

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

FILED
Clark of the Superior Court

DEC 10 2013

By: C. Flores, Deputy

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

DECLARATION IN SUPPORT OF
ARREST WARRANT AND
WARRANT

vs.

Kevin Christopher BOLLAERT

SC No. _____
DA No. _____

Defendant.

I, BRIAN CARDWELL, declare:

That I am a Special Agent employed by the California Department of Justice, and that I allege and state the following:

In July 2013, the California Attorney General's (AG) Office initiated an investigation of the revenge pornography¹ website "ugotposted.com" (UGOTPOSTED).² When a user (poster) of UGOTPOSTED posts images to the site, the site requires the poster to add a link identifying the posted individual's (victim's) Facebook page along with the victim's full name, location, and age. UGOTPOSTED also allows for other types of social media links to be added, such as Twitter and "Tumblr." UGOTPOSTED allows Internet users to access the website, post comments about the victims, which most are degrading, and view the victims posted personal identifiable information (PII). The PII is then used to annoy, harass, and or cyber stalk the victims of the post via their Facebook page, email account or other identifying accounts.

Your affiant, a California Peace Officer per California Penal Code Section 830.1, asserts that there is probable cause to believe that Kevin BOLLAERT, the owner and operator of UGOTPOSTED was aiding and abetting felonies by facilitating the publishing of nude photographs, in conjunction with the victim's name, Facebook page or other personal identifying information (PII,) without the victim's permission, which is a violation of California Penal Code (PC) section 530.5 -Identity Theft. Here, the unlawful purpose includes PC 653m (b) - annoy or harass.

¹ Revenge porn websites host sexually explicit photos of individuals, (mostly young women), without their permission, accompanied by links to their private information and social media pages. This data is typically posted by angry boyfriends, ex-spouse, new girlfriends, or from stolen digital media, and allows third parties viewing the pages to directly contact the posted individuals. Most revenge porn sites draw moderate revenue streams from advertising; others derive revenue by offering the services of a professional specialist that remove the posted images for a fee, others build traffic to increase the value of the site for later sale.

² UGOTPOSTED.COM may be accessed by using the domain name yougotposted.com or ugotposted.com.

Furthermore, your affiant asserts there is probable cause to believe that BOLLAERT extorted money from victims that were posted on UGOTPOSTED by directing the victims to the Website changemyreputation.com and asking for money to remove the images from UGOTPOSTED. There is evidence that shows BOLLAERT and Eric Chanson, a former business partner of BOLLAERT, created the websites UGOTPOSTED and changemyreputation.com. When a victim inquired about removing the images from UGOTPOSTED, they would not receive a response; however, UGOTPOSTED hosted a link to the webpage changemyreputation.com and for a fee, the images would be removed from UGOTPOSTED, which is a violation of PC section 518 - extortion.

The relevant identifying information for the victims is contained in "Confidential Attachment" and is herein incorporated. Declarant requests that "Confidential Attachment" be ordered sealed pursuant to California Rule of Court Rule 243.1(d) in order to protect the confidential personal information of the above subject. (See Pen. Code, §§ 293.5 and 964)

During the course of this investigation, Kevin BOLLAERT was identified as the owner of UGOTPOSTED and admitted he and Eric Chanson created the website. Further evidence extracted from BOLLAERT'S computer showed BOLLAERT and or Chanson owned and or operated changemyreputation.com and extorted money from victims wanting their images removed from UGOTPOSTED. I have not included every fact known to me in this investigation, only the facts I believe establish probable cause. The following summarizes the investigation:

On July 23, 2013, I reviewed the website UGOTPOSTED and was presented with a nude photograph of an adult female. The top of the image contained a name and the location "Clinton Twp, MI." The next line contained "07/22/2013 in Girls, Michigan" and 50 Replies. The Girls, Michigan, and 50 Replies were links to more photographs of females, photographs tagged with the term Michigan, and comments typically concerning the photograph. The page also contained several nude photographs of two additional adult females. I also noticed the photos were embossed with small light colored watermark titled UGOTPOSTED.

The top of the webpage contained tabs, which were links to "Girls, Guys, Videos, Members, Replies, and Post Nudes." I selected the tab Post Nudes and was presented with the following:

Your Email (required)

Full Name (Who are they?) (required)

Location (City, State, Country) (required)

Age (Only 18+) (required)

Facebook Link (required)

Other Links (Twitter, Tumblr, Etc.)

Tags

Terms (required)

I have read and agree to YouGotPosted.com's Terms of Use

I CONFIRM THAT I AM AT LEAST 18 YEARS OLD AND THE PERSON BEING POSTED WAS AT LEAST 18 YEARS OLD AT THE TIME THE PHOTOS WERE TAKEN AND WILL PROVIDE 2257 RECORDS UPON REQUEST.

Images and Videos (required)

It appears, once uploaded; the images and videos are watermarked with the site logo and organized by state and gender. Each posting will start by listing the name, city, and state of the victim whose picture is being published. Following the display of the associated picture or video, the link to the posted individual's Facebook account is published as well as any other links to other social media sites belonging to the victim such as Twitter or Tumblr.

As part of my investigation, I spoke with Legal Analyst (LA) Victoria Terry. LA Terry is assigned to the eCrime Unit (eCU) of the AG's Office. LA Terry began monitoring the site UGOTPOSTED in early July 2013. LA Terry related to me that during the second week of July 2013, UGOTPOSTED had over 25 posts containing individuals tagged from California. LA Terry noted that photos were added to the site on a daily basis and some published photos were observed to be removed.

As part of her duties for eCU, LA Terry started capturing the posted PII that was associated with the published nude photographs. LA Terry documented the name, location, and Facebook account for each California resident. LA Terry also began to capture this information for other state residents.

LA Terry related that a number of the published links to the victim's Facebook account were active, and linked to a Facebook account, which appeared to share identical PII as the information posted on UGOTPOSTED. The nude photographs appeared to be the same individuals who were in the linked Facebook account.

LA Terry also noted that a number of linked Facebook accounts were found to be inactive (shutdown). While monitoring the site, it was observed that published active Facebook accounts would be shut down within a few days of the initial posting of the nude photographs and the associated PII.

UGOTPOSTED VICTIMS

As part of this investigation, LA Terry was able to contact a number of victims whose PII was associated with published nude photographs. The majority of victims described the act of emailing UGOTPOSTED at their public e-mail address (ugotposted@gmail.com) in an attempt to get their images taken down from the site. The victims' related the following information:

Jane Doe #6 posted on 7/12/13³ from Los Angeles, CA:

Jane Doe #6 related that an unknown person illegally accessed her email account, located nude images of her that she saved, and stole the images. She stated the unknown person also illegally accessed her Facebook account, and emailed the photographs to her relatives. Then the unknown person changed all of her passwords on her Gmail, AOL, and Facebook accounts. Jane Doe #6 additionally noted that she may have been a minor in the images and UGOTPOSTED published the images without her knowledge or permission.

The following email from Jane Doe #6 dated 7/12/13, was retrieved from the search warrant production for the content of the ugotposted@gmail.com account.

PLEASE HELP! I am scared for my life! People are calling my work place and they obtained that information through this site! I did not give permission for anyone to put up those pictures or my personal information. I have contacted the police but these pictures need to come down! Please!

Jane Doe #6

Jane Doe #6 stated that due to her name and Facebook information being posted, she is scared to go back to work. She related, "people on yougotposted.com were trying to get my phone number and work address as if they wanted to come stalk me. They posted on my YouTube, ReverbNation, and Facebook account. They also posted what city I live in."

Jane Doe #7 posted on 7/16/13 from Richmond VA:

Doe #7 related that pictures were taken off her phone without her authorization. She said she and a guy were hanging out one day and he stole her phone, ran into the bathroom and sent the pics to his phone and then deleted it off her phone. She did not give him permission to take the photos or put them on the website. Jane Doe #7 also said that her Facebook account and her boyfriends account, where she lived

³ The posted date reflects the first time the victims images were published on UGOTPOSTED

were also posted on UGOTPOSTED. She said she filed a report with the magistrates office and obtained a protective order against the person who posted the images. She said she had been harassed by dozens of people and had to shut down her Facebook page.

Jane Doe #4 posted on 5/13/13 from Santa Monica, CA:

Jane Doe #4 related she sent private copyrighted photographs she took to a man that she was dating. She believes the man she was dating, posted the explicit images onto UGOTPOSTED and other revenge porn and porn sites. She related that her full name, undergraduate school, Facebook, Instagram and dating profile was posted in the comment section of the photos. Jane Doe #4 said that over the course of the posting, she has received dozens of Facebook and Instagram friend requests and messages. She has received numerous emails from people asking to “hook up”, text messages with lewd photos, and several phone calls. Jane Doe #4 is worried for her safety, and is concerned that her home was posted on the Internet.

Jane Doe #5 posted on 7/6/13 from Chula Vista, CA:

Jane Doe #5 related that the posted images were taken from her Facebook account and from a personal cell phone, and published without her permission. She related that her full name, location, cell phone number, Twitter account, and LinkedIn account were posted. Her Facebook account was also posted and linked by UGOTPOSTED. Following the posting of her PII, over a hundred different sources tried to contact her. She ignored all calls, texts, messages, and friend requests. Jane Doe #5 changed her accounts and had her phone turned off. Jane Doe #5 also had to change her cell phone number.

The following email from Jane Doe #5 dated 7/6/13, was retrieved from the search warrant related to the ugotposted@gmail.com account.

I found pictures of me I did not want to be online. What is the process to remove them? I am being harassed because my phone number and Facebook is also posted.

Jane Doe #3 posted 4/29/2013 from Sacramento, CA:

Jane Doe #3 related she was unaware that images were taken and posted without her consent. Following the posting of the images, a number of individuals she did not know, began to

message her on Facebook saying sexual inappropriate things, which led her to delete her Facebook account. In addition to her Facebook page, it was also disclosed where she worked, which resulted in further calls. Jane Doe #3 described this event as “upsetting, stressful, and emotionally draining.”

Jane Doe #10 posted on 8/13/13 from New Jersey.

Jane Doe #10 related that someone posted pictures of her nude body parts that she believes were stolen from someone’s phone. She also said that someone took photos from her Facebook account cropped them and posted them along with her name, Facebook link and at one point in time her phone number was also on there. She said she did not give anyone permission to post any photos of her on the website. She further related that she had to delete her Facebook account that she received lots of emails and calls from blocked numbers. Jane Doe #10 also said when she googled her name the pictures of her were also on other websites.

Jane Doe #8 posted on 8/4/13 from North Hollywood, CA

Jane Doe #8 related that three nude photos of her were published on UGOTPOSTED without her consent. The photos may have been passed along by a third party although she does not know whom the culprit is. She says that it has to be someone she knows because her Facebook page and the name of the city where she lives were linked to her photos. She further stated that she has been receiving multiple messages on Facebook from people who were telling her about the photos being posted. She has received harassing emails making rude comments about her photos, asking her to engage in sexual activity, and asking for more nude photos. One individual told her that they were going to post her photos on another site.

The following email from Jane Doe #8 dated 7/17/13 was retrieved from the search warrant related to the ugotposted@gmail.com account.

Again, I am contacting you guys. I am getting nonstop harassing messages from people who have seen me on here. I have already submitted a cyber crime report and I will have the police and a lawyer involved. I want these photos removed now! I did not consent to these photos being posted. Why others can ruin lives like this is beyond me. But please! Remove my photos. I will be getting multiple people involved.

LA Terry further related that she also contacted Jane Doe #1 (Posted April 4/2013 from California); Jane Doe #2 (posted 4/18/2013 from California); Jane Doe #9(posted on 8/6/2013 from New York); Jane Doe #11 (posted 8/26/13 from Virginia) Jane Doe #12 (posted 9/4/13 from Pennsylvania); Jane Doe #13 (posted 9/10/13 from Michigan); and Jane Doe #14 (posted 9/12/13 from Virginia.). Each of these victims complained that they did not give anyone permission to post any photos of themselves on the website. Each one of them had to close their Facebook accounts because of the unwanted harassing messages they received due to the link of their Facebook page to UGOTPOSTED.

In addition to the information listed above, Doe #1 and Doe #2 related that each of them sent an email to the website asking that their photos be removed and were instructed to go to the link at the bottom of UGOTPOSTED to have their photos removed. The link was to a website called changemyreputation@gmail.com. Both Jane Doe #1 and Jane Doe #2 stated that they paid \$249.99 to have their photos removed from UGOTPOSTED.

UGOTPOSTED OWNERSHIP

In August 2013, I obtained search warrants from the Honorable Judge Joseph Orr, of the Sacramento County Superior Court, requesting subscriber information and records from Google and Yahoo concerning the email account associated with UGOTPOSTED and account information and logs from the domain name server CloudFlare concerning the domain UGOTPOSTED.⁴ A search warrant was also obtained requesting all records pertaining to the posting of the person identified as Jane Doe #6 from Los Angeles from the owner(s) of UGOTPOSTED.

CloudFlare listed Kevin Bollaert as the registered owner of UGOTPOSTED with a billing address of 1765 Garnet Avenue, #27 San Diego, CA 92109. This address was later to be determined a mail drop. The records also included billing information and IP logs dated from November 5, 2012, to July 31, 2013. The IP logs contain the date, time, and IP address of the administrator/owner logging into the UGOTPOSTED account along with the email address Kevinbollaert@gmail.com.⁵

On September 12, 2013, Senior Assistant Attorney General (SAAG) Robert Morgester sent a letter to UGOTPOSTED regarding their non-compliance to the search warrant previously served in August 2013.

⁴ Domain names are common easy to remember names associated with an Internet Protocol address (defined below). For example, a domain name of "www.usdoj.gov" refers to the Internet Protocol address of 149.101.1.32.

⁵ Internet Protocol Address (IP Address): Every computer or device on the Internet is referenced by a unique Internet Protocol (IP) address the same way every telephone has a unique telephone number. Each time an individual has accessed the Internet, the computer from which that individual initiated access is assigned an IP address.

SAAG Morgester emailed the letter to the email addresses Kevinbollaert@gmail.com, yougotposted@gmail.com, and ugotposted.contact@yahoo.com. In order to confirm that the site had notice, SAAG Morgester also posted via the reply function⁶ to UGOTPOSTED. A message was posted to Austin L. and Melissa O. photos (photos #1 and #2 on the site).⁷

Upon posting the notice, the site administrator responded on the Austin L. page and stated the requested information was previously sent to the Attorney General's Office. SAAG Morgester asked via the reply function "To whom?"

SAAG Morgester stated shortly thereafter he received a phone call from a male caller who identified himself as Kevin Bollaert and was calling regarding the search warrant and his response. SAAG Morgester stated the following in summary:

"Bollaert identified himself as the custodian of the records. I requested to set up a meeting with him regarding UGOTPOSTED and the records pertaining to the website. I told Bollaert I had to confirm who the site owner was. I also stated that in the current investigation, I would need to be able to subpoena Bollaert to testify as to the records. When I asked for a phone number or address, Bollaert responded that he is "staying off the grid" and none was provided. He stated that he should be contacted via his Gmail account or his post office box address."

SAAG Morgester told me following the call; that his message posted to UGOTPOSTED was removed by the site.

On September 18, 2013, I along with SA Jason Nichols interviewed BOLLAERT in La Jolla, CA. Prior to the meeting, I sent an email to BOLLAERT stating he was not under arrest and he agreed to meet with us. During the meeting, BOLLAERT confirmed that he was the individual that had been in contact with my office. He stated that he owned UGOTPOSTED and that he had recently voluntarily shut the site down. BOLLAERT stated he and his friend Eric Chanson started the site and Chanson has not had any action with the site since December. BOLLAERT stated, "at the beginning, it was fun and entertaining, but now it's just like ruining my

⁶ UGOTPOSTED allowed viewers to post comments directly to the web page containing the published victims images.

⁷ The messages stated in part: On or about August 2, 2013, the California Attorney General's Office served a search warrant on UGOTPOSTED for the production of account information. Pursuant to California Penal Code section 1524.2, upon the receipt of a search warrant UGOTPOSTED is required to produce the requested records within five business days. Upon a finding of good cause by the issuing Court, this time may be extended. We are now 25 business days past the required production deadline. We are requesting information pertaining to when the requested records will be produced and why the California Attorney General's Office should not seek a hearing to determine why UGOTPOSTED should not be held in contempt of the Court's lawful order and process of the Court, and for unlawfully interfering with the Court's process and proceedings.

life.” He commented that he was receiving “about a hundred emails every day that come through” requesting the removal of posted images. BOLLAERT stated he would make approximately \$800-\$900 a month off ads linked to UGOTPOSTED. He said some of the ads were Chatterbay.com and Crakrevenue.com. I asked BOLLAERT did he understand what it was doing to the people being posted on by requiring the full name, residing city, and link to the posted persons Facebook page. BOLLAERT stated, “Yeah, I realize like this is not a good situation. I feel bad about the whole thing and like I just don’t want to do it anymore. I mean I know a lot of people are getting screwed over like on the site. Like their lives are getting ruined.”

At the conclusion of the interview, BOLLAERT was provided with two search warrants, one for his person and one for his vehicle. I seized two HP laptops, one Mac Air laptop, and one iPad.

UGOTPOSTED LOGS

During my contact with BOLLAERT, he noted that he kept a log file pertaining to the uploaded images.⁸ The log captured all of the user posted site information including the referring uniform resource locator (URL), users (posters) IP address; users (posters) email address, date, and time of the post. During a computer forensic review, I retrieved the logs from BOLLAERT’s HP laptop computer.

In reviewing the log file, I noted each entry appeared to relate to a user post made to the site. There were approximately 10,170 posts that were made between December 2, 2012 and September 17, 2013.

In reviewing the log file, I also discovered a July 12, 2012, record pertaining to LA Terry’s attempt to upload a picture of a cat named Shiloh. The listed captured IP address correctly identified LA Terry’s service provider. Although captured by the log, the uploaded picture of the cat named Shiloh was never publicly published by the site.

UGOTPOSTED GMAIL ACCOUNT

Pursuant to a search warrant, I received the emails pertaining to the email account yougotposted@gmail.com. This was the public email address associated to UGOTPOSTED. There were over 2000 emails starting on June 20, 2013, through August 26, 2013. Approximately 1040 of the emails have the word “remove” in it. In

⁸ Log files are records automatically produced by computer programs to document electronic events that occur on computers. Computer programs can record a wide range of events including remote access, file transfers, logon/logoff times, and system errors. Logs are often named based on the types of information they contain. For example, web logs contain specific information about when a web site was accessed by remote computers; access logs list specific information about when a computer was accessed from a remote location; and file transfer logs list detailed information concerning files that are remotely transferred.

reviewing the emails, I focused on a sample of specific days and provided examples of the full email message, which may contain grammatical errors. I redacted the victim's full name and email addresses.

In reviewing the messages for June 20, 2013, I noted there were approximately 21 email messages and approximately 15 of the emails were request to take down posted pictures. The take down request note "emotional distress," "great stress in my work and personal life;" "defamation of character" and "underage photos." The following is an example:

*Subject: !!!!! From: Kaitly
Date: 6/20/2013 12:43 PM
To: <yougotposted@gmail.com>
To whom this may concern, I kaitly am extremely pissed or and upset that you people would allow this. I was completely UNAWARE that my photos were posted. As a mother and someone whos trying to go out and look for a job. I don't appreciate you allowing someone with no life, to go and ruin someone that's tryig to do something with their life. I would like them immediately taken down as well as the email address that posted them as I wish to take this person to court for doing this. Sincerely Kaitly Please get back to me.*

In reviewing the messages for June 21, 2013, I noted there were approximately 41 emails and approximately 35 were takedown requests. The following is an example:

*Subject: Take my pictures DOWN
From: Melinda
Date: 6/21/2013 2:34 PM
To: yougotposted@gmail.com
This website is an absolute disgrace. It makes me sick to my stomach you run this as your little family business. I had pictures posted of me as of last night. My name is Melinda and I demand you delete them now. I have gone to the police, I've had a restraining order put in place because of this site, my phone has been going off EVERY 2 MINUTES with strange men sending inappropriate things to me. It's disgusting. Also I've had to also have a sexual harassment charge put in place in court because of this. I don't know what gets you off about ruining people's lives, but I was under aged in the photos posted of me so yes, you are showing child pornography. Delete every single one of the photos with my information.*

In reviewing the messages for July 1, 2013, I noted that there are eight email messages and four are requesting information on how to take down postings. On July 15, 2013, there were nine email messages and five were requesting information on how to take down postings. On August 1, 2013, there were approximately 40 email messages and approximately 26 were requesting information on how to take down postings. The following is an example:

Subject: Please answer me!

From:

Date: 8/1/2013 6:58 PM

To: "yougotposted@gmail.com"

This is Brian. I've emailed you several mes and goen no response. My photos are on the site and I've asked for them to be taken down. Cause of them I am being harassed. The pictures are not legal in any way. Please answer me before I have to take this to the legal level

COMPUTER FORENSIC EXAM

During a primary review of BOLLAERT's HP laptop computer, I located emails containing attached images of various victims, individuals requesting their pictures be removed from UGOTPOSTED, victims stating they were minors when the pictures were taken, or emails from law enforcement asking for information. I also located an email from CloudFlare, the DNS that UGOTPOSTED was registered with, stating the site changemyreputation.com was added to the CloudFlare account.

From: CloudFlare <no-reply@cloudflare.com>

Subject: [CloudFlare] changemyreputation.com has been added to your CloudFlare account

To: changemyreputation changemyreputation@gmail.com

Date: 10/18/12

Time: 5:58 PM

The name servers for changemyreputation.com have been updated and changemyreputation.com has been added to your CloudFlare account. CloudFlare is now accelerating and protecting your website. We are also gathering cool stats on your site, so check the reports & stats section at <https://www.cloudflare.com/my-websites.html>. For Free accounts, it takes up to 24 hours for the stats to populate. For Pro accounts, it takes 15 minutes.

I also located email showing the email address changemyreputation@gmail.com was added to a PayPal account and two emails showing what I believe to be BOLLAERT and/or Chanson testing the automatic email reply sent from changemyreputation@gmail.com when a person inquires about removing images from UGOTPOSTED.

I also located an email from PayPal to Eric Chanson at changemyreputation@gmail.com showing he linked his bank account to his PayPal account. Approximately six minutes after this email was received, a person using the name Eric Chanson deposited \$300.00 dollars into changemyreputation.com's PayPal account. Approximately one minute later changemyreputation@gmail.com received an email from PayPal stating \$300.00 was transferred from the PayPal account to a Bank of America account (BANK OF AMERICA N.A. x-

4539).⁹ I believe the two aforementioned emails were a test to see if the payment system was functioning due to the fact changemyreputation.com started receiving payments from victims on October 26, 2012.

I located two emails showing that on October 26, 2012, changemyreputation.com received the \$299.99 payment, BOLLAERT received \$145.50 and \$145.49 was transferred into a Bank of American account (BANK OF AMERICA N.A. x-4539.)

I also located two emails where two victims from California paid changemyreputation.com to get images removed from UGOTPOSTED. The following are portions of the emails:

Subject: Payment received
From: Jane Doe #1
Date: 4/4/2013 12:42 PM
To: Change My Reputation <changemyreputation2@gmail.com>
PayPal logo
Hello Change My Reputation,
Buyer information Jane Doe #1
Ship-to address - Confirmed Jane Doe #1
Apr 4, 2013 12:42:33 PDT Transaction ID: 7LU77733KP297233R
You received a payment of \$249.99 USD

Online Reputation Management \$249.99 USD 1 \$249.99 USD
Total: \$249.99 USD

Subject: Notification of payment received From: Jane Doe #2
Date: 4/23/2013 10:46 AM
To: Change My Reputation <changemyreputation2@gmail.com>
PayPal logo Apr 23, 2013 10:46:19 PDT Transaction ID: 6F983775R7898094T
Hello Change My Reputation,
You received a payment of \$249.99 USD from Jane Doe #2
Shipping address - confirmed Jane Doe #2
Online Reputation Management
Questions? Go to the Help Center at: www.paypal.com/help.
PayPal Email ID PP341
Payment Payment sent to changemyreputation2@gmail.com
Description Unit price Qty Amount
Total \$249.99 USD

During the computer review, I noted emails starting in January 2013 where BOLLAERT started receiving the full payment for the submitted funds. I also noted emails where victims would pay lesser amounts and when changemyreputation.com received a payment; BOLLAERT would receive the

⁹ I located an email which I believe to be Chanson informing BOLLAERT that as of July 29, 2013, that he did not want his name associated with changemyreputation.com.

payment. This continued until PayPal limited access to the account in May 2013, which prevented BOLLAERT from using the account. At that point, BOLLAERT instructed victims to send him \$250.00 in Amazon gift cards.

CONCLUSION

The publishing of nude photographs, in conjunction with the victim's name, Facebook account or other PII without the victim's permission is the crime of identity theft in violation of Penal Code section 530.5. To be guilty under section 530.5(a), the defendant must (1) willfully obtain personal identifying information of another person, and (2) use the identifying information for an unlawful purpose without the person's consent." (*People v. Tillotson* (2007) 157 Cal.App.4th 517, 533.) Here the unlawful purpose includes both a criminal offense under Penal Code section 653m (b) and a civil tort for the publication of private images. (*In re Rolando S* (2011) 197 Cal.App 936.)

Section 653m (b) states in pertinent part: "Every person who, with intent to annoy or harass, makes repeated telephone calls or makes repeated contact by means of an electronic communication device, or makes any combination of calls or contact, to another person is, whether or not conversation ensues from making the telephone call or contact by means of an electronic communication device, guilty of a misdemeanor.

In this case the investigation revealed that Kevin BOLLAERT is aiding and abetting the crime of PC 653m (b) - annoy or harass, by facilitating the publishing of nude photographs, in conjunction with the victim's name, Facebook page or other PII, without the victim's permission, which is the crime of identity theft in violation of Penal Code (PC) section 530.5.

Furthermore, Kevin BOLLAERT, by demanding and accepting payments to remove victims unauthorized posted nude images from UGOTPOSTED via changemyreputation.com is the crime of extortion in violation of Penal Code section 518. The publication of the victims nude images exposed them to disgrace within their public lives. Kevin BOLLAERT continued to expose the victims private information and secrets to the public unless paid.

Therefore, I request that a warrant be issued ordering the arrest of Kevin BOLLAERT for the relevant felony violations charged in the accompanying Felony Complaint.

CALIFORNIA LAW VIOLATIONS:

Count 1

In and between April 2013 and September 2013, in the County of San Diego the crime of Conspiracy, in violation of Penal Code section 182, (a)(1) a felony, was committed by Kevin C. BOLLAERT who did unlawfully conspire together with another person and persons whose identity is unknown to commit the crime of Identity Theft, in violation of Penal Code section 530.5, a felony; that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, that Kevin BOLLAERT and others committed the following overt acts at and in the County of San Diego, overt act(s).

Overt Act 1

Between December 2, 2012 and September 17, 2013, Kevin BOLLAERT was the administrator of a website called "ugotposted.com".

Overt Act 2

Between December 2, 2012 and September 17, 2013, Kevin BOLLAERT, with the assistance of known and unknown conspirators, posted Ten Thousand One Hundred Seventy (10,170) private photographs containing nude and explicit images of individuals who did not give permission for their private images to be posted online.

Overt Act 3

Between December 2, 2012 and September 17, 2013, Kevin BOLLAERT posted the personal identifying information of over ten thousand individuals in conjunction with private images of those individuals without their permission.

Overt Act 4

On July 12, 2013, Kevin BOLLAERT failed to remove images of Jane Doe #6 following the receipt of an email from Jane Doe #6 stating that due to private images of her, along with her personal identifying information, being posted on ugotposted.com she was "...scared for my life! People are calling my work place and they obtained the information from this site! I did not give permission for anyone to put up those pictures or my personal information. I have contacted the police but these pictures need to come down! Please!". Kevin BOLLAERT did not remove the images after receiving this message from Jane Doe #6.

Overt Act 5

On July 17, 2013, Kevin BOLLAERT failed to remove images of Jane Doe #8 following the receipt of an email from Jane Doe #8 requesting her private information and images be taken down from the site stating she was "getting nonstop harassing messages..." Kevin BOLLAERT did not remove the images after receiving this message from Jane Doe #8

Overt Act 6

Between June 20, 2013 and August 26, 2013, Kevin BOLLAERT received and reviewed over 2000 emails from individuals requesting their personal identifying information and images be removed from ugotposted.com.

Overt Act. 7

In October of 2012 Kevin BOLLAERT with the assistance of known and unknown conspirators opened and updated an online account called changemyreputation.com.

Overt Act 8

Between December 2, 2012 and September 17, 2013, Kevin BOLLAERT collected in excess of \$10,000(ten thousand dollars) via changemyreputation.com from individuals paying to have their personal identifying information and images removed from ugotposted.com.

Count 2

On or about April 4, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #1 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #1.

Count 3

On or about April 4, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #1 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #1.

Count 4

On or about April 4, 2013, in the County of San Diego, the crime of Extortion, in violation of Penal Code Section 520, a felony was committed by Kevin BOLLAERT, who extorted money and or other property from Jane Doe #1 by means of threat such as is mentioned in Penal Code Section 519, to wit, to expose, or to impute to her any disgrace or expose any secret affecting her."

Count 5

On or about April 18, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #2 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #2.

Count 6

On or about April 18, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #2 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #2.

Count 7

On or about April 18, 2013, in the County of San Diego, the crime of Extortion, in violation of Penal Code Section 520, a felony was committed by Kevin BOLLAERT, who extorted money and or other property from Jane Doe #2 by means of threat such as is mentioned in Penal Code Section 519, to wit, to expose, or to impute to her any disgrace or expose any secret affecting her."

Count 8

On or about April 29, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #3 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #3.

Count 9

On or about April 29, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #3 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #3.

Count 10

On or about May 11, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #4 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #4.

Count 11

On or about May 11, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #4 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #4.

Count 12

On or about July 6, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #5 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #5.

Count 13

On or about July 6, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #5 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #5.

Count 14

On or about July 12, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #6 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #6.

Count 15

On or about July 12, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #6 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #6.

Count 16

On or about July 16, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #7 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #7.

Count 17

On or about July 16, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #7 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #7.

Count 18

On or about August 4, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #8 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #8.

Count 19

On or about August 4, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #8 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #8.

Count 20

On or about August 6, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #9 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #9.

Count 21

On or about August 6, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #9 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #9.

Count 22

On or about August 13, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #10 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #10.

Count 23

On or about August 13, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #10 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #10.

Count 24

On or about August 26, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #11 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #11.

Count 25

On or about August 26, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #11 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #11.

Count 26

On or about September 4, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #12 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #12.

Count 27

On or about September 4, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #12 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #12.

Count 28

On or about September 10, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #13 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #13.

Count 29

On or about September 10, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #13 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #13.

Count 30

On or about September 12, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #14 and used that information for an unlawful purpose to wit, to harass and annoy, without the consent of Jane Doe #14.

Count 31

On or about September 12, 2013, in the County of San Diego, the crime of Identity Theft, in violation of Penal Code section 530.5(a), a felony, was committed by Kevin BOLLAERT, who did willfully and unlawfully obtain personal identifying information of Jane Doe #14 and used that information for an unlawful purpose, and to obtain, and attempt to obtain credit, goods, services, and money, without the consent of Jane Doe #14

I declare under penalty of perjury that the foregoing is true to the best of my knowledge.

Executed in San Diego County, California, on December 10, 2013.



Declarant: Special Agent Brian Cardwell

Bail Recommendation: \$50,000

This affidavit has been reviewed for legal sufficiency by Deputy Attorney General Tawnya Boulan.

Warrant to issue:

Defendant to be admitted to bail in the sum of \$

~~100,000~~ → (FLC)
\$50,000 → (FLC)

Proof by declaration under penalty of perjury having been made this day to me by the above-named declarant, I find that it contains probable cause to believe the crimes described above have been committed by the defendant named and described below, and do order a warrant of arrest to issue for the named person or persons.

Fredrick L. Smith

Judge of the Superior Court
San Diego County

12/10/13 a.m./p.m. 9:15

Time & Date of Issuance

COURT ORDER

Based upon a review of the of the above declaration this court finds that there exists an overriding interest that overcomes the right of public access to the record; the overriding interest supports sealing the record; a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; the proposed sealing is narrowly tailored; and no less restrictive means exist to achieve the overriding interest.

Therefore it is ordered that the following portion of the declaration identified as the "Confidential Attachment" be sealed and not be made part of the public record until further order of this court or any other competent court.

DATED: 12/20/13 JUDGE: *Freeman*