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CRIMINAL COMPLAINT

UNITED STATES DISTRICT COURT	CENTRAL DISTRICT OF CALIFORNIA
UNITED STATES OF AMERICA v. DAVID CLAIRE LOHR	DOCKET NO. MAGISTRATE'S CASE NO. MJ 19-00279

Complaint for violation of Title 18, United States Code, Section 1365(a)

NAME OF MAGISTRATE JUDGE HONORABLE JEAN P. ROSENBLUTH	UNITED STATES MAGISTRATE JUDGE	LOCATION Los Angeles, California
DATE OF OFFENSE January 20, 2019	PLACE OF OFFENSE Los Angeles County	ADDRESS OF ACCUSED (IF KNOWN)

FILED
 CLERK, U.S. DISTRICT COURT
FEB - 1 2019
 CENTRAL DISTRICT OF CALIFORNIA
 BY DEPUTY

COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:

[18 U.S.C. § 1365(a)]

On or about January 20, 2019, in Los Angeles County, within the Central District of California, defendant DAVID CLAIRE LOHR ("LOHR"), with reckless disregard for the risk that another person would be placed in danger of death and bodily injury and under circumstances manifesting extreme indifference to such risk, knowingly and intentionally tampered with and attempted to tamper with a consumer product and the container of such product affecting interstate commerce by pouring bleach into a refrigerator containing such products, namely, Indonesian farm-raised frozen shrimp sold at a grocery store in West Hollywood, California.

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 2019 FEB - 1 PM 2:33
 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 LOS ANGELES

BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:
 (See attached affidavit which is incorporated as part of this Complaint)

MATERIAL WITNESSES IN RELATION TO THIS CHARGE: N/A

Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.	SIGNATURE OF COMPLAINANT JENNIFER HIRSCH OFFICIAL TITLE Special Agent, Federal Bureau of Investigation
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Sworn to before me and subscribed in my presence,

SIGNATURE OF MAGISTRATE JUDGE ⁽¹⁾ JEAN P. ROSENBLUTH	DATE February 1, 2019
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⁽¹⁾ See Federal Rules of Criminal Procedure 3 and 54

AFFIDAVIT

I, JENNIFER HIRSCH, being duly sworn, declare and state as follows:

I. PURPOSE OF AFFIDAVIT

1. This affidavit is made in support of a criminal complaint and arrest warrant against DAVID CLAIRE LOHR ("LOHR") for a violation of 18 U.S.C. § 1365(a): Tampering with and Attempting to Tamper with Consumer Products.

2. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested complaint and arrest warrant and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and part only, and all dates are approximate.

II. BACKGROUND OF AFFIANT

3. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), and have been so employed since July 2018. I am a federal law enforcement officer who is engaged in enforcing criminal laws, including 18 U.S.C. § 1365(a) (Tampering with and Attempting to Tamper with Consumer Products). I have completed 20 weeks of formal training at the FBI Academy in Quantico, Virginia.

III. SUMMARY OF PROBABLE CAUSE

4. In December of 2018 and January of 2019, surveillance videos captured LOHR pouring bleach into refrigerators and freezers containing consumer products (such as ice and alcoholic beverages) at the locations of a large grocery store company (the "Grocery Store") in the Los Angeles area, and also showed LOHR carrying bottles of bleach in some of the stores. Customers also reported smelling or handling consumer products contaminated by bleach (such as frozen shrimp) at some of those stores. On each date, LOHR wore similar clothing inside the stores: a light blue or grey collared shirt, light-colored shorts, and light-colored shoes.

5. LOHR poured the bleach into refrigerators and freezers while the Grocery Store's locations were open to the public, and the consumer products contaminated by the bleach were accessible to grocery shoppers in aisles of the stores. Bleach contains hazardous chemicals that can cause serious eye irritation, skin irritation, nausea, vomiting, and diarrhea.

IV. STATEMENT OF PROBABLE CAUSE

6. Based on my review of law enforcement reports, information provided by the Grocery Store's security personnel, surveillance videos, conversations with other law enforcement agents, the Grocery Store's employees, and my own observations, I learned the following:

A. A Man Resembling LOHR Pours Bleach into a Beer Refrigerator at the Grocery Store's Manhattan Beach Location on December 14, 2018

7. On December 14, 2018 at approximately 11:29 a.m.,¹ surveillance videos from the Grocery Store's location in Manhattan Beach show the following:

a. A man resembling LOHR² entered aisle 7 of the store and picked up what appears to be a container of bleach. LOHR was wearing a light blue or grey collared shirt, light-colored shorts, and light-colored shoes.

b. Approximately one minute later, LOHR walked into the beer and liquor aisle of the Grocery Store and began to pour bleach into a refrigerator containing packages of beer; LOHR set the bleach down on its side while bleach drained from the bottle. LOHR then picked up the bottle of bleach and placed it between two different packages of beer. LOHR left the store without the bottle of bleach and without making any purchases.

B. Customers Report Bleach on Ice at the Grocery Store's Redondo Beach Location on December 16, 2018, the Same Day that Surveillance Shows LOHR with Bleach in the Store

8. FBI Special Agent Holle Peavy-Dukic conducted interviews of three different employees of the Grocery Store's

¹ The dates and times referenced herein are based on the time-stamped video surveillance footage provided to me by the Grocery Store in connection with this investigation.

² I familiarized myself with LOHR's appearance by reviewing two law enforcement booking photographs of LOHR, as well as the photograph from LOHR's Florida Driver's License. I have also compared the surveillance videos to an image of LOHR from a television news story from October 2018, in which LOHR is accused of food tampering at retail stores in Arizona.

Redondo Beach location. The Grocery Store's employees told Agent Peavy-Dukic the following:

a. On December 16, 2018, a customer told a Redondo Beach front-end store manager (the "Manager") that the customer thought something was wrong with the ice and that it smelled like bleach. Moments later, another customer and her child told a different store employee (the "Employee") that something was wrong with the ice. The child was carrying a bag of ice against his chest when he and his mother approached.

b. When the Employee grabbed the ice from the child, he recognized the odor of bleach on the ice. The Employee and the child's mother both saw that the child's black shirt had changed colors, to a brown color; the Employee and the child's mother believed the color change was the result of bleach being pressed against the child's shirt. The Employee and the Manager called an assistant manager (the "Assistant Manager"), and went to the aisle containing the bags of ice. The Employee opened the glass door of the freezer containing ice and said that the bleach fumes were overwhelming. The bleach fumes were so strong that he could smell bleach three doors down where the frozen pizzas were.

c. The Employee began to remove the ice from the freezer into two shopping carts. As the Employee was removing the bags of ice from the freezer, he discovered a small bottle of bleach on its side with the cap next to it. After handling the ice, which smelled of bleach, the Employee's hands began to burn and tingle and they smelled like bleach. The Employee said that he got a headache from the bleach odor.

d. Once the ice had been removed from the freezer, the Assistant Manager touched the Kroger-brand ice. She said she felt a substance on the bag of ice that was like slime or oily and it felt like bleach. She could also smell the bleach. The Assistant Manager noted that the ice had punctured the plastic and the bleach seemed to have seeped through.

e. The Manager said that approximately 20 bags of ice were removed from the freezer due to the bleach contamination, and the Assistant Manager said that that they disposed of the bags.

9. I have reviewed December 16, 2018 surveillance video from the Grocery Store's Redondo Beach location. At approximately 3:44 p.m., a man resembling LOHR entered aisle 4 of the store, retrieved what appears to be a bottle of bleach, and placed it into his shopping cart. About 30 seconds later, LOHR entered an aisle with freezers and opened one of the freezer doors; given the angle and distance of the security camera, it is not possible to see exactly what happens next.

10. LOHR was wearing a light blue or grey collared shirt, light-colored shorts, and light-colored shoes. LOHR left the store without the bottle of bleach, and he appeared to wipe his left hand along his shorts as he walked out of the automatic door.

11. Based upon a review of Kroger's public website, I know that the company's Executive Offices are in Cincinnati, Ohio. Furthermore, the Kroger-brand ice that the Redondo Beach store carries states on the packaging that it is distributed by the Kroger Company in Cincinnati, Ohio.

C. LOHR Pours Bleach into an Ice Freezer at the Grocery Store's Westwood Location on December 17, 2018

12. On December 17, 2018, at approximately 9:49 a.m., surveillance videos from the Grocery Store's Westwood location show that a man resembling LOHR entered aisle 14B of the store and retrieved what appears to be a bottle of bleach and placed the bottle inside his shopping cart. Once again, LOHR was wearing a light blue or grey collared shirt, light-colored shorts, and light-colored shoes.

13. Shortly thereafter, surveillance videos show that LOHR opened a freezer door next to the sign "Ice," removed the bottle of bleach from his shopping cart, and appeared to dump the bleach out inside the freezer. LOHR left the bleach bottle inside the ice freezer and departed the store.

14. A store supervisor at the Westwood location reported that approximately 35 to 40 bags of ice had to be thrown away after they appeared to be contaminated by bleach on December 17, 2018.

D. Customers Report Bleach Contamination of Frozen Shrimp at the Grocery Store's West Hollywood location on January 20, 2019, the Same Day that Surveillance Shows LOHR with Bleach inside the Store

15. On January 20, 2019, at the Grocery Store's West Hollywood location, a customer approached an employee, D.L., and said that a bag of frozen seafood - a two pound bag of Kroger-brand frozen shrimp - smelled like bleach. When D.L. brought the bag up to her nose, she confirmed that the bag had the odor of bleach.

16. The customer took D.L. back to the freezer containing the bag of frozen shrimp. Upon a closer inspection of the

freezer, D.L. saw a bottle of bleach lying on its side all the way at the back of the freezer. The bottle of bleach was kept by the Grocery Store's employees, and I have since examined the bottle: it is a 3.62 Quart bottle of "Clorox Splash-Less" bleach.

17. According to D.L., approximately 20-30 bags of frozen seafood were contaminated by bleach and had to be destroyed by the Grocery Store.

18. I have reviewed surveillance videos from the Grocery Store's West Hollywood location for January 20, 2019. A man resembling LOHR entered aisle 4 and retrieved what appears to be a bottle of bleach at approximately 6:36 p.m. Approximately 10 minutes later, video surveillance showed LOHR enter the back aisle of the store; the same aisle that contained the Kroger's frozen shrimp that was contaminated with bleach that day. Once again, LOHR was wearing a light blue or grey collared shirt, light-colored shorts, and light-colored shoes.

19. Based on my inspection of the same type of Kroger-brand frozen shrimp packaging that was reportedly contaminated by bleach on January 20, the shrimp is a farm-raised product of Indonesia. In addition, the packaging states that the product is distributed by the Kroger Company, Cincinnati, Ohio.

E. Bleach Contains Hazardous Chemicals

20. I have reviewed the warning statement on the back of the Clorox Splash-Less bleach bottle recovered from the Grocery Store's West Hollywood location on January 20, 2019. The back warning label states that the product can irritate both the eyes and the skin. The label indicates that consumers should avoid

eye contact and that the product should be used with adequate ventilation; if the product makes contact with eyes and irritation persists, the label instructs users to call a doctor. The label also recommends that purchasers drink a complete glass of water and call a doctor or the poison control center if the bleach is swallowed, and users are warned to keep the bleach out of the reach of children and pets.

21. According to a Safety Data Sheet from the Clorox Company, Clorox Splash-Less bleach is "considered hazardous by the 2012 OSHA Hazard Communication Standard," 29 C.F.R. § 1910.1200, and indicates that that symptoms from contact can include "burning." The Safety Data Sheet states that inhalation can irritate the respiratory tract, and that ingestion may cause nausea, vomiting, and diarrhea.

V. CONCLUSION

22. For all of the reasons described above, there is probable cause to believe that LOHR has committed a violation of 18 U.S.C. § 1365(a) (Tampering and Attempting to Tamper with Consumer Products).

/s/
JENNIFER HIRSCH,
FBI Special Agent

Subscribed to and sworn before me
this 1 day of February, 2019.

JEAN P. ROSENBLUTH
UNITED STATES MAGISTRATE JUDGE

JEAN P. ROSENBLUTH