 and Steve White, Mr. Knight had not been informed by Randy Johnson or any government
3 agency that he was out of compliance with any conditions related to his marijuana operation.

4 109. On September 15, 2017 Warden Ryan Stephenson of CDFW/WET, under the
5 supervision and direction of defendant Steve White, obtained a search warrant to search William
6 Knight's property under the pretext that he was illegally diverting water. The County Department
7 of Agriculture and Undersheriff Randy Johnson were aware that spring water on the property had
8 been used to irrigate the garden since 2015. Mr. Knight, in coordination with Diane Curry, was in
9 the process of having it inspected and approved by the appropriate agencies.

10 110. On September 21, 2017 at 8:00 am defendant Steve White, his subordinate Ryan
11 Stephenson and other members of the Watershed Enforcement Team (WET) together with
12 defendant Bruce Smith and other members of County of Mendocino Marijuana Enforcement
13 Team (COMMET) arrived at William Knight's property located at 7800 Highway 20 in Ukiah.

14 111. Defendants and their co-conspirators proceeded to "eradicate" 405 mature and
15 ready for harvest marijuana plants. In addition, Ryan Stephenson reported taking into evidence
16 80 one pound bags of processed marijuana, a cardboard container of processed marijuana, 36
17 pounds of shake, two fifty gallon drums of processed marijuana, a paper bag of processed
18 marijuana, a shotgun, a revolver, a cell phone, a Samsung cellular device and two electronic
19 scales.

20 112. Mr. Knight and his nephew, Javier Sandoval, were arrested, taken into custody and
21 booked into the Mendocino County jail. Under California law there was a 3 years statute of
22 limitations to prosecute for alleged violations of Section 11358 of the Health and Safety Code.

23 113. The return of search warrant was filed with court on September 28, 2017. The
24 return identified the seized property referred to above as all property taken by Ryan Stephenson.

1 A Declaration of Destruction of Marijuana pursuant to Health and Safety Code 11479, signed by
2 Ryan Stephenson, stated that the gross weight of the controlled substance (marijuana) seized was
3 1,321 pounds.

4 114. Stephenson's declaration also states "all marijuana in excess of ten (10) pounds, as
5 described above, except the random and representative evidentiary samples, was destroyed
6 pursuant to Health and Safety Code 11479. Prior to destruction, pictures of all seized marijuana,
7 whether individually or in bulk, were taken and are being retained as evidence."

8 115. Plaintiff William Knight has information and believes that over 1,321 pounds of
9 the marijuana referred to above was not destroyed and that no reliable evidence exists to prove
10 that it was. Rather, in furtherance of the racketeering conspiracy alleged herein, the marijuana
11 was stolen and sold by Defendants and/or their co-conspirators.

12 116. In late 2019 Mr. Knight became licensed to grow marijuana by the State of
13 California. Beginning in 2020 Mr. Knight has grown marijuana on his property with the
14 knowledge and consent of the County of Mendocino and the State of California

15 117. On or about September 15, 2020, co-conspirator Mendocino County District
16 Attorney David Eyster initiated criminal prosecution of Plaintiff William Knight in violation of
17 18 U.S.C. §1512(b)(1) which provides a pertinent part:

18 (b) Whoever knowingly uses intimidation, threatens or corruptly persuades
19 another person, or attempts to do so...with intent to (1) influences, delay, or
20 prevent the testimony of any person in an official proceeding; shall be fined or
21 imprisoned not more than 20 years, or both.

22 The term "official proceeding" defined in 18 U.S.C. §1512(a)(1)(A) includes in
23 pertinent part:

24 a proceeding before a judge or court of the United States, a United States
25 magistrate judge...or a Federal grand jury. An "official proceeding" need not be
26 pending or about to be instituted at the time of the offense; and the testimony or
27 the record, document, or other object need not be admissible in evidence or free of
28 a claim of privilege, as provided in 18 U.S.C. §1512(f).

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JURY TRIAL DEMAND

Plaintiffs hereby request a jury trial on all issues so triable.

Dated: August 9, 2021

SCOTT LAW FIRM

By: 
John Houston Scott
Attorneys for Plaintiffs EZEKIAL
FLATTEN, WILLIAM KNIGHT,
CHRIS GURR and ANN MARIE BORGES

Exhibit A

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, William B. Roberts, a Special Agent of the Federal Bureau of Investigation (“FBI”), being duly sworn, depose and state the following:

I. OVERVIEW AND AGENT BACKGROUND

1. I make this Affidavit in support of a three count Criminal Complaint against Brendon Jacy Tatum (“TATUM”) and Joseph Huffaker (“HUFFAKER”) for:

- a. Conspiracy to Commit Extortion Under Color of Official Right, in violation of 18 U.S.C. § 1951. TATUM and HUFFAKER, agents of the City of Rohnert Park’s Department of Public Safety (“RPDPS”), knowingly conspired between at least on or about December 5, 2017 and December 18, 2017, to obstruct, delay, and affect in any way and degree commerce and the movement of articles and commodities in commerce by extortion, by obtaining property from victims and others, with consent induced under color of official right;
- b. Falsifying Records in a Federal Investigation, in violation of 18 U.S.C. § 1519. TATUM, an agent of the RPDPS, knowingly falsified records with the intent to impede, obstruct, and influence the investigation and proper administration of an investigation into the lawfulness of a RPDPS patrol stop and seizure on December 5, 2017, a matter that the defendant knew and contemplated was within the jurisdiction of Federal Bureau of Investigation, a department and agency of the United States; and
- c. Tax Evasion, in violation of 26 U.S.C. § 7201, such that TATUM willfully attempted to evade income taxes due and owing by him to the United States of America for the calendar year 2016, by preparing and causing to be prepared, and by signing and causing to be signed in the Northern District of California,

a false and fraudulent U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service.

For the reasons set forth below, I believe there is probable cause to believe that TATUM and HUFFAKER committed the foregoing violations of federal law.

2. The statements contained in this affidavit come from my personal observations, my training and experience, information from records and databases, and information obtained from other agents and witnesses. This affidavit summarizes such information in order to show that there is probable cause to believe that TATUM and HUFFAKER have committed the violations listed above. This affidavit does not purport to set forth all of my knowledge about this matter, or to name all of the persons who participated in these crimes.

3. I am a Special Agent of the Federal Bureau of Investigation (FBI) and have been employed since March 2018. I am assigned to the San Francisco Field Division. As part of my duties, I investigate possible violations of federal criminal law, including public corruption and civil rights violations, as well as assist in numerous investigations related to financial crimes, healthcare fraud, counterterrorism, and counterintelligence cases.

II. APPLICABLE LAW

4. Title 18, United States Code, Section 1951 provides in pertinent part:

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than 20 years, or both.

(b) As used in this section –

(2) The term extortion means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

5. Title 18, United States Code, Section 1519 provides in pertinent part:

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with intent to impede, obstruct, or influence the investigation or proper administration of any

matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or in contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

6. Title 26, United States Code, Section 7201 provides:

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

III. FACTS ESTABLISHING PROBABLE CAUSE

7. TATUM and HUFFAKER were Rohnert Park Department of Public Safety police officers, assigned to drug interdiction work. From August 2016 to December 2017, TATUM, acting as a uniformed police officer, extorted marijuana and cash from drivers on Highway 101 under color of official right, threatening to arrest drivers if they contested his seizures of their property, which he then kept for himself without reporting or checking into evidence. In December 2017, TATUM and HUFFAKER, after their drug interdiction work ended, falsely impersonated agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives, and similarly extorted drivers for the same purposes. With respects to the acts alleged herein, TATUM extorted at least \$3,700 in cash and 60 pounds of marijuana with a value of at least \$85,000, and HUFFAKER conspired with TATUM in extorting at least portion of the marijuana. After the FBI investigation into their conduct became public, TATUM falsified a police report to cover his tracks. Additionally, TATUM evaded his income taxes, failing to report at least \$443,059 in cash deposits for the tax year 2016, for which there is probable cause to believe were derived from his extortion scheme.

A. Background and Summary

8. The City of Rohnert Park is a city located in Sonoma County, California. RPDPS is a department of the City of Rohnert Park. RPDPS consists of a Police Services Patrol Division and Fire Services Division.

9. TATUM was employed with RPDPS between 2003 and 2018. HUFFAKER was employed with RPDPS between 2012 and 2019. Between July 2015 and August 20, 2017, and again after February 4, 2018, TATUM was a Public Safety Sergeant in the Police Services Patrol Division. RPDPS Public Safety Officers, regardless of what division they were assigned, were able to work overtime shifts in either in the Police Services Patrol Division or the Fire Services Division.

10. The interdiction team operated between at least 2014 through approximately 2017. TATUM and HUFFAKER were members of that interdiction team and participated in the activities of the team at various times between 2015 and the end of 2016. In 2016, the team was headed by TATUM and was overseen by Commander J.T., who reported to the RPDPS Chief, B.M. The interdiction team conducted traffic stops on vehicles in an effort to seize illegal drugs and its operations were in addition to the team members' normal duties. As such, the time spent on interdiction operations was considered overtime and interdiction team members were required to notate their time sheets accordingly. The interdiction team began operating within the Rohnert Park city limits. At some point thereafter, the interdiction team began operating along U.S. Highway 101 from Rohnert Park to points near Cloverdale, California, a city located approximately 40 miles north of Rohnert Park, and even in Mendocino County near the Sonoma border. The interdiction team's operations were subject to the same policies and procedures in place for RPDPS in general, including policies and procedures relating to body camera usage, property and evidence packaging and destruction, asset seizure and forfeiture, and report writing, among others.

11. The interdiction team's operations were terminated in approximately January 2017, due in part to changes in the law on marijuana prompting the District Attorney to decline to prosecute marijuana cases. TATUM, HUFFAKER and the other interdiction team officers were informed that the interdiction team's operations were terminated.

12. RPDPS reported that it began using body-worn cameras between 2015 and mid-2016. Use of body-worn cameras and the policies and procedures that were in place applied to

all of RPDPS, including the interdiction team. Under those policies and procedures, body-worn cameras were required to be worn and activated when officers came into contact with citizens in the performance of their official duties. The body-worn camera was required to be activated and not be terminated until the contact had entirely concluded. Where the body-worn camera was not activated or was terminated prior to contact entirely concluding, the officer was required to document the reasons for doing so. All digital media from body-worn cameras was required to be downloaded at the end of the officer's shift and securely stored.

13. Under RPDPS policies and procedures, all interdictions resulting in the seizure of narcotics and or other property or evidence, including cash, were required to be submitted to property/evidence and documented by an Evidence/Property Report and/or an Incident/Investigation Report, whether the activity related to a felony or misdemeanor. In cases where a narcotics seizure was made, but the subject disclaimed ownership of the narcotics, the seized narcotics nevertheless were required to be submitted to property/evidence; in such instances, RPDPS records systems referred to the narcotics "as found property." RPDPS generated case numbers sequentially regardless of the type of case. Those case numbers were used as a reference for other official documents, including Evidence/Property Reports, Chain of Custody documents, and Incident/Investigation Reports, among other things. Names associated with an Incident/Investigation Report were input in the RPDPS computer system and the date and time and user that inputs that data was reflected in the system. In addition, when a user was filling in the Incident/Investigation Report fields, such information was captured in the system as "audit details," which captured the name of the user inputting the data and date and time of input into the fields. There were no "audit details" in the system for Evidence/Property Reports prior to February 2018.

14. In 2016, in addition to being in charge of the interdiction team, TATUM also supervised Asset Forfeiture. Commander J.T. was the Commander in charge of asset forfeiture. RPDPS had an asset forfeiture manual and policy that officers were required to follow. For seizure of cash, the Asset Forfeiture Manual required that the owner be provided with a notice of

forfeiture. All cash seized was required to be booked into evidence with a currency envelope, with a total of the amount of cash, and a list of denominations. The currency was to be counted in the presence of two officers who were required to sign to verify the amount prior to the money being booked into the Evidence/Property room. A photocopy of the currency envelope was required to be attached to the police report.

15. At all relevant times, the destruction of narcotics seized by RPDPS required a destruction order signed by a judge in Sonoma County. Once ordered for destruction, the procedure in place was to take the narcotics to an incinerator operated by Covanta Stanislaus, located in Crows Landing, California. A property technician and a sworn officer would transport the items, provide Covanta with an inventory of items to be incinerated, and witness the destruction. After destruction, Covanta provided proof of destruction, and the chain of custody for the evidence/property was updated by RPDPS property staff to include notes regarding the date and time of destruction.

16. During the course of the interdiction team's operations, TATUM occasionally submitted statistics relating to the seizures, including the date of the interdiction, the officers involved, the amount of drugs and cash seized, and the corresponding case number. While heading the interdiction team, TATUM reportedly received national awards, seized over 4,000 pounds of marijuana, 20 firearms, a dozen vehicles, and over \$4,000,000.

17. The RPDPS interdiction team did not operate in conjunction with or in cooperation with any federal agencies, such as the United States Drug Enforcement Administration or the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") in relation to drug interdiction. While other local law enforcement agencies conducted their own interdictions, RPDPS had no contracts or memoranda of understanding with other local law enforcement to coordinate interdiction efforts. Sonoma County Sheriff's Office reported in early 2018 that it did not assist RPDPS with the destruction of marijuana.

18. During the course of the operations of the interdiction team, on numerous occasions between at least August 2016 and December 2017, TATUM and others seized money,

marijuana, and other property from individuals that they stopped along Highway 101, without arresting these individuals, without providing a citation or asset forfeiture notice to the individuals, without filing an Incident/Investigation Report, without filing a Property/Evidence Report, without submitting the currency, marijuana and other property into the custody of the property department, without submitting the necessary asset forfeiture documents to the City of Rohnert Park, and without filing an application for a destruction order.

19. Between on or about December 5, 2017 and December 18, 2017, TATUM and HUFFAKER, conspired to extort significant quantities of marijuana from owners with consent that was induced through color of official right, declaring to the owners that they would seize their property, and at times threatening to arrest and charge the victims, while never in fact submitting the property to RPDPS or documenting the stop or seizure.

20. On or about February 20, 2018, after learning that Victim 5 had reported to numerous agencies, including the FBI and ATF, that his marijuana was seized by unidentified police claiming to be agents with the ATF on December 5, 2017, TATUM knowingly prepared a false Incident/Investigation Report in relation to the stop of Victim 5 (E.F.). TATUM prepared the false Incident/Investigation Report to influence the matter that he had reason to believe the FBI and the ATF were investigating. TATUM's actions to influence the investigation into the undocumented stop and seizure of marijuana on December 5, 2017, a matter that TATUM knew or at least contemplated was within the jurisdiction of the FBI and ATF, departments and agencies of the United States, in violation of Title 18, United States Code, Section 1519, are set forth in more detail in Count Three below.

21. On April 15, 2017, TATUM filed a 2016 Form 1040, U.S. Individual Income Tax Return ("Form 1040") reporting gross wages in the amount of \$128,992 and \$29,722 in gross wages for his wife, and taxable income in the amount of \$85,420. The reported wages reconciled with his salary from the RPDPS and were not paid in cash. Investigation by the Internal Revenue Service, Criminal Investigation ("IRS-CI") identified cash deposits into TATUM and his wife, K.T.'s, bank accounts in 2016 in the amount of \$296,514. Additional

cash deposits totaling \$99,710 were made into an account in the name of TATUM's mother and stepfather. None of the cash deposits exceeded \$10,000. Also in 2016, TATUM used cash to purchase cashier's checks that he then used to purchase a boat. Combined, IRS-CI, identified cash receipts totaling \$443,059. TATUM did not provide evidence of the above-described cash receipts to his tax return preparer for his 2016 tax return, which was filed for both TATUM and his wife jointly. Accordingly, TATUM willfully attempted to evade income taxes due and owing to the United States of America for the calendar year 2016, in violation of Title 26 United States Code, Section § 7201, as set forth in detail below.

B. Interdiction Team Traffic Stops and Seizures With Body-Worn Camera Videos, But No Documentation of the Stop or Seizure

22. During the course of this investigation, the investigative team reviewed all body-worn camera videos for TATUM and HUFFAKER between approximately July 7, 2016 and March 18, 2018. During that review, agents identified a number of instances that included TATUM and other RPDPS officers, in which there was body-worn camera footage documenting an interdiction team police stop and marijuana was seized or cash and marijuana were seized, but for which there was no Incident/Investigation Report, no Evidence/Property Report, no Destruction Order, or any other documentation relating to the stop.

August 25, 2016 Stop

23. For example, on August 25, 2016, TATUM and another RPDPS officer from the interdiction team (Officer 1), while on duty and on patrol, stopped Victim 1 (S.D.) on Highway 101 near Cloverdale, California. TATUM's body-worn camera recorded a portion of this incident. Victim 1 was driving a rental vehicle. During the course of the stop, which was recorded in part on TATUM's body-worn camera, TATUM and Officer 1 discovered approximately \$3,700 in cash, as well as roughly 14 pounds of marijuana in the vehicle. The marijuana had been carefully wrapped and vacuum sealed and stored in a large plastic bin. Victim 1 stated that he was transporting the marijuana for another person and that the cash was his that he earned through driving a taxi. TATUM asked Victim 1 what kind of marijuana it was.

Victim 1 stated he did not have paperwork for the marijuana. TATUM informed Victim 1 they were seizing the cash and the 14 pounds of marijuana. As Victim 1 was explaining the money was for a gift for his wife, TATUM told Victim 1 “there is no such thing as easy money.” Victim 1 provided Officer 1 with his identification, which had his address on it. Shortly after that, it appears that TATUM turned off his body-worn camera. Victim 1 reported that TATUM took the cash and marijuana, and placed it in the police vehicle. Victim 1 reported that he asked TATUM if he [Victim 1] could have any proof that he was stopped, and TATUM responded “you can have your freedom today,” or words to that effect. Victim 1 also stated that the marijuana was purchased for \$1,600 per pound, for a total purchase price of approximately \$22,400.

24. Victim 1 was not arrested, he was not given any paperwork related to the seizure of the cash, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. He was not given an opportunity to contest the seizure of the cash or marijuana. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 1 during this timeframe, as well as documentation for a stop in relation to Victim 1, and there are no reports memorializing the RPDPS stop, the seizure, or that either the cash or the 14 pounds of marijuana seized from Victim 1 were submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in its records relating to this stop or this victim, with the exception of the body-worn camera recording and an entry of a license plate associated with Victim 1 on an Event Chronology log.

September 2, 2016 Stop

25. On or about September 2, 2016, TATUM and Officer 1, while on duty and in a police vehicle, stopped Victim 2 (T.M.) on Highway 101 near Cloverdale, California. During the course of the stop, which was recorded in part on TATUM’s body-worn camera, TATUM and Officer 1 discovered roughly 15 pounds of marijuana in the vehicle. The marijuana was in

individually wrapped clear bags stored in a large dark green plastic bag. Shortly after the discovery of the marijuana, TATUM's body-worn camera recording ends. However, according to Victim 2, following the discovery of the marijuana, TATUM told him that TATUM and Officer 1 could either "take him or take the marijuana." Victim 2 reported that he did not give consent for the search and that he had a medical marijuana card. Victim 2 stated that TATUM and Officer 1 took the marijuana and that it had a value at the time of approximately \$2,000 per pound, with a total value of approximately \$30,000.

26. Victim 2 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. He was not given an opportunity to contest the seizure of the marijuana. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 1 during this timeframe, as well as documentation for a stop in relation to Victim 2, and there are no reports memorializing the RPDPS stop, the seizure, or that the marijuana seized from Victim 2 was submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in its records relating to this stop or this victim, with the exception of the body-worn camera recording.

October 4, 2016 Stop

27. On October 4, 2016, TATUM and Officer 2, while on duty and in a police vehicle on patrol, stopped Victim 3 (J.D.) near Cloverdale. Victim 3 was a passenger in a rental vehicle. During the course of the stop, which was recorded in part on TATUM's body-worn camera, TATUM and Officer 2 discovered roughly six pounds of marijuana stored in a carbon-lined bag in the vehicle. After discovering six pounds of marijuana in Victim's 3's vehicle, TATUM and Officer 2 gave Victim 3 an ultimatum: A, give him a citation have him appear in court for possession of marijuana and it gets destroyed; or B, TATUM and Officer 2 still book the marijuana in and it still gets destroyed. Victim 3 consented to allow TATUM and Officer 2 to

seize the marijuana and not contest the seizure, in order to avoid an arrest and charges. Officer 2 obtained Victim 3's identification which contained his address and told Victim 3 that if he came back to contest the seizure, they had his identification and address and could send a report to the DA to file charges against him. Shortly after this exchange, the body worn camera was terminated. However, according to Victim 3, he told TATUM and Officer 2 that he may come in with the appropriate paperwork the next day in an attempt to reclaim his marijuana. Officer 2 responded that Victim 3 should not bother because the marijuana would already be destroyed by then. Victim 3 reported that TATUM and Officer 2 seized the marijuana and put it in their police vehicle. Victim 3 estimated that the value of the marijuana at a medical marijuana dispensary was \$2,500 per pound at that time and that he had paid half that amount for it. Thus, the value was at least \$7,500.

28. Victim 3 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. He was not given an opportunity to contest the seizure of the marijuana. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 2 during this timeframe, as well as documentation for a stop in relation to Victim 3, and there are no reports memorializing the RPDPS stop, the seizure, or that the marijuana seized from Victim 3 was submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in their records relating to this stop or this victim, with the exception of the body-worn camera recording.

October 25, 2016 Stop

29. On or about October 25, 2016, TATUM and Officer 2, while on duty and in a police vehicle on patrol, stopped Victim 4 (D.P.) near Cloverdale, California. Victim 4 was driving a rental vehicle. During the course of the stop, which was recorded in part on TATUM's body-worn camera, before searching the vehicle, TATUM asked if Victim 4 had any money.

TATUM and Officer 2 then searched the vehicle and discovered marijuana in a shipping box containing another box wrapped as a birthday present. Officer 2 told Victim 4 that Victim 4 would not go to jail and TATUM declared that Officer 2 and TATUM would seize the marijuana, which TATUM estimated was approximately two-and-a-half to five pounds in weight, destroy it, and let Victim 4 go. Victim 4 claimed that he did not know that the marijuana was inside the box. Before the incident with Victim 4 was completed, TATUM's body-worn camera recording ends. However, according to Victim 4, TATUM and Officer 2 seized the marijuana and put it in their police vehicle.

30. Victim 4 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop. The FBI reviewed all documentation produced by RPDPS related to police stops by TATUM and Officer 2 during this timeframe, as well as documentation for a stop in relation to Victim 4, and there are no reports memorializing the RPDPS stop, the seizure, or that the marijuana seized from Victim 4 was submitted into property/evidence, even as found property. No Incident/Investigation Report, Evidence/Property Report, or Destruction Order was prepared for this incident. Subsequent investigation relating to this stop by RPDPS has revealed that no documentation exists in their records relating to this stop or this victim, with the exception of the body-worn camera recording.

C. Post-Interdiction Team Stops and Seizures Without Body Worn Camera Videos and Impersonating ATF

December 5, 2017 Stop

31. Almost a year after the interdiction team's operations were terminated in roughly January 2017, on or about December 5, 2017, at approximately noon, two individuals, who were later identified as TATUM and HUFFAKER, conducted a traffic stop of Victim 5 (E.F.). As set forth below, at the time of the stop, TATUM and HUFFAKER were driving an unmarked black SUV. Victim 5 recalled TATUM and HUFFAKER wearing tactical style clothing with patches indicating "police" but no badges identifying them as RPDPS officers or reflecting any other law

enforcement department or agency. At the time of the stop, Victim 5 was driving a rented white KIA SUV, on Highway 101 southbound, while in Mendocino County, near the Sonoma-Mendocino County border. The location of the stop was in Mendocino County near the Sonoma County border. This stop was not recorded by a body-worn camera, but Victim 5 remembered the stop. Victim 5 reported that Officer A (TATUM) searched the vehicle. Although Victim 5 did not identify Officer A as TATUM, TATUM identified himself as the officer who conducted the search through the partially false Incident/Investigation Report he prepared on February 20, 2018, as discussed below.

32. During the search, in a cardboard box, Officer A (TATUM) found three sealed one-pound bags of marijuana. Officer B, who Victim 5 later identified as HUFFAKER, had Victim 5's identification and asked if his address was current. I interviewed Victim 5 and during the interview I showed him a series of four unmarked photographs of individuals. Victim 5 positively identified the photograph of HUFFAKER as Officer B. Officer B (HUFFAKER) told Victim 5 that the officers were with the ATF. As set forth above, ATF had no interdiction operations with RPDPS, including TATUM and HUFFAKER. Victim 5 reported that Officer A (TATUM) took the marijuana and put it in the black SUV and then told Officer B (HUFFAKER) to take a picture of Victim 5's license plate and driver's license. Victim 5 reported that as the officers left in the black SUV, Officer B (Huffaker) told him that he may be getting a letter from Washington. Victim 5 reported that the marijuana was valued at \$1,000 per pound. Thus, the total value for the marijuana was at least \$3,000 total.

33. Victim 5 was not arrested, he was not given a citation for the marijuana, he was not provided with a card or any other documentation that related to the stop. RPDPS found no record of the stop or any records reflecting that the marijuana was submitted into property/evidence, even as found property. No RPDPS Incident/Investigation Report was prepared, with the exception of the falsified Incident/Investigation Report, as discussed below.

December 18, 2017 Stop

34. A little less than two weeks later, or about December 18, 2017, at approximately noon, TATUM and another officer, while in an unmarked black SUV and without police uniform identifying themselves as RPDPS, stopped Victim 6 (B.L.), who was driving a white Mercedes SUV, southbound on Highway 101, while in Mendocino County, near the Sonoma-Mendocino County border. Victim 6 stated that the vehicle was new at the time and did not yet have permanent license plates. This stop was not recorded by a body-worn camera. Victim 6 reported the officers identified themselves as ATF agents. Victim 6 reported having approximately 23 pounds of marijuana, packaged in one-pound bags and labeled with a date and type of strain that he was bringing to a dispensary lab for testing in the San Francisco Bay Area. He estimated the value at \$1,000 per pound, with a total value of \$23,000. He also had approximately four crates of marijuana hash that was similarly marked. Victim 6 reported that the officers told him that he had two options: they could either seize the marijuana and let him go, or they could seize the marijuana, the hash, and take him into the station. Victim 6 reported that he had valid paperwork, including an inventory spreadsheet for the marijuana and hash. When Victim 6 asked for official documentation regarding the seizure, one officer replied by asking if Victim 6 wanted to “make a federal case out of it,” or words to that effect. Victim 6 reported that TATUM and the other officer left with the marijuana. Victim 6 identified one officer from the incident – TATUM.

35. Victim 6 was not arrested, he was not given a citation for the marijuana, and he was not provided with a card or any other documentation that related to the stop.

36. Each of these seizures of marijuana affected interstate commerce.

D. Falsified Police Report to Conceal Scheme

37. On December 19, 2017, at 3:22 p.m., an Event Chronology reflects a request from TATUM to dispatch for a case number related to “found property.” RPDPS dispatch accordingly generated case number 170005373. Chain of custody documents, using that case number, show TATUM physically submitted two separate items, each described at 15 pounds of

marijuana, to Evidence/Property on December 19, 2017 at approximately 3:31 p.m. However, an Evidence/Property Report indicates two 15-pound boxes of marijuana were submitted on December 18, 2017, to Property as “Found – for Destruction.” The Report indicates it was collected by HUFFAKER on December 18, 2017.

38. The FBI reviewed the two boxes that were stored in RPDPS’s Evidence/Property room associated with 170005373. The boxes contained loose dried marijuana bud. No containers of concentrated marijuana hash or any individually bagged marijuana were in the boxes. Victim 6 was shown pictures of the cardboard boxes and its contents and did not recognize the boxes and advised that he would never package loose marijuana in a cardboard box as doing so is unhygienic. Even though the evidence I viewed was not consistent with what was seized from Victim 6, I believe case number 170005373 was generated for Victim 6’s stop based on the timing and sequencing as captured by the Event Chronology, Chain of Custody, and Property/Evidence Report.

39. As discussed above, case number 17-0005373 was generated on December 19, 2017, at 3:23 p.m. No Incident/Investigation Report was created using that case number until February 20, 2018.

40. On or about February 11, 2018, an investigative reporter, Kym Kemp, published two articles about the events related to the seizure of marijuana from Victim 5 on a website called “Redheaded Blackbelt” that covers news stories in Mendocino, Humboldt and Trinity counties. One article was entitled, “Outraged: One Man’s Two Month Quest from the FBI to the ATF to Expose What He Says Are Corrupt Police Officers in Mendocino.” The other article was entitled “Former Undercover Officer Involved in Developing Cannabis Products Accuses Hopland Tribal Police Chief of Theft, Corruption, and Civil Rights Violations.” In these articles, Kemp reported that Victim 1 stated that he had been robbed of three pounds of marijuana by two unidentified officers without uniforms and believed it may have been the Hopland Tribal Police or the Mendocino County Sheriff’s Office. Both articles state that Victim 5 had contacted and

been contacted by the FBI. Both articles also state the ATF began an investigation into the matter after being contact by Victim 1.

41. Prior to February 13, 2018, TATUM told Commander J.T. that there was a female reporter up north writing articles linking a stop to the Mendocino County Sheriff's office and the Hopland Tribal police. TATUM clarified that it was actually an interdiction stop conducted by RPDPS and that he wanted to correctly identify the law enforcement agency responsible for the stop and asked J.T. if he could issue a press release. Commander J.T. agreed that it was appropriate.

42. On or about February 13, 2018, TATUM issued a press release from RPDPS claiming responsibility for the stop of a white SUV in December 2017 near the Sonoma-Mendocino border and stating it was a lawful stop that was done by RPDPS officers.

43. It was not until on or about February 20, 2018, after the news articles described above reported federal investigation into the seizure from Victim 5, that TATUM wrote an Incident/Investigation Report regarding Victim 5's traffic stop and seizure, which occurred on December 5, 2017. Rather than pull a new case number on February 20, 2018, TATUM used an existing case number, 17-0005373, to document Victim 5's stop. As discussed, above case number 17-0005373 was originally generated on December 19, 2017, related to Victim 5's stop.

44. Although TATUM identified Victim 5 in the "offender" section of the report, TATUM's narrative recounted facts specific to Victim 6's traffic stop. For example, TATUM reported that he stopped Victim 5 in a Mercedes SUV, not a KIA SUV. TATUM reported that the Mercedes did not have a license plate, when in fact the KIA that Victim 5 was driving did have a license plate, and TATUM asked HUFFAKER to take a photo of it. TATUM reported that Victim 5 had a "homemade excellent spreadsheet," when in fact it was Victim 6 that showed TATUM a spreadsheet documenting the marijuana in the vehicle. TATUM also reported that Victim 5 was in the possession of "approximately 30 pounds [of marijuana that] was located along with several hundred containers of concentrated marijuana hash," when Victim 5 actually

reported having only three pounds of marijuana. In fact, this description and quantity was more closely aligned with what was located in Victim 6's vehicle.

45. Based on these facts, there is probable cause to believe that TATUM falsified a report for the undocumented stop and seizure of marijuana from Victim 5 in order to conceal his and HUFFAKER's actions during the stop and deflect negative media attention. As a result, there is probable cause to believe that he falsified a record or document with the intent to impede, obstruct, and influence the investigation and proper administration of a matter that he knew was within the jurisdiction of the FBI and ATF.

E. TATUM's Evasion of Income Taxes

46. Special Agents of the IRS-CI conducted an investigation of the federal income tax liability of TATUM for the calendar year 2016. As part of this investigation, agents examined TATUM's joint 2016 tax return, interviewed third persons having knowledge of the taxpayer's financial condition, and reviewed relevant financial records. Based on this investigation, I learned from the IRS-CI Special Agents that TATUM omitted taxable income from his tax return for the calendar year 2016 and took affirmative acts to evade and defeat tax due and owing. By omitting taxable income from the tax return, the tax due and owing was understated, and the correct amount of tax was not reported to the IRS.

47. As part of the investigation, IRS-CI Special Agents reviewed and analyzed the following bank accounts from January 1, 2013 through September 30, 2019:¹

- a. Wells Fargo Account ending -4069, held in the name of Brendon TATUM;
- b. Wells Fargo Account ending -2740, held in the name of Brendon TATUM;
- c. Wells Fargo Account ending -7872, held in the name of Brendon TATUM and E.S. (TATUM's child or step-child);
- d. Redwood Credit Union Account ending -7926, held in the name of K.T. (TATUM's wife);

¹ Bank records for Wells Fargo Account ending -2740 ended in January 2017.

- e. Wells Fargo Account ending -2509, held in the name of K.T.;
- f. Wells Fargo Accounting ending -6792, held in the name of K.T.;
- g. Bank of America account ending -3562, held in the name of TATUM's mother and stepfather.

48. For the 2016 tax year, the IRS-CI Special Agents' analysis identified a total of \$396,224 in cash deposits made in bank accounts controlled by TATUM and/or his wife, and his mother and stepfather's account. Specifically, in the 2016 calendar year, the IRS-CI Special Agents' analysis found that TATUM made cash deposits into his accounts in the amount of \$118,770. During that same time, cash deposits in the amount of \$177,744 were made into his wife's accounts. Additionally, in 2016, cash deposits of \$99,710 were made into an account in the name of his mother and stepfather. None of the above-described cash deposits exceeded \$10,000. Of these cash deposits into TATUM and his wife's bank accounts in 2016, there were eight, same-day or consecutive-day cash deposits not exceeding \$10,000, totaling \$159,900.

49. By structuring the deposits below \$10,000, TATUM and his wife were able to avoid the filing of a Currency Transaction Report (hereinafter "CTR"). Pursuant to 31 U.S.C. § 5313, and regulations thereunder, including 31 C.F.R. §§ 103.22, 103.27, and 103.28, domestic financial institutions are generally required to prepare and submit CTRs to report transactions involving over \$10,000 in currency every time they occur at the bank. Based on my conversations with IRS-CI Special Agents, I know that "structuring" of currency into bank accounts in amounts under \$10,000 is a common method of narcotics traffickers, money launderers, and income tax evaders as they seek to avoid scrutiny of law enforcement for conducting voluminous amounts of cash transactions.

50. An example of TATUM's overt efforts to structure his cash deposits happened on March 22, 2017, when TATUM attempted to deposit over \$10,000 into his Wells Fargo Account ending -4069 at the Wells Fargo Rohnert Park, California branch. TATUM then took back \$1,000 and only deposited \$9,380 in currency. Based on interviews with the Wells Fargo Anti-Money Laundering Unit and the teller who conducted the transaction, it is apparent that TATUM

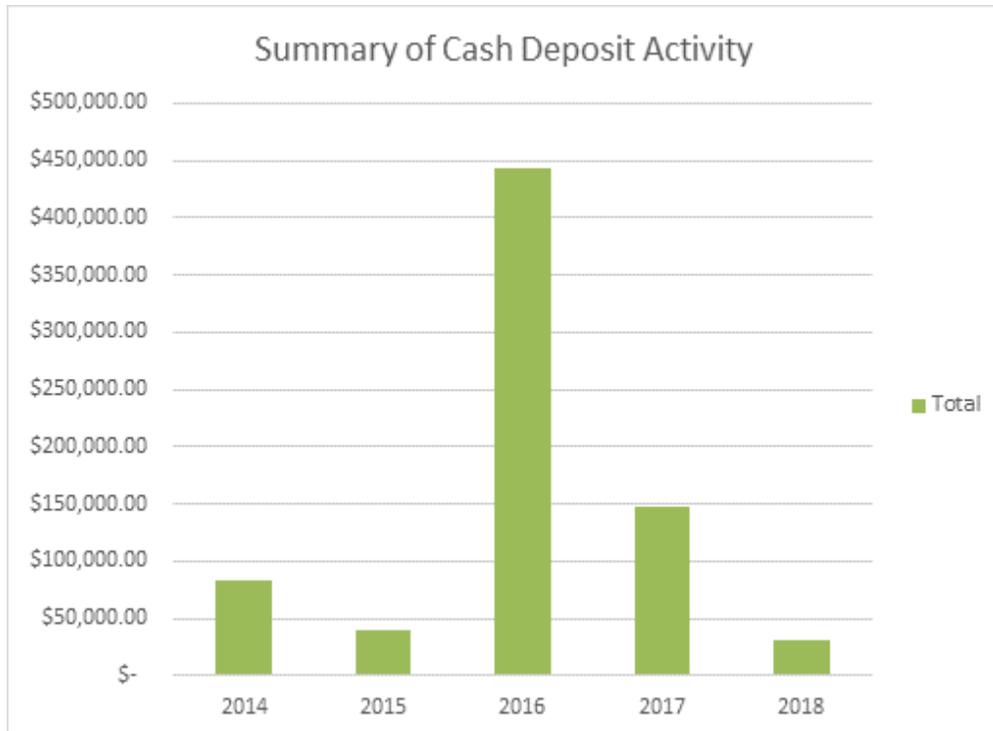
took back the \$1,000 in an attempt to avoid the filing of a CTR. The teller who received the cash from TATUM logged the following information into the Wells Fargo internal system immediately after TATUM came into the branch and deposited only \$9,380 in cash:

CUSTOMER CAME IN WITH TENTHOUND (sic) THREE HUNDRED EIGHTY IN CASH AND STRUCTURED IT DOWN TO NINE THOUSAND THREE HUNDRED EIGHT BY ASKING FOR MONEY BACK NOT SURE IF HE MENT (sic) TO STRUCTURE IT BUT ORIGINAL AMOUNT WAS OVER TEN THOUSAND.

51. In addition to the analysis of TATUM, his wife, and his mother's bank accounts, IRS-CI Special Agents reviewed sales documents related to TATUM's purchase of a Duckworth 30 Offshore fishing boat to identify additional sources of cash that were received by TATUM but not deposited into one of the above-listed bank accounts. Sales records revealed that TATUM purchased the fishing boat on November 10, 2016 for a total price of \$218,234.61. TATUM used a total of \$46,835 in cashier's checks the purchase of which were not found in a review of financial records of known bank accounts for TATUM, his wife, and mother. I know from my training and experience that cashier's checks can be purchased with cash, and as a result, there is probable cause to believe that the boat was purchased with cashier's checks that were purchased with cash that was not previously deposited into TATUM's bank accounts.

52. The below chart summarizes IRS-CI Special Agents' analysis for the 2016 tax year showing cash deposits into TATUM's, his wife's and his mother's bank accounts, as well as the use of cash that was never deposited into a bank to purchase his boat in 2016. In summary, the cash deposits into TATUM's, his wife's, and his mother's bank accounts, along with the cash used to purchase the fishing boat, totaled \$443,059.²

² The IRS-CI Special Agents identified a total of \$12,920 of cash withdrawals from the above identified bank accounts in 2016. These cash withdrawals were assumed to be re-deposited by TATUM. Therefore, to be conservative, the total cash deposits into TATUM's bank accounts was decreased by \$12,920 in any additional tax due and owing computations provided by IRS-CI Special Agents.



53. As shown in the above chart, the cash deposits into these bank accounts increased significantly from 2015 through 2017, which is the time period when TATUM and others were taking marijuana (and in at least one instance, cash) from drivers without booking the seized items into evidence. Notably, the cash deposits decreased significantly after TATUM resigned from the Rohnert Park Police Department in June 2018.

54. On April 15, 2017, TATUM and his wife filed a joint Form 1040 income tax return for the calendar year 2016. This return was submitted electronically by their tax return preparer from Petaluma, California.

55. A review of TATUM's 2016 tax return showed no reported gross receipts commensurate with a cash intensive business that was depicted by the regular and continuous deposits into TATUM's bank accounts. Other than TATUM's and his wife's gross wages of \$128,992 and \$29,722 respectively (which were not paid in the form of cash), TATUM reported only \$9,700 of gross receipts on his 2016 tax return.³ TATUM reported on his tax return that

³ Less than \$100 of taxable interest and dividends were reported on the 2016 tax return. A taxable refund, credit, or offset of state and local income tax of \$19,066 was also reported on the 2016 tax return.

these gross receipts were associated with TATUM's barbeque business and guide service business, which he has owned since at least 2013 through 2018. Between 2013 and 2018, TATUM has never reported over \$10,000 in gross receipts for either business. TATUM did not provide evidence of the cash receipts totaling \$443,059 to his tax return preparer for his 2016 tax return, which was filed for both TATUM and his wife jointly. Based on the unreported cash receipts of \$443,059, TATUM owes an additional \$146,701 to the IRS for the 2016 tax year. He previously reported a \$2,033 refund for the 2016 year.

56. Based on the above information and the bank account and tax return analysis provided to me by IRS-CI Special Agents, there is probable cause to believe that TATUM did unlawfully and willfully attempt to evade and defeat the income taxes due and owing by him to the United States of America for the calendar year 2016.

IV. CONCLUSION

57. Based upon the information contained within this Affidavit, I submit that there is probable cause to believe that Brendon Jacy TATUM and Joseph HUFFAKER conspired to commit extortion under color of official right, in violation of 18 U.S.C. § 1951. In addition, I submit that there is probable cause to believe that Brendon Jacy TATUM engaged in falsifying records in a federal investigation, in violation of 18 U.S.C. § 1519, and tax evasion, in violation of 26 U.S.C. § 7201.

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V. REQUEST FOR SEALING

58. Because this investigation is ongoing, disclosure of the Complaint, Affidavit, and other related filings will jeopardize the progress of the investigation by apprising TATUM and HUFFAKER's associates of the existence of the charges and provide them with an opportunity to destroy evidence, change patterns of behavior, notify confederates, or flee from prosecution. Accordingly, I request that the Complaint, Affidavit, and other related filings be filed under seal until further Order of this Court.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

Respectfully submitted,

William Bradford Roberts
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on March 9, 2021.



HON. HONORABLE SALLIE KIM
United States Magistrate Judge