

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

UNDER SEAL

v.

CRIMINAL COMPLAINT

JOHN P. TOMKINS

CASE NUMBER:

I, Kevin S. Freeman, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about January 26, 2007, in Cook County, in the Northern District of Illinois, Eastern Division, defendant,

(Track Statutory Language of Offense)

with intent to extort from a person a thing of value, knowingly caused to be delivered by the Postal Service according to the direction thereon, a communication containing a threat to injure the person of the addressee and of another, namely, a parcel containing a pipe bomb and threatening death if certain actions were not taken in the securities markets;

in violation of Title 18 United States Code, Section 876(b); and on or about January 26, 2007, in Cook county, defendant

possessed a firearm, namely, a destructive device as defined at Title 26, United States Code, Section 5845(f), which is not registered to him in the National Firearms Registration and Transfer Act;

in violation of Title 26 United States Code, Section 5861(d), and Title 18, United States Code, Section 2.

I further state that I am a U.S. Postal Inspector, and that this Complaint is based on the following facts:

See Attached Affidavit.

Continued on the attached sheet and made a part hereof: Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

April 24, 2007
Date

at Chicago, Illinois
City and State

SIDNEY I. SCHENKIER, U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT

I, Kevin S. Freeman, being duly sworn depose and state as follows:

1. I am employed as a Postal Inspector with the United States Postal Inspection Service ("USPIS") and have been so employed since January 2006. My duties include investigating criminal violations of laws concerning the U.S. mail. I have received specialized training in the enforcement of federal laws, and I have been involved in multiple investigations involving postal crimes.

2. This complaint arises from an investigation conducted by the USPIS, Federal Bureau of Investigation (FBI), and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), into the mailing of two improvised explosive devices in or about January 2007, as well as an earlier series of threatening mailed communications, all with an apparent purpose of manipulating public securities markets.

3. The information contained in this affidavit is drawn from my own personal knowledge, information provided by other law enforcement officials and governmental agencies, my own experience and training, the experience of other agents, the review of documents, and interviews with witnesses. Where statements of others are set forth in this affidavit, they are set forth in substance and are not verbatim.

4. This affidavit is submitted for the purpose of establishing probable cause in support of a criminal complaint charging John P. Tomkins (d.o.b. 1/1/65), currently residing in Dubuque, Iowa, with violations of 18 U.S.C. § 876(b) (mailing threatening communications with intent to extort) and 26 U.S.C. § 5861(d) (possession of an unregistered firearm, defined at 26 U.S.C. §

5845(f) to include a destructive device). Because this affidavit is submitted for this limited purpose, it contains only a summary of certain relevant facts and does not include every fact known to me concerning the entities, individuals and events described in this affidavit.

Mailing of Two Destructive Devices

5. On or about January 26, 2007, two parcels were deposited at the Rolling Meadows Post Office in Rolling Meadows, Illinois. One parcel was addressed to an individual at Janus Small Cap (“Janus”) at an address in Denver, Colorado. The parcel was delivered to Janus and forwarded by Janus to an address in Chicago. A second parcel was addressed to an individual at American Century at an address in Kansas City, Missouri. Upon delivery, authorities were notified and both parcels were recovered by the USPS. Both Janus and American Century are investment firms.

6. Each parcel contained what appeared to be a booby trapped improvised explosive weapon, commonly known as a pipe bomb. The devices were submitted for analysis by an ATF explosives enforcement officer. The device was determined to be technically functional but the firing circuit was not fully connected. Had a partially disconnected wire been connected to the device’s battery, the device would have instantly exploded. Ignition of the explosive powder would have generated flame and hot, rapidly expanding gasses causing the device to explode, sending fragments and metal shot in all directions. The device could have caused property damage and was capable of causing serious injury or death to persons near the explosion. According to the ATF analysis, the devices are consistent with those of an explosive bomb, which are destructive devices as that term is defined in 26 U.S.C. § 5845(f) and an explosive as defined in 18 U.S.C., Chapter 40.

7. Each parcel also contained a letter stating the following:

BANG!! YOU'RE DEAD

Stop and think about that for a second. Think about the effect it would have on your family. The only reason you are still alive is because I did not attach one wire. If you do not believe me then go ahead and touch that red wire to the top of the battery pack. There is enough gunpowder and steel shot in that tube to kill anyone in a ten foot radius when it goes off.

Now imagine how you will feel when I mail that same package to one of your family members or neighbors or co-workers and yes I will be sure to connect all the little wires.

Now if you decide you want to keep the people around you safe, you will do as I say.

On February 7, 8, & 9 there is going to be a rally in the stock price in a company called Navarre (NAVR).

On the 7th the closing price will be above 4.90

On the 8th the closing price will be above 5.75

And on the 9th the closing price will be above 6.50

This is not a hoax.

There is nothing the police or anybody else can do so do not contact them. Everything that it takes to make these little care packages can be purchase at any Home Depot& Wal-Mart so there is nothing to be traced. There are no finger prints or DNA and nothing to match it to, so be smart and do what I am asking.

Although you are not alone, all of you will be punished if you fail.

Threatening Letters Referencing 3Com Corporation

8. Beginning in or about May 2005, several threatening communications were sent to investment companies and persons associated with them. Letters were postmarked respectively on or about May 23, 2005 in Chicago and on or about September 7, 2005 in Palatine, Illinois, and two were postmarked on or about October 25, 2005 in Milwaukee, Wisconsin. The letters were typewritten letters signed "The BISHOP." For example, the May 23, 2005 letter to an investment company executive stated, among other things, that "You will help, after all it is so easy to kill somebody it is almost scary. Just think it could be as simple as mailing a package just like The Unibomber used to do, or maybe like Salvo did in the D.C. sniper case just a small hole in the trunk of the car and BANG!!" The letter also warned that "possibly the worst thing that can happen to

someone is to have a child or grandchild go missing. Kids are snatched all the time[.]” The letter continued:

Now back to the subject at hand, I need for you to start buying stock in 3Com Corporation (COMS). You have until October 31 to get the price to 6.66. If you can accomplish it sooner all the better that way you will not have to worry about hearing from us again but it MUST be done by then NO EXCUSES And don't even think about going to the authorities because as I said there are so many choices for me to be able to reach out and touch your life that it is not worth the risk

The September 7, 2005 and October 25, 2005 letters also contained threatening language and demands that the price of 3Com Corporation stock be raised to 6.66 by October 31. COMS is the ticker symbol for 3Com Corporation.

9. In addition, on or about October 25, 2005, another mailing was postmarked in Milwaukee, Wisconsin, to an investment company executive. The mailing listed Individual A as the return addressee. The mailing contained a photograph of Individual A's residence. The following words were printed on the photograph: "DO YOU KNOW WHO LIVES HERE? I DO" and "REMBER COMS 6.66 10/31/2005". The mailing was misaddressed to the investment company executive. According to Individual A, who subsequently provided the letter to authorities, the letter was delivered to Individual A as the return addressee. At the time of the mailing, Individual A was an administrative assistant at the same investment company that employed the executive to whom the letter was addressed.

Threatening Letters Referencing Navarre Corporation

10. On or about March 13, 2006, approximately four letters were postmarked in Des Moines, Iowa. One letter was addressed to a senior officer of Navarre Corporation, a publicly traded technology and entertainment company that trades under the ticker symbol NAVR. Among other statements, the letter complained of the officer's compensation and the stock price's decline. It

stated: “The way I see it you owe it to us to make things right or I will make your life as miserable as mine. The one thing that you need to remember is that no one is out of reach.” The letter also stated:

You will help, after all when you stop and think about how easy to kill somebody it is almost scary. Just think it could be as simple as mailing a package just like The Unibomber use to do it is so easy it can be done from anywhere and if it wasn't for the fact that he was turned in by his own brother he may have never been caught and don't have to worry about that happening, or maybe it will be like Salvo did in the D.C. sniper case just a small hole in the trunk of the car with high powered riffle and BANG!!

The letter continued:

By now you are wondering what I am expecting from you, well it is rather simple actually, within the next 60 days you are going to find a way to reverse the downward spiral of the stock price and get it over \$6.66 or the devil will be paying you a visit. I do not care if you have to buy all the shares yourself. It would do wonders for the stock price if there was to be a rumor that you were thinking of taking the company private it sure would fuck with all those asshole short sellers or if you have to you could suck off a couple of mutual fund mangers in order to get them to buy this stock., I really don't care but whatever you do the price had better reverse in a hurry.

The letter eventually concluded with the word “TicToc” and was signed by “The BISHOP”.

11. The approximately three other March 13, 2006 letters were addressed to investment company executives, contained similar threatening language, and demanded that the Navarre Corporation (NAVR) stock price move to 6.66 by May 1. Not less than two of the letters contained references to the “Unibomber,” the “D.C. sniper case,” the kidnaping of children, and concluded with “TIC TOC”.

12. Approximately four pertinent letters were postmarked in Palatine, Illinois, on or about June 9, 2006. Three such letters were addressed to investment management executives and stated:

TIMES UP

LET'S MAKE THIS INTERSTING SHALL WE. I HAVE AQUIRED 3 TARGETS. ONE IS A RELATIVE,ONE IS A CO-WORKER'S RELATIVE AND ONE IS A FRIEND OR NIEGHBOR. IF FROM JUNE 13 THROUGH JUNE 17 NAVR'S CLOSING STOCK PRICE IS GREEN ON ONE OF THE FOUR DAYS I WILL SHIP ALL THREE PACKAGES. IF IT ENDS GREEN ON TWO OF THE DAYS I WILL SHIP TWO PACKAGES,IF IT ENDS GREEN ON THREE OF THE DAYS I WILL SHIP JUST ONE. IF ALL FOUR DAYS END GREEN THEN YOU WILL HAVE BOUGHT YOURSELF ANOTHER MONTH.

IT IS BETTER TO REIGN IN HELL, THAN TO SERVE IN HEAVEN

THE BISHOP

A fourth letter, sent to a portfolio manager, also contained threats, referred to Navarre Corporation, and warned, "You have until July 4 to get the price \$6.66."

13. Approximately three pertinent letters were postmarked on or about July 17, 2006 in Orlando, Florida. For example, one such letter addressed to an investment company executive stated in pertinent part:

When you consider all the family, friends, neighbors, co-workers in your life and to think that you have the power to prevent them from harm it makes your choice pretty easy. You will help, after all it is so easy to hurt somebody it is almost scary. Just think it could be as simple as mailing a package just like The Unibomber use to do simple mail out a package and when the unsuspecting recipient opens it they don't even know what hit them, and all the information is available with a simple web search for bomb making or one of my favorites is the anarchists handbook complete with step by step instructions, thanks to the internet it is now so easy to find out about people.

The letter also stated:

Or maybe it will be like Malvo did in the D.C. sniper case just a small hole in the trunk of the car where the turn signal light is supposed to be, with a high powered rifle and BANG!! Maybe it will be at an intersection when they stop for the traffic light you never know who maybe in the car right beside you or possibly the worst thing that can happen to someone is to have a child or grandchild get snatched. Kids are snatched all the time and the poor parents are tormented for years not knowing what happened to their angel do you really want to be responsible for that. Now back to the subject at hand, I need for you to start buying stock in Navarre Corporation (NAVR). You see they made a couple of questionable decisions a while

back but they have corrected much of that and we have got the stock going the right direction again but we need some institutional help to get it over the hump so we can drive out the blood sucking short sellers that moved in and destroyed this stock. Now it is our turn to stick it to them assholes. You see they dug themselves a hole with just 30 million shares outstanding and over 12 million shares shorted they deserve to be squeezed like the parasite of the stock market that they are. You have until August 1 to get the price to \$6.66. You may think that it is not possible but if we all work together it will be done. If you can accomplish it sooner all the better that way you will not have to worry about hearing from me again but it **MUST** be done by then **NO EXCUSES**. And don't even think about going to the authorities because as I said there are so many choices for me to be able to reach out and touch your life that it is not worth the risk. Remember it is better to reign in Hell, that to serve in Heaven. TIC TOC.

John P. Tomkins

14. Agents obtained original handwriting samples for John P. Tomkins, including a bank signature card, mortgage documents, and employment documents. Those samples were submitted for analysis and comparison with handwriting on the envelopes from certain of the October 25, 2005, March 13, 2006, June 9, 2006, and January 26, 2007 mailings. According to the preliminary examination report prepared by a senior forensic document examiner, Tomkins was identified as the writer of the questioned writing.

15. The photograph of Individual A's residence enclosed in a mailing postmarked on or about October 25, 2005 depicted the window of a vehicle from which the photograph was taken. The photograph was shown to several vehicle dealers and vehicle parts companies to identify possible makes and models of vehicles corresponding to the window frame and interior visible in the photograph. According to the officers who conducted this analysis, a four-door Chevrolet Lumina was the closest identified match to the vehicle. A photograph of a 1993 four-door Chevrolet Lumina was obtained, compared with the photograph, and determined to be an approximate match.

16. On or about April 11, 2007, agents conducted surveillance of Tomkins in Dubuque, Iowa. Agents observed Tomkins drive a red 1993 Chevrolet Lumina sedan four door model. According to vehicle registration data, Tomkins is the registered owner. Agents photographed the interior driver's door of Tomkins vehicle. The photographs of the door show the same reddish cloth material having a vertical linear pattern, and the same marks at the top interior door near the door post area, as depicted in the photograph received by Individual A.

17. According to records obtained from American Trust & Savings, an ATM withdrawal was made from an account of John and Julie Tomkins at an ATM located at 3231 Adventureland Drive, Altoona, Iowa, on March 13, 2006. According to the local postmaster, a truck stop located at 3232 Adventureland Drive contains a mail depository from which mail is processed in Des Moines, Iowa. As noted above, approximately four pertinent letters were postmarked in Des Moines, Iowa, on or about March 13, 2006.

18. According to records from American Trust & Savings, a purchase was made using a debit card for an account of John and Julie Tomkins on or about July 24, 2006, at a Wal-Mart store located in Kissimmee, Florida. As noted above, approximately three pertinent mailings were postmarked on or about July 17, 2006 in Orlando, Florida. According to the local postmaster, mail deposited in Kissimmee would be postmarked in Orlando, Florida.

19. Agents obtained Large Options Position Reports (LOPR) from the U.S. Securities and Exchange Commission (SEC) showing individuals with positions of at least 200 option contracts. Reports dated September 25, 2005 and October 25, 2005 were obtained for 3Com Corporation (COMS). Reports dated June 15, 2006 and January 30, 2007 were obtained for Navarre Corporation (NAVR). The only identified individual (i.e., non-institutional) investor account

appearing on each of the four reports was in the name of John and Julie Tomkins, 2067 Grant St., Dubuque, Iowa.

20. Ameritrade records revealed relevant trading activity for an account of John Tomkins and Julie Tomkins Jt Ten, 2067 Grant St., Dubuque, Iowa.¹ In summary, those data indicate that Tomkins held financial interests in COMS and NAVR that would have increased in value had the securities moved in the directions demanded in the letters.

a. For example, mailings beginning on or about May 23, 2005 demanded that the price of COMS be raised to \$6.66 by October 31, 2005. The financial records indicate that Tomkins began acquiring a financial interest in COMS shortly before the first known threatening mailings and that Tomkins then liquidated his position after the October 31, 2005 demand date. Specifically, between on or about January 28, 2005 and February 18, 2005, Tomkins purchased 1,000 contracts of COMS January-07 \$7.5 Call Options. The value of these contracts increase as the stock price increases. (Tomkins held no known position in COMS options immediately prior to these purchases.) Tomkins then increased his long position in COMS Jan-07 \$7.5 Call Options to approximately 1,688 contracts by April 29, 2005. As of May 23, 2005 (the date of the first known mailing), the market value of Tomkins' position was approximately \$33,760. On or about May 27, 2005, Tomkins purchased 1,030 COMS common stock shares. (Tomkins held no COMS common stock shares immediately prior to that purchase.) The market value of Tomkins' total

¹ Financial valuations and cost data set forth in this affidavit are based upon preliminary analysis by a U.S. Postal Inspector and/or a market surveillance specialist of the SEC and should be considered approximate and preliminary. In some cases, the estimates are based upon closing price data provided by the Chicago Board of Options Exchange and Bloomberg LP. In addition, certain positions were held in margin accounts. In describing the value of stock and options positions, no adjustment has been made to reflect debt obligations incurred.

COMS position was approximately \$46,266 as of October 31, 2005. On or about November 14, 2005 (after the deadline passed), Tomkins began decreasing his position from 1,692 contracts to 200 contracts on or about January 19, 2006. On January 20, 2006, Tomkins sold all 1,030 shares of COMS common stock.

b. Letters postmarked on or about March 13, 2006, demanded that the price of NAVR be increased to \$6.66 by May 1, as described above. Shortly before those mailings, Tomkins acquired NAVR stock and call options, the value of which would increase as the stock price increased. Specifically, between on or about January 25, 2006 and March 13, 2006, Tomkins purchased 14,500 shares of NAVR common stock and 140 NAVR June \$5 Call Options, and sold 70 NAVR March \$5 Call Options, at a net cost of approximately \$78,695. The market value of these NAVR holdings was approximately \$53,175 on or about March 13, 2006, the date of the mailings. (Tomkins held no position in NAVR options or common stock immediately prior to on or about January 25, 2006.) By May 1, 2006, Tomkins increased his holdings to approximately 16,000 shares of NAVR and 200 NAVR June \$5 Call Options. The market value of Tomkins' NAVR holdings was approximately \$63,760 on or about May 1, 2006.

c. Letters postmarked on or about June 9, 2006 demanded that the NAVR stock price be increased each day from June 13 through June 17, as described above. Tomkins held a position in NAVR stock and options that would have increased in value had the stock price moved as directed. On or about June 13, the market value of Tomkin's NAVR stock and call options was approximately \$73,000. This position included 110 NAVR June \$5 Call Options with a June 17 expiration date.

d. Letters postmarked on or about July 17, 2006, demanded that the NAVR stock price be increased to \$6.66 by August 1, as described above. Tomkins held a position in NAVR stock and options that would have increased in value had the stock price moved as directed. On August 1, 2006, Tomkins held 14,000 shares NAVR stock, 200 NAVR September \$5 Call Options and 30 NAVR September \$2.5 Call Options. The market value of these holdings on or about August 1 was approximately \$56,890.

e. The parcels containing destructive devices mailed on or about January 26, 2007 demanded that a rally in the NAVR stock price occur on February 7, 8, and 9, as described above. By on or about January 26, 2007, Tomkins had sold all of his NAVR common stock shares. However, on or about February 7, 2007, Tomkins held various NAVR call options valued at approximately \$9710 on February 7, 2007. As such, Tomkins held a financial position that would have benefitted from an increase in the stock price during the period demanded in the mailings.

21. Agents also obtained records from Scottrade, which revealed relevant trading activity for an account of John P. Tomkins and Julie A. Tomkins Jt Ten, 2067 Grant St., Dubuque, Iowa. Mailings beginning on or about May 23, 2005 demanded that the stock price of COMS be raised to \$6.66 by October 31, 2005, as described above. The Scottrade records indicate that Tomkins acquired a long position in COMS stock after the May 23 mailing. He also liquidated the position after the October 31 deadline passed. Specifically, on or about June 2, 2005, Tomkins purchased 1,810 COMS common stock shares and sold 10 shares the same day. On October 31, 2005, the COMS position was worth approximately \$6,930. On or about November 18, 2005 (that is, after the October 31 deadline had passed) Tomkins sold his 1,800 Scottrade COMS shares for approximately \$6,905.

22. Sales records from a Menards home improvement store in Dubuque, Iowa, shows that the following items were purchased with a particular credit card. According to Citibank records, the account holder for the credit card is John P. Tomkins.

a. On December 8, 2006, eight 3/4-inch PVC caps and five feet of 3/4-inch PVC pipe were purchased.

b. On December 23, 2006, two 1 1/2" PVC caps, one 3/4" PVC cap, and one 1/2" PVC cap were purchased.

23. On or about April 19, 2007, agents purchased exemplars of the 3/4-inch PVC end caps and the 3/4-inch PVC pipe. A forensic examiner compared these exemplars with the actual destructive device components. Based on a preliminary analysis, the end caps were found to be same NIBCO product as used in the two destructive devices. The five foot length of 3/4-inch PVC pipe purchased as an exemplar was found to be consistent with that used in the devices. In the experience of the examiner, the minute differences found in the pipe's dimensions were not deemed significant and could be found within a single length of pipe.

24. As a part of the investigation, distances from the address associated with Tomkins to the areas of the postmarks of the threatening communications and explosive devices were analyzed. Plotting several Post Office locations from the Tomkins address illustrated it to be a central location from which the following postmarks could be obtained:

a. The shortest approximate travel distance from Tomkin's residence to acquire a postmark from Milwaukee, Wisconsin, the U.S. Post Office in Johnson Creek, Wisconsin, is approximately 140 miles.

b. The shortest approximate travel distance from Tomkins' residence to acquire a postmark from Palatine, Illinois, the U.S. Post Office in Harvard, Illinois, is approximately 140 miles.

c. The shortest approximate travel distance from Tomkin's residence to Rolling Meadows, Illinois, the site of the mailing of the explosive devices, is approximately 160 miles.

d. The shortest approximate distance from Tomkin's residence to acquire a Des Moines, Iowa postmark, the U.S. Post Office located in Grinnell, Iowa, is approximately 160 miles.

25. A search of the National Firearms Registry and Transfer Record conducted on or about April 19, 2007 revealed that no firearms or destructive devices were registered to John P. Tomkins (d.o.b. 1/1/1965).

Conclusion

26. For the foregoing reasons, I respectfully submit there is probable cause to believe that on or about January 26, 2007, John P. Tomkins did violate 18 U.S.C. § 876(b) (mailing a threatening communication) and 26 U.S.C. § 5861(d) (possession of an unregistered destructive device).

FURTHER AFFIANT SAYETH NOT.

KEVIN S. FREEMAN
U.S. Postal Inspector

Subscribed and sworn
before me this 24th day of April 2007

Hon. Sidney I. Schenkier
United States Magistrate Judge