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AUG 25 2005	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
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REDACTED FOR
PUBLIC DISCLOSURE

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Jennifer R. Clason,
Jeffrey A. Kilbride, and
James R. Schaffer,

Defendants

CR05 - 870PHX - 7265
(LOA)

INDICTMENT

VIO: Count One: 18 U.S.C. § 371
(Conspiracy)

Count Two: 18 U.S.C. §§ 1037(a)(3)
(Fraud in Connection with Electronic
Mail) and § 2 (Aiding and Abetting)

Count Three: 18 U.S.C. §§ 1037 (a)(4)
(Fraud in Connection with Electronic
Mail) and § 2

Counts Four-Five: 18 U.S.C. § 1462
(Importation or Transportation of
Obscene Matters) and § 2

Counts Six-Seven: 18 U.S.C. § 1465
(Transportation of Obscene Matters for
Sale or Distribution) and § 2

Count Eight: 18 U.S.C. § 1956(h)
(Laundering of Monetary Instruments)

Count Nine: 18 U.S.C. §§ 2257(f)(3) and
(f)(4) (Record Keeping Requirements)
and § 2

Forfeiture Allegations: 18 U.S.C. §§
982(a)(1), 1037(c), and 1467

THE GRAND JURY CHARGES:

1 **COUNT ONE (Conspiracy)**

2 **Background**

3 1. Between on or about January 1, 2004, and April 12, 2005, in the District of
4 Arizona and elsewhere, the defendants, JENNIFER R. CLASON, JEFFREY A. KILBRIDE, and
5 JAMES R. SCHAFFER, and others known and unknown to the Grand Jury, did knowingly
6 conspire with one another to knowingly falsify header information in multiple commercial
7 electronic mail messages, and intentionally initiate the transmission of such messages, in
8 violation of Title 18, United States Code, Section 1037(a)(3), and to knowingly register, using
9 information that materially falsified the identity of the actual registrant, for two or more domain
10 names, and intentionally initiate the transmission of multiple commercial electronic mail
11 messages from this combination of domain names, in violation of Title 18, United States Code,
12 Section 1037(a)(4).

13 **Object of the Conspiracy**

14 2. It was the purpose and object of the conspiracy to engage in the business of
15 sending bulk unsolicited commercial electronic mail messages, commonly known as "spam
16 messages", some with embedded pornographic images, over the Internet for the personal gain,
17 benefit, profit and advantage of the defendants, JENNIFER R. CLASON, JEFFREY A.
18 KILBRIDE, and JAMES R. SCHAFFER, and others known and unknown to the Grand Jury.

19 **Manner and Means of the Conspiracy**

20 3. It was part of the conspiracy that the defendants, JENNIFER R. CLASON,
21 JEFFREY A. KILBRIDE, and JAMES R. SCHAFFER, and others known and unknown to the
22 Grand Jury, created, operated, and managed a computer network and, using this network,
23 transmitted spam messages in a manner that would impair the ability of recipients, Internet
24 service providers processing the messages on behalf of recipients, and law enforcement agencies
25 to identify, locate, or respond to the senders.

26 4. It was further part of the conspiracy that his deception was aided by installing the
27 computers sending the spam messages and related equipment in the Netherlands, and remotely
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1 controlling these computers from the United States, utilizing Internet-related services provided
2 at a facility located in Phoenix, Arizona.

3 5. It was further part of the conspiracy that the spam messages themselves failed to
4 truthfully disclose their origin (their attached routing information and "From:" line) or subject
5 matter (the "Subject:" line), and were sent from Internet Protocol ("IP") addresses registered in
6 the Kingdom of the Netherlands and at least 194 domain names registered in the Republic of
7 Mauritius.

8 6. It was further part of the conspiracy that the defendants JENNIFER R. CLASON,
9 JEFFREY A. KILBRIDE, and JAMES R. SCHAFFER, and others known and unknown to the
10 Grand Jury, formed, managed, and operated certain business entities under a variety of names
11 including, but not limited to, Cardpro Limited, Data Design Group, Fat Dog Ventures, Highvale
12 Holdings, iCapSolutions, JLM Media, Kobalt Networks, LBFM Ventures, Lightspeed Holdings,
13 Matab Marketing, MLJ Media, MMM Holdings, PJ Investments Group, Relia Networks, and
14 VisionNet.

15 7. It was further part of the conspiracy that the defendants, JENNIFER R. CLASON,
16 JEFFREY A. KILBRIDE, and JAMES R. SCHAFFER, and others known and unknown to the
17 Grand Jury, created and utilized various companies, including The Compliance Company and
18 Ganymede Marketing, whose sole purpose was to conceal and disguise activities related to the
19 business of sending spam messages.

20 8. It was further part of the conspiracy that defendant JENNIFER R. CLASON used
21 software created for the purpose of delivering large volumes of spam messages in order to design
22 and transmit large volumes of spam messages at the direction of defendants JEFFREY A.
23 KILBRIDE and JAMES R. SCHAFFER.

24 9. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
25 JAMES R. SCHAFFER advertised pornographic commercial World Wide Web sites on the
26 Internet by embedding pornographic images in these spam messages. Many of the "Subject:"
27 lines in the spam messages were deliberately inoffensive in nature. This caused unwitting
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1 Internet users to open these messages, which appeared to be non-pornographic until opened, and
2 be exposed to undesired pornographic images. The embedded pornographic images appeared
3 immediately when the message was opened by the recipient. The Internet user did not have to
4 click a button or other element within the message to reveal the images.

5 10. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
6 JAMES R. SCHAFFER earned commissions for directing Internet traffic to the pornographic
7 World Wide Web sites advertised in the spam messages. Each of the spam messages contained
8 a unique identifying code, such that when any recipient of one of the spam messages then visited
9 one of the advertised pornographic World Wide Web sites (through a command known as a
10 "hyperlink"), that unique identifying code was relayed to the operators of the pornographic site.
11 The businesses operating the World Wide Web sites would then pay defendants JEFFREY A.
12 KILBRIDE and JAMES R. SCHAFFER through arrangements called "affiliate programs" that
13 manage these payments. Defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER
14 were paid based on the number of persons who visited and/or purchased access to the sites as
15 a result of the spam messages. Therefore, the more spam messages sent, the greater the potential
16 for defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER to profit from them.

17 11. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
18 JAMES R. SCHAFFER, and others known and unknown to the Grand Jury, deposited payments
19 received from these pornographic commercial World Wide Web sites into financial accounts
20 under their control in the United States, Mauritius, and the Isle of Man (a dependency of the
21 United Kingdom of Great Britain and Northern Ireland), in order to conceal and disguise the
22 nature, location, source, ownership, and control of the proceeds. These proceeds would then be
23 distributed via wire transfer to domestic financial accounts under their control, and the control
24 of defendant JENNIFER R. CLASON and others known and unknown to the Grand Jury.

25 Overt Acts

26 12. In furtherance of the conspiracy and to achieve its objects, one or more of the
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1 members of the conspiracy committed the following overt acts, among others, in the District of
2 Arizona and elsewhere, on or about the following dates:

3 Transmission of spam messages

4 a. Between on or about January 30, 2004, and November 10, 2004, the
5 defendants, JENNIFER R. CLASON, JEFFREY A. KILBRIDE, and JAMES R. SCHAFFER,
6 transmitted over 600,000 spam messages advertising pornographic commercial World Wide
7 Web sites that operated affiliate programs and containing pornographic images. The spam
8 messages were sent from IP addresses registered at an address in the Netherlands and using
9 domain names registered to Ganymede Marketing at an address in Mauritius. IP addresses
10 function to reference every computer or device on the Internet while connected with the Internet,
11 and are a series of four numbers separated by a period (e.g., 63.161.169.137). A domain name
12 is a common, easy-to-remember name associated with an IP address with two or more parts,
13 separated by dots (e.g., whitehouse.gov).

14 Acts related to equipment, IP addresses, and Internet services used in transmission of
15 spam messages

16 b. On numerous occasions between on or about January 1, 2004, and June 19,
17 2004, ANDREW D. ELLIFSON purchased computer and computer-related equipment at the
18 direction of defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER.

19 c. On numerous occasions between on or about January 2, 2004, and
20 September 28, 2004, ANDREW D. ELLIFSON made payments, from domestic financial
21 accounts under his control, for Internet services with exclusive use of groups of IP addresses,
22 some of which were used to send the spam messages. These IP addresses were registered by
23 ANDREW D. ELLIFSON at an address in the Netherlands, even though they had an associated
24 service address at a facility in Phoenix, Arizona. These Internet services were obtained at the
25 direction of defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER.

26 d. On or about January 16, 2004, at the direction of defendants JEFFREY A.
27 KILBRIDE and JAMES R. SCHAFFER, ANDREW D. ELLIFSON traveled to the Netherlands
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1 to install several computers at a facility called Telecity BV, which had the same address as the
2 registration address listed for the IP addresses. These computers were to be used to transmit
3 spam messages, making it appear that the senders were abroad when they were in fact in the
4 United States. ANDREW D. ELLIFSON also installed two workstation computers at the
5 Telecity BV facility that he had dedicated for the use of defendants JEFFREY A. KILBRIDE
6 and JAMES R. SCHAFFER.

7 e. On at least six occasions between on or about February 12, 2004, and June
8 25, 2004, at the direction of defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER,
9 ANDREW D. ELLIFSON made payments totaling at least \$8,516.28 from domestic financial
10 accounts under his control for Internet access services from provider Verio which were installed
11 at the Telecity BV facility in The Netherlands.

12 f. On or about February 23, 2004, and June 5, 2004, at the direction of
13 defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER, ANDREW D. ELLIFSON
14 sent two wire transfer payments totaling at least \$7,700.59 from domestic financial accounts
15 under his control to Netherlands financial accounts under the control of Telecity BV.

16 g. On or about May 14, 2004, ANDREW D. ELLIFSON traveled to the
17 Netherlands to install and maintain computer equipment at the Telecity BV facility at the
18 direction of defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER.

19 h. On or about August 23, 2004, defendants JEFFREY A. KILBRIDE and
20 JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR #1 submitted a service order
21 form to Verio for Internet access services at the Telecity BV facility.

22 i. On or about August 24, 2004, ANDREW D. ELLIFSON, at the direction
23 of defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER, traveled to the Netherlands
24 to install and maintain computer equipment at the Telecity BV facility, including the computers
25 that transmitted the spam messages and equipment related to the transfer of the Verio service.

26 j. On at least three occasions between on or about August 27, 2004, and
27 November 22, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
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1 UNINDICTED CO-CONSPIRATOR #1 made payments totaling at least \$14,056.59 from
2 Deutsche Bank (Mauritius) Limited financial accounts in Port Louis, Mauritius under their
3 control for Internet access services from provider Verio which were installed at the Telecity BV
4 facility.

5 k. On or about November 8, 2004, and November 30, 2004, defendants
6 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR
7 #1 made two payments totaling at least \$11,856.81 from Deutsche Bank (Mauritius) financial
8 accounts under their control to Netherlands financial accounts under the control of Telecity BV.

9 Acts related to domain names used in transmission of spam messages

10 l. On or about February 14, 2004, defendants JEFFREY A. KILBRIDE and
11 JAMES R. SCHAFFER registered numerous domain names, some of which were used to send
12 the spam messages, to Ganymede Marketing at an address in Mauritius. They paid for these
13 domain names using a credit card in the name of UNINDICTED CO-CONSPIRATOR #1 with
14 a billing address located in the Isle of Man.

15 m. On or about April 30, 2004, defendants JEFFREY A. KILBRIDE and
16 JAMES R. SCHAFFER accessed an online account controlling the domain names registered to
17 Ganymede Marketing used to transmit the spam messages for the purpose of changing the
18 contact telephone number associated with the account.

19 Acts related to electronic mail addresses used in transmission of spam messages

20 n. On multiple occasions between on or about February 12, 2004, and March
21 2, 2004, defendant JAMES R. SCHAFFER, using a false identity, used an Internet chat service
22 named I Seek You ("ICQ") to correspond with another individual about the purchase of a list
23 of electronic mail addresses for the use of defendants JEFFREY A. KILBRIDE and JAMES R.
24 SCHAFFER from the individual.

25 o. On or about February 19, 2004, defendants JEFFREY A. KILBRIDE and
26 JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR #1 sent a wire transfer
27 payment, totaling at least \$8,400.00, for the purchase of a list of electronic mail addresses, from
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1 Deutsche Bank (Mauritius) financial accounts under their control to the individual with whom
2 defendant JAMES R. SCHAFFER had corresponded over ICQ beginning on February 12, 2004.

3 Communications concerning the transmission of spam messages

4 p. On multiple occasions between on or about February 18, 2004, and March
5 4, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER used ICQ to discuss
6 issues related to the transmission of the spam messages with one another.

7 q. On numerous occasions between on or about February 7, 2004, and
8 December 1, 2004, defendant JAMES R. SCHAFFER, using a false identity, used ICQ to
9 discuss issues related to the transmission of the spam messages with employees of pornographic
10 commercial World Wide Web site operators.

11 r. On numerous occasions between on or about March 5, 2004, and March 19,
12 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and UNINDICTED
13 CO-CONSPIRATOR #2 used an Internet service named Internet Relay Chat to discuss issues
14 related to the transmission of the spam messages with one another.

15 Acts concerning the proceeds obtained from the transmission of spam messages

16 s. Deposits into domestic financial accounts: On at least 34 occasions between
17 on or about January 29, 2004, and October 6, 2004, defendants JEFFREY A. KILBRIDE and
18 JAMES R. SCHAFFER deposited checks totaling at least \$39,382.64 from affiliate programs
19 operated by pornographic commercial World Wide Web sites into domestic financial accounts
20 under their control.

21 t. Withdrawals from domestic financial accounts:

22 (i) On at least six occasions between on or about January 1, 2004, and
23 March 15, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER sent checks
24 or transfers totaling at least \$25,000.02 from domestic financial accounts under their control to
25 domestic financial accounts under the control of UNINDICTED CO-CONSPIRATOR #2.
26 These checks constituted payments to UNINDICTED CO-CONSPIRATOR #2 for his work in
27 creating computer programs at the direction of defendants JEFFREY A. KILBRIDE and JAMES
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1 R. SCHAFFER for the purpose of delivering large volumes of spam messages.

2 (ii) On at least five occasions between on or about January 15, 2004, and
3 March 5, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER sent checks
4 totaling at least \$68,988.57 from domestic financial accounts under their control to domestic
5 financial accounts under the control of defendant JEFFREY A. KILBRIDE.

6 (iii) On at least five occasions between on or about January 27, 2004, and
7 June 27, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER sent checks
8 totaling at least \$41,000.00 from domestic financial accounts under their control to domestic
9 financial accounts under the control of defendant JAMES R. SCHAFFER.

10 u. Deposits into financial accounts at Deutsche Bank (Mauritius): On at least
11 74 occasions between on or about February 11, 2004, and December 6, 2004, defendants
12 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR
13 #1 deposited checks and wire transfers totaling at least \$1,217,348.49 from affiliate programs
14 operated by pornographic commercial World Wide Web sites into Deutsche Bank (Mauritius)
15 financial accounts in Port Louis, Mauritius under their control.

16 v. Withdrawals from financial accounts at Deutsche Bank (Mauritius):

17 (i) On or about January 29, 2004, and March 31, 2004, defendants
18 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR
19 #1 sent two wire transfer payments, totaling at least \$355,000.00, from Deutsche Bank
20 (Mauritius) financial accounts under their control to domestic financial accounts under the
21 control of defendant JAMES R. SCHAFFER.

22 (ii) On at least ten occasions between on or about February 2, 2004, and
23 August 23, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
24 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
25 \$178,020.00, from Deutsche Bank (Mauritius) financial accounts and purportedly issued by
26 Ganymede Marketing, to domestic financial accounts under the control of ANDREW D.
27 ELLIFSON. These wire transfers constituted payments to ANDREW D. ELLIFSON for his
28

1 work in assisting in the creation, operation, and management of the computer network used to
2 transmit the spam messages at the direction of defendants JEFFREY A. KILBRIDE and JAMES
3 R. SCHAFFER.

4 (iii) On or about June 24, 2004, defendants JEFFREY A. KILBRIDE and
5 JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR #1 sent a wire transfer of at
6 least \$500,000.00 from Deutsche Bank (Mauritius) financial accounts under their control to
7 domestic financial accounts under the control of Stronghold Capital International for the benefit
8 of defendant JEFFREY A. KILBRIDE.

9 w. Transfers from financial accounts at Deutsche Bank (Mauritius) to financial
10 accounts at Close Bank (Isle of Man): On or about December 1, 2004, and December 6, 2004,
11 in response to a decision by Deutsche Bank (Mauritius) to close their accounts, defendants
12 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR
13 #1 transferred funds totaling at least \$474,699.13 from Deutsche Bank (Mauritius) financial
14 accounts under their control to financial accounts under their control at Close Bank (Isle of Man)
15 Limited in Douglas, Isle of Man.

16 x. Transfers from financial accounts at Deutsche Bank (Mauritius) to financial
17 accounts at Isle of Man Bank: On at least ten occasions between on or about January 19, 2004,
18 and November 8, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
19 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
20 \$497,334.71, from Deutsche Bank (Mauritius) financial accounts under their control to financial
21 accounts under their control at Isle of Man Bank Limited in Douglas, Isle of Man.

22 y. Transfers from financial accounts at Close Bank (Isle of Man) to financial
23 accounts at Isle of Man Bank: On at least three occasions between on or about December 17,
24 2004, and February 16, 2005, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER
25 and UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
26 \$88,874.99, from Close Bank (Isle of Man) financial accounts under their control to financial
27 accounts under their control at Isle of Man Bank.

1 z. Withdrawals from financial accounts at Isle of Man Bank:

2 (i) On at least ten occasions between on or about April 16, 2004, and
3 February 18, 2005, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
4 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
5 \$225,000.00, from Isle of Man Bank financial accounts under their control and purportedly
6 issued by The Compliance Company, to domestic financial accounts under the control of
7 defendant JEFFREY A. KILBRIDE.

8 (ii) On at least eleven occasions between on or about April 16, 2004, and
9 February 18, 2005, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
10 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
11 \$135,000.00, from Isle of Man Bank financial accounts under their control and purportedly
12 issued by The Compliance Company, to domestic financial accounts under the control of
13 defendant JAMES R. SCHAFFER.

14 (iii) On at least eleven occasions between on or about April 16, 2004, and
15 February 18, 2005, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
16 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
17 \$91,666.74, from Isle of Man Bank financial accounts under their control and purportedly issued
18 by The Compliance Company, to domestic financial accounts under the control of
19 UNINDICTED CO-CONSPIRATOR #2. These wire transfers constituted payments to
20 UNINDICTED CO-CONSPIRATOR #2 for his work in programming the computers that
21 transmitted the spam messages, at the direction of defendants JEFFREY A. KILBRIDE and
22 JAMES R. SCHAFFER.

23 (iv) On at least seven occasions between on or about April 16, 2004, and
24 November 16, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
25 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
26 \$30,000.00, from Isle of Man Bank financial accounts under their control and purportedly issued
27 by The Compliance Company, to domestic financial accounts under the control of defendant
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1 JENNIFER R. CLASON. These wire transfers constituted payments to defendant JENNIFER
2 R. CLASON for her work in using the programs created by UNINDICTED CO-
3 CONSPIRATOR #2 to design and transmit large volumes of spam messages, at the direction of
4 defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER.

5 (v) On at least six occasions between on or about April 16, 2004, and
6 October 12, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
7 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
8 \$36,000.00, from Isle of Man Bank financial accounts under their control and purportedly issued
9 by The Compliance Company, to domestic financial accounts under the control of ANDREW
10 D. ELLIFSON. These wire transfers constituted payments to ANDREW D. ELLIFSON for his
11 work in assisting in the creation, operation, and management of the computer network used to
12 transmit the spam messages, at the direction of defendants JEFFREY A. KILBRIDE and JAMES
13 R. SCHAFFER.

14 (vi) On or about November 15, 2004, defendants JEFFREY A.
15 KILBRIDE and JAMES R. SCHAFFER and UNINDICTED CO-CONSPIRATOR #1 sent a
16 wire transfer payment, totaling at least \$40,040.00, from Isle of Man Bank financial accounts
17 under their control and purportedly issued by The Compliance Company, to financial accounts
18 under the control of defendant JAMES R. SCHAFFER at SBM Nedbank International Limited
19 in Port Louis, Mauritius.

20 (vii) On at least three occasions between on or about December 17, 2004,
21 and February 16, 2005, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
22 UNINDICTED CO-CONSPIRATOR #1 sent wire transfer payments, totaling at least
23 \$88,874.99, from Isle of Man Bank financial accounts under their control and purportedly issued
24 by The Compliance Company, to financial accounts under their control at Close Bank (Isle of
25 Man) Limited in Douglas, Isle of Man.

26 All in violation of Title 18, United States Code, Section 371.
27
28

1 **COUNT TWO (Fraud in Connection with Electronic Mail)**

2 1. Between on or about January 30, 2004, and November 10, 2004, in the District of
3 Arizona and elsewhere, the defendants, JENNIFER R. CLASON, JEFFREY A. KILBRIDE, and
4 JAMES R. SCHAFFER, and others known and unknown to the Grand Jury, aiding and abetting
5 each other, did knowingly and materially falsify header information in multiple commercial
6 electronic mail messages, and intentionally initiate the transmission of such messages.

7 2. It is further alleged as follows:

8 a. The volume of electronic mail messages transmitted in furtherance of the
9 offense exceeded 2,500 during any 24 hour period, 25,000 during any 30-day period, or 250,000
10 during any 1-year period;

11 b. The offense caused loss to one or more persons aggregating \$5,000 or more
12 in value during any 1-year period; and

13 c. As a result of the offense any individual committing the offense obtained
14 anything of value aggregating \$5,000.00 or more during any 1-year period.

15 All in violation of Title 18, United States Code, Section 1037(a)(3), punishable under
16 Title 18, United States Code, Section 1037(b)(2), and Title 18, United States Code, Section 2.

17
18 **COUNT THREE (Fraud in Connection with Electronic Mail)**

19 1. Between on or about January 30, 2004, and November 10, 2004, in the District of
20 Arizona and elsewhere, the defendants, JENNIFER R. CLASON, JEFFREY A. KILBRIDE, and
21 JAMES R. SCHAFFER, and others known and unknown to the Grand Jury, aiding and abetting
22 each other, did knowingly register, using information that materially falsified the identity of the
23 actual registrant, for two or more domain names, and intentionally initiate the transmission of
24 multiple commercial electronic mail messages from this combination of domain names.

25 2. It is further alleged as follows:

26 a. The volume of electronic mail messages transmitted in furtherance of the
27 offense exceeded 2,500 during any 24 hour period, 25,000 during any 30-day period, or 250,000
28 during any 1-year period;

1 b. The offense caused loss to one or more persons aggregating \$5,000 or more
2 in value during any 1-year period; and

3 c. As a result of the offense any individual committing the offense obtained
4 anything of value aggregating \$5,000.00 or more during any 1-year period.

5 All in violation of Title 18, United States Code, Section 1037(a)(4), punishable under
6 Title 18, United States Code, Section 1037(b)(2), and Title 18, United States Code, Section 2.

7
8 **COUNT FOUR (Importation or Transportation of Obscene Matters)**

9 On or about July 3, 2004, in the District of Arizona and elsewhere, defendants JEFFREY
10 A. KILBRIDE and JAMES R. SCHAFFER, and others known and unknown to the Grand Jury,
11 aiding and abetting each other, knowingly used an interactive computer service for carriage in
12 interstate commerce of obscene matter, that is, "Fist Action!", a computer graphic image.

13 All in violation of Title 18, United States Code, Section 1462, Title 18, United States
14 Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

15
16 **COUNT FIVE (Importation or Transportation of Obscene Matters)**

17 On or about September 17, 2004, in the District of Arizona and elsewhere, defendants
18 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER, and others known and unknown to the
19 Grand Jury, aiding and abetting each other, knowingly used an interactive computer service for
20 carriage in interstate commerce of obscene matter, that is, "Ass Munchers", a computer graphic
21 image.

22 All in violation of Title 18, United States Code, Section 1462, Title 18, United States
23 Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

24
25 **COUNT SIX (Transportation of Obscene Matters for Sale or Distribution)**

26 On or about July 3, 2004, in the District of Arizona and elsewhere, defendants JEFFREY
27 A. KILBRIDE and JAMES R. SCHAFFER, and others known and unknown to the Grand Jury,
28 aiding and abetting each other, knowingly caused to be transported in interstate commerce, and

1 used a facility of interstate commerce, for the purpose of sale and distribution, obscene matter,
2 that is, "Fist Action!", a computer graphic image.

3 All in violation of Title 18, United States Code, Section 1465, Title 18, United States
4 Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

5
6 **COUNT SEVEN (Transportation of Obscene Matters for Sale or Distribution)**

7 On or about September 17, 2004, in the District of Arizona and elsewhere, defendants
8 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER, and others known and unknown to the
9 Grand Jury, aiding and abetting each other, knowingly caused to be transported in interstate
10 commerce, and used a facility of interstate commerce, for the purpose of sale and distribution,
11 obscene matter, that is, "Ass Munchers", a computer graphic image.

12 All in violation of Title 18, United States Code, Section 1465, Title 18, United States
13 Code, Section 2, and *Pinkerton v. United States*, 328 U.S. 640 (1946).

14
15 **COUNT EIGHT (Laundering of Monetary Instruments)**

16 1. The Grand Jury re-alleges and incorporates the allegations of Counts One through
17 Seven of this Indictment as though fully set forth herein.

18 2. Between on or about January 1, 2004, and January 24, 2005, in the District of
19 Arizona and elsewhere, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER did
20 knowingly, intentionally, and unlawfully conspire together with one another, and others known
21 and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

22 a. To knowingly and willfully conduct and attempt to conduct financial
23 transactions involving property representing the proceeds of specified unlawful activities, that
24 is:

25 (i) the use of an interactive computer service for carriage in interstate
26 commerce of obscene matter, as set forth in Counts Four through Five of this Indictment,
27 contrary to the provisions of 18 U.S.C. § 1462; and

1 (ii) to cause to be transported in interstate commerce, and use a facility
2 of interstate commerce, for the purpose of sale and distribution, obscene matter, as set forth in
3 Counts Six and Seven of this Indictment, contrary to the provisions of 18 U.S.C. § 1465;

4 all with the intent to promote the carrying on of the specified unlawful activities, in
5 violation of 18 U.S.C. § 1956(a)(1)(A)(i);

6 b. To knowingly and willfully conduct and attempt to conduct financial
7 transactions involving property representing the proceeds of the specified unlawful activities set
8 forth in subparagraph 2(a) of this Count, with the knowledge that the transactions were designed
9 in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or
10 the control of the proceeds of the specified unlawful activities, in violation of 18 U.S.C. §
11 1956(a)(1)(A)(ii);

12 c. To knowingly and willfully transport, transmit, and transfer, and attempt
13 to transport, transmit, and transfer, a monetary instrument or funds from a place in the United
14 States to or through a place outside the United States or to a place in the United States from or
15 through a place outside the United States, with the intent to promote the carrying on of the
16 specified unlawful activities set forth in subparagraph 2(a) of this Count, in violation of 18
17 U.S.C. § 1956(a)(2)(A); and

18 d. To knowingly and willfully transport, transmit, and transfer, and attempt
19 to transport, transmit, and transfer, a monetary instrument or funds from a place in the United
20 States to or through a place outside the United States or to a place in the United States from or
21 through a place outside the United States, knowing that the monetary instrument or funds
22 involved in the transportation, transmission, and transfer represented the proceeds of some form
23 of unlawful activity, that is, to knowingly falsify header information in multiple commercial
24 electronic mail messages, and intentionally initiate the transmission of such messages, in
25 violation of Title 18, United States Code, Section 1037(a)(3), and to knowingly register, using
26 information that materially falsified the identity of the actual registrant, for two or more domain
27 names, and intentionally initiate the transmission of multiple commercial electronic mail
28 messages from this combination of domain names, in violation of Title 18, United States Code,

1 Section 1037(a)(4), as set forth in Counts One through Three of this Indictment, and knowing
2 that such transportation, transmission, or transfer is designed in whole or in part to conceal or
3 disguise the nature, the location, the source, the ownership, or the control of the proceeds of the
4 specified unlawful activities set forth in subparagraph 2(a) of this Count, in violation of 18
5 U.S.C. § 1956(a)(2)(B)(ii).

6 **Manner and Means of the Conspiracy**

7 3. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
8 JAMES R. SCHAFFER embedded the obscene images set forth in Counts Four through Seven
9 of this Indictment in one or more of the spam messages set forth in Counts One through Three
10 of this Indictment. These obscene images advertised pornographic commercial World Wide
11 Web sites, as set forth in Count One of this Indictment.

12 4. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
13 JAMES R. SCHAFFER selected these obscene images for placement in the spam messages.

14 5. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
15 JAMES R. SCHAFFER earned commissions from affiliate programs for directing Internet traffic
16 to these pornographic commercial World Wide Web sites using the spam messages containing
17 the obscene images, as set forth in Count One of this Indictment.

18 6. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
19 JAMES R. SCHAFFER, and others known and unknown to the Grand Jury, caused the payments
20 received from these pornographic commercial World Wide Web sites related to the spam
21 messages containing the obscene images to be deposited into both domestic financial accounts
22 and overseas financial accounts they controlled, in order to conceal and disguise the nature,
23 location, source, ownership, and control of the proceeds, as set forth in Count One of this
24 Indictment. These proceeds would then be distributed via wire transfer to domestic financial
25 accounts under their control, and the control of JENNIFER R. CLASON and others known and
26 unknown to the Grand Jury, as set forth in Count One of this Indictment.

27 7. It was further part of the conspiracy that defendants JEFFREY A. KILBRIDE and
28 JAMES R. SCHAFFER, and others known and unknown to the Grand Jury, used an interactive

1 computer service to cause the obscene images to be transported in interstate commerce.

2 **Overt Acts**

3 8. In furtherance of the conspiracy and to achieve its objects, one or more of the
4 members of the conspiracy committed the following additional overt acts, among others, in the
5 District of Arizona and elsewhere, on or about the following dates:

6 a. On at least nine occasions between on or about August 12, 2004, and
7 December 26, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
8 UNINDICTED CO-CONSPIRATOR #1 deposited checks and wire transfers totaling at least
9 \$52,173.29 from Beano Publishing LLC into Deutsche Bank (Mauritius) financial accounts
10 under their control. Beano Publishing LLC markets a World Wide Web site advertised by the
11 image set forth in Counts Five and Seven of this Indictment.

12 b. On at least three occasions between on or about September 3, 2004, and
13 October 19, 2004, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER and
14 UNINDICTED CO-CONSPIRATOR #1 deposited checks and wire transfers totaling at least
15 \$19,705.00 from Uncaged Marketing, Inc. into Deutsche Bank (Mauritius) financial accounts
16 under their control. Uncaged Marketing, Inc. markets World Wide Web sites advertised by the
17 images set forth in Counts Four and Six of this Indictment.

18 All in violation of Title 18, United States Code, Section 1956(h).

19
20 **COUNT NINE (Record Keeping Requirements)**

21 On or about March 22, 2005, in the District of Arizona and elsewhere, defendant JAMES
22 R. SCHAFFER, and others known and unknown to the Grand Jury, aiding and abetting each
23 other, did knowingly fail to cause to be affixed to the World Wide Web sites "Boobs.com",
24 "Cumshots.com", and "Facesat", which contained visual depictions made after November 1,
25 1990 of actual sexually explicit conduct and were produced with materials which had been
26 mailed and shipped in interstate commerce, a statement describing where records pertaining to
27 all performers depicted on these sites may be located.

28 All in violation of Title 18, United States Code, Sections 2257(f)(3) and (4) and Title 18,

1 United States Code, Section 2.

2
3 **FORFEITURE ALLEGATIONS**

4 1. The Grand Jury re-alleges and incorporates the allegations of Counts One through
5 Eight of this Indictment as though fully set forth herein, for the purpose of alleging forfeiture.

6 2. If convicted of the offenses set forth in Counts Two and Three of this Indictment,
7 the defendants, JENNIFER R. CLASON, JEFFREY A. KILBRIDE, and JAMES R.
8 SCHAFFER, shall forfeit any and all property, real or personal, constituting or traceable to gross
9 proceeds obtained from the commission of said offense, and any equipment, software, or other
10 technology used or intended to be used to commit or facilitate the commission of said offense.

11 Such property includes, but is not limited to, the following specific items:

12 a. A sum of money equal to \$1,256,731.13 in United States currency,
13 representing the amount of proceeds obtained as a result of the offense, for which the defendants
14 are jointly and severally liable.

15 b. All United States currency funds or other monetary instruments credited to
16 account number XXXXXX3951, up to a total of \$30,000.00, in the name of JENNIFER
17 CLASON, located at Bank of America, N.A., 1801 East Southern Avenue, Tempe, Arizona
18 85282.

19 c. All United States currency funds or other monetary instruments credited to
20 account number XXXXXX7926, up to a total of \$61,190.23, in the name of JEFFREY
21 KILBRIDE, located at Wells Fargo Bank, N.A., 480 Washington Boulevard, Marina Del Ray,
22 California 90292.

23 d. All United States currency funds or other monetary instruments credited to
24 account number XXXX-6242, up to a total of \$500,000, in the name of THE LBFM
25 VENTURES TRUST, located at Stronghold Funding, Inc., 102 Culpeper Street, Warrenton,
26 Virginia 20186.

27 e. All United States currency funds or other monetary instruments credited to
28 account number XXXXXX3258, up to a total of \$115,000, in the name of MMM HOLDINGS

1 LLC, located at Wells Fargo Bank, N.A., 8675 North Scottsdale Road, Scottsdale, Arizona
2 85253.

3 3. If convicted of the offenses set forth in Counts Four through Seven of this
4 Indictment, defendants JEFFREY A. KILBRIDE and JAMES R. SCHAFFER shall forfeit all
5 obscene material produced, transported, mailed, shipped and received, and all property, real or
6 personal, constituting or traceable to gross profits or other proceeds obtained from such offenses,
7 and all property, real or personal, used or intended to be used to commit or to promote the
8 commission of said offenses. Such property includes, but is not limited to, the following specific
9 item:

10 a. A sum of money equal to \$71,878.29 in United States currency,
11 representing the amount of proceeds obtained as a result of the offenses, for which the
12 defendants are jointly and severally liable.

13 4. If convicted of the offense set forth in Count Eight of this Indictment, defendants
14 JEFFREY A. KILBRIDE and JAMES R. SCHAFFER shall forfeit the following property:

15 a. All right, title, and interest in any and all property involved in each offense
16 in violation of 18 U.S.C. § 1956, or conspiracy to commit such offense, for which the defendant
17 is convicted, and all property traceable to such property, including all money or other property
18 that was the subject of each transaction, transportation, transmission or transfer in violation of
19 Section 1956; all commissions, fees and other property constituting proceeds obtained as a result
20 of those violations; and all property used in any manner or part to commit or to facilitate the
21 commission of those violations. Such property includes, but is not limited to, the following
22 specific items:

23 (i) All United States currency funds or other monetary instruments
24 credited to account number XXXX-XXXX7487 in the name of THE COMPLIANCE
25 COMPANY, located at Isle of Man Bank Limited, 2 Athol Street, Douglas, Isle of Man.

26 (ii) All United States currency funds or other monetary instruments
27 credited to account number XXXX-XXXX2293 in the name of THE COMPLIANCE
28 COMPANY, located at Isle of Man Bank Limited, 2 Athol Street, Douglas, Isle of Man.

1 (iii) All United States currency funds or other monetary instruments
2 credited to account number XXXXXX5503 in the name of DATA DESIGN GROUP, INC.,
3 located at Wells Fargo Bank, N.A., 480 Washington Boulevard, Marina Del Ray, California
4 90292.

5 (iv) All United States currency funds or other monetary instruments
6 credited to account number XXXX4679 in the name of FAT DOG VENTURES LTD., located
7 at SBM Nedbank International Limited, Level 6, State Bank Tower, 1 Queen Elizabeth II
8 Avenue, Port Louis, Mauritius.

9 (v) All United States currency funds or other monetary instruments
10 credited to account number XXXX1511 in the name of HIGHVALE HOLDINGS LIMITED,
11 located at Close Bank (Isle of Man) Limited, Saint Georges Court, Upper Church Street,
12 Douglas, Isle of Man.

13 (vi) All United States currency funds or other monetary instruments
14 credited to account number XXXXXX2749 in the name of MARIA SHAFFER [sic], located at
15 Wells Fargo Bank, N.A., 8675 North Scottsdale Road, Scottsdale, Arizona 85253.

16 b. A sum of money equal to the total amount of money involved in each
17 offense, or conspiracy to commit such offense, for which the defendant is convicted. If more
18 than one defendant is convicted of an offense, the defendants so convicted are jointly and
19 severally liable for the amount involved in such offense.

20 5. Pursuant to 18 U.S.C. § 1467(n), and 21 U.S.C. § 853(p), as incorporated by 18
21 U.S.C. § 982(b), each defendant shall forfeit substitute property, up to the value of the amount
22 described in paragraphs Two through Four of these Forfeiture Allegations, if, by any act or
23 omission of the defendant, the property described in paragraphs Two through Four, or any
24 portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold
25 to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been
26 substantially diminished in value; or has been commingled with other property which cannot be
27 divided without difficulty.

28 All in accordance with Title 18, United States Code, Section 1037(c), Title 18, United

1 States Code, Section 1467, Title 18, United States Code, Section 982(a)(1), and Rule 32.2(a),
2 Federal Rules of Criminal Procedure.

3

4 A TRUE BILL.

5

/S/

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FOREPERSON

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PAUL K. CHARLTON
United States Attorney
District of Arizona

8/25/05

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JOHN R. LOPEZ, IV
Assistant United States Attorney

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WILLIAM A. HALL, JR.
Trial Attorney
Child Exploitation and Obscenity Section
Criminal Division
United States Department of Justice

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