

IN THE DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA,)
)
 PLAINTIFF,)
 VS.)
)
 LINO'S, INC.;)
 MICHAEL D. DAVIES;)
 AND VICKY HWA-SUKBYON DAVIES,)
)
 DEFENDANTS.)

COURT NO. SWCR 242157

Application For Search Warrant
Iowa Code Section 808.3

FILED
POLK COUNTY
2018 NOV 16 AM 11:40
CLERK DISTRICT COURT

STATE OF IOWA)
)
 COUNTY OF POLK) ss:

I, Iowa Department of Justice Investigator Marc Wallin, being duly sworn, say that at the places (and on the person(s) and in the vehicle(s)) described as follows:

BUSINESS/OFFICE: The business/office, located at 2829 Westown Parkway, #111, West Des Moines, Iowa, 50266-1314. The 2829 Westown Parkway address is a white office building about three to four stories high (a photo is attached). Suite 111 is on the first floor, on the left side of the central common area one accesses by entering the building entrance from the parking lot on the west side of the building. Suite 111 is the business and office of LINO'S, INC., MICHAEL DONALD DAVIES, AND VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES).

PERSON(S): MICHAEL DONALD DAVIES, white/adult male, DOB: 4/23/58 (photo attached); and VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES), asian/adult female, DOB: 1/23/59 (photo attached).

BANK(S): Financial accounts and supporting documents and safeboxes of LINO'S, INC., MICHAEL DONALD DAVIES, AND VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES), under one or more of the foregoing names and/or the following entities: A Child's Wish Association; American Veterans Foundation; Americans Helping Veterans Corps; Defeat Diabetes Foundation, Inc.; Firefighters Burn Funds, Inc.; Hope Cancer Funds, Incorporated; Operation Lookout National Center For Missing Youth; Reserve Police Officers Association, at First American Bank, 12333 University Avenue, Clive, Iowa or other branches/offices of that bank (including without limitation account numbers 10011070 and/or 11279473).

① [Signature]

VEHICLE(S): All vehicles registered to LINO'S, INC., MICHAEL DONALD DAVIES and VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES) and all vehicles available for use by MICHAEL DONALD DAVIES and VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES).

In POLK COUNTY, there is now certain property, namely:

ITEMS SOUGHT:

1. Documents relating to the practice of professional fundraising through the use of telephones, the mail, and possibly other means of delivery and communication to solicit donations from residents of Iowa and other states, pursuant to agreements with third party organizations on behalf of which donations are solicited, such practices engaged in and/or planned or directed by LINO'S, INC., MICHAEL D. DAVIES, and VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES) (the term "document" includes, but is not limited to, articles of incorporation, bylaws, corporate minutes and reports, corporate financial documents, corporate seals, corporate records, partnership agreements and records; receipts, contracts, insurance records, policies and statements; memos, internal communications, job notices, hiring policies, descriptions of employee benefits, unemployment compensation materials, orientation materials, training materials, scripts, policy statements, instructions to employees, performance evaluation materials; compensation information, schedules, and materials; payroll records, employee files, communications with client organizations; correspondence and other communications from prospective donors and donors; correspondence or other communications with law enforcement or regulatory authorities; correspondence and other communications with employees or ex-employees or current or former independent contractors; descriptions and promotions of client organizations; correspondence, mailings, or other communications with donors and prospective donors; correspondence and other communications with financial institutions; notes, rough drafts, inter-office and intra-office memoranda, emails, letters, travel records, research materials, personal or business diaries or journals, forms, computer print-outs, fax print-outs, computer discs or tapes, audio or video tapes, electronic recordings, reports, invoices, studies, graphs, statistical computations, databases, charts, manuals, pamphlets, books, bank records, signature cards, account statements, checks, canceled checks, deposit slips, withdrawal slips, wire transfers, personal or business financial statements, pass books, bank checks, check books, money orders, letters of credit, contracts including all rental or lease agreements; log books, journals, or records relating to pledges, donations, revenues, profits, distribution, compensation, bonuses, payments, sales, purchases, or other financial activity; vendor and vendee information; customer lists, prospect lists, correspondence and other

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communications with list managers or brokers, lead list descriptions; planning documents, revenue projections; photographs, accounting records or ledgers, sales or donation ledgers, purchase invoices, any correspondence relating to sales or purchases, any written or stored information relating to taxes, appointment books; telephone, cellular, and e-mail address indexes; telephone, cellular, and e-mail directories; operation manuals, protocols, and descriptions of phone systems, dialer systems, recordkeeping systems, and recording systems; messages or information on answering machines or fax machines; calendars and computers relating to the above-referenced sales, purchases, donations, or other activities; “ computers” includes without limitation such hardware as the central processing unit, hard discs, disc drives, tape drives, modems including fax modems, CD-ROM drives, optical drive discs, computer systems, electronic, digital, or magnetic storage devices (fixed or removable), printers, optical scanners, cables, operation manuals, monitors, keyboards, mice, printers, scanners, fax machines, or any other peripheral device which could be used to store, input, or output information, any other necessary equipment to make the computer function to its fullest capability, and any contents found therein.) Searching officers should be authorized to seize and remove from the premises computers and/or electronic media in order to retrieve, copy and store the data stored thereon, in the event such data cannot be safely and effectively retrieved and copied at the location found. Searching officers should be authorized to open any closed or locked containers or areas within the premises and places to be searched to the extent such containers or areas may contain items sought.

2. Telephone and cellular phone equipment, including but not limited to, caller ID, telephone recording apparatus or other items recording telephone numbers and messages.
3. Indicia of occupancy, residency, and/or ownership of the premises described above, including, but not limited to, utility and telephone bills, lease documents, canceled envelopes and keys.
4. United States currency, including gold, silver, diamonds, and/or any other entity that is easily transferable and marketable as currency related to fraud and/or theft. Money drafts, money orders, and cashier's checks. Storage and safe deposit box key(s), any storage and safe deposit boxes associated with aforementioned storage and safe deposit keys and other records or items indicating that assets are secretly being purchased or transferred, or other means indicating the concealing and/or expenditure of fraudulently obtained proceeds.
5. Evidence of the occupancy, possession and/or ownership of real estate obtained from proceeds of fraud. Evidence of ownership and the use of any motor vehicle used to further the fraudulent activities. Bills of sale, credit card

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records or other documents indicating the purchase of assets by cash or possible proceeds from fraud, theft, and/or money laundering.

6. Other tangible items evidencing the obtaining, secreting, transfer and/or concealment of assets and/or money obtained through or used in the fraudulent/deception/ money laundering operation.
7. All incoming telephone calls. Searching officers should be directed to answer the telephone calls and note and/or record the conversation without revealing their true identity. Searching officers should also be directed to listen, note or record any messages left on any answering devices or tape recorders at the location to be searched.
8. The contents, proceeds, and all documents related to banking accounts and safeboxes of LINO'S, INC., MICHAEL DONALD DAVIES, AND VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES), at First American Bank, 12333 University Avenue, Clive, Iowa or other branches/offices of that bank (including without limitation account numbers 10011070 and/or 11279473) under one or more of the foregoing names and/or the following entities: A Child's Wish Association; American Veterans Foundation; Americans Helping Veterans Corps; Defeat Diabetes Foundation, Inc.; Firefighters Burn Funds, Inc.; Hope Cancer Funds, Incorporated; Operation Lookout National Center For Missing Youth; Reserve Police Officers Association. These accounts should remain frozen until further order of the court.
9. Any other bank accounts discovered which are believed to be involved in the fraudulent activities of LINO'S, INC., MICHAEL DONALD DAVIES, AND VICKY HWA-SUKBYON DAVIES (aka VICKY BYON HWASUK DAVIES) and their operations and the assets/contents of those accounts. These accounts should remain frozen until further order of the court.

which is:

- Property that has been obtained in violation of law.**
- Property, the possession of which is illegal.
- Property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent an offense from being discovered.**
- Property relevant and material as evidence in a criminal prosecution.**

The facts establishing the foregoing ground(s) for issuance of a search warrant are as set forth in the attachments, which are made part of this application.

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Marc Wallin

Affiant

Subscribed and sworn to before me this 16th day of November, 2010.

COURT NO. SWCR 242157

Richard L. Blawie

Magistrate/Judge

Application approved by (optional):

[Signature]

Assistant Attorney General

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AFFIDAVIT OF MARC WALLIN

STATE OF IOWA)
)
COUNTY OF POLK) ss.

I, Marc Wallin, being duly sworn, state:

1. I am an Investigator in the Iowa Attorney General's Office, a position I have held since March of 2000. Since 2002 I have been assigned to work in the Consumer Protection Division and the Farm Division, and in both Divisions am involved in enforcing the Iowa Consumer Fraud Act, Iowa Code §714.16. Since July of 2004 I have been assigned to handle citizen complaints regarding charities and professional fundraisers, and to investigate possible fraudulent activity by such entities. Pursuant to that assignment, I have on numerous occasions reviewed the filings of professional fundraisers with the Iowa Department of Justice pursuant to Iowa Code Ch. 13C; interviewed numerous employees and ex-employees of telemarketing boilerrooms; participated in taking the sworn statements of owners and employees of professional fundraisers; conducted Internet searches and other records searches for information relating to the activities of charities, professional fundraisers, and their principals; testified in Iowa District Court in civil consumer fraud enforcement proceedings against professional fundraisers; and provided sworn affidavits filed in support of civil enforcement proceedings undertaken pursuant to the Iowa Consumer Fraud Act.
2. My investigative duties and experience at the Iowa Department of Justice have involved identifying and detecting fraudulent and deceptive conduct in connection with fundraising conducted by telephone, the mail, and through other means of communication.
3. In addition to years of on-the-job training, I have received the following training: the National Certified Investigators/Inspectors Basic Training Program, sponsored by the Council on Licensure, Enforcement and Regulation in September 2006, relating among other things to proving fraud and deception, collecting evidence, and telemarketing enforcement; and Fraud In The Charitable Sector Conference, sponsored by Columbia Law School and the National Attorneys General Training and Research Institute in January 2009, relating among other things to civil and criminal approaches to investigating fraud, patterns of fraud in the charitable sector, and documentary evidence of fraud.

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4. The Consumer Protection Division (CPD) maintains an undercover phone line for receiving and recording charitable solicitations from professional fundraisers. The CPD originally sent unsolicited charitable donation checks to mail drops used by professional fundraisers for the receipt of solicited donations; the checks were in the name of an undercover identity, and set forth the phone number of the CPD undercover line. This resulted in numerous calls to the undercover line by professional fundraisers. In addition, the same undercover line receives calls directed to an elderly lowan (now deceased), whose phone line was transferred into CPD several years ago with her permission and for her protection.
5. An administrative staff member in the CPD, Kathy Gray, is trained to answer and record calls to the undercover line, and to ask the sort of questions about the fundraiser and the charity that CPD encourages consumers to ask when contacted by telephone solicitors requesting donations, relating to such matters as the source of the call, the use of the donated funds, and the volunteer status of the caller. Gray typically agrees to make donations, using grant funds received by the CPD; receives pledge mailings (that is, mailings that follow-up on a telephone solicitation by asking that the pledged donation be sent in) that are received at a P.O. Box devoted to this undercover purpose; and fulfills donation pledges by sending checks in the name of the undercover identity drawn on a bank account maintained by the Department of Justice for undercover purposes.
6. More than twenty (20) calls from Lino's, Inc. have been received and recorded through the above-described undercover phone line since January 1, 2007, including without limitation the calls referred to in paragraph 14 below (recordings A through L); these latter recordings span the period from August 24, 2009 to November 8, 2010 (the specific dates are set forth below).
7. The CPD maintains registration files which contain the completed registration forms of professional fundraisers submitted pursuant to Iowa Code Ch. 13C, "Organizations Soliciting Public Donations." Administrative staff member Helen Alessio is the DOJ employee currently charged with the responsibility of receiving, filing, and maintaining such registration submissions. Alessio has provided me with the most recent "Professional Commercial Fund-Raiser Registration" submitted by and for Lino's, Inc., file-stamped 10/5/10. It bears the notarized signature of Michael Davies, President. Such 10/5/10 registration indicates that Suite 111 at 2829 Westown Parkway in West Des Moines, Iowa is the principal place of business and only office of Lino's, Inc. and is the address of the only two officers, directors, partners, or managing agents of Lino's, Inc., namely Michael D. Davies (listed as "Director-President") and Vicky Hwa-Sukbyon Davies (listed as "Director-Treasurer"). Such 10/5/10 registration further indicates that the person who is "responsible for the day-to-day operations" of Lino's, Inc., who "directs and

controls the activities” of Lino’s, Inc., who is “responsible for custody of the professional commercial fund-raisers records” and “for custody of all funds raised,” and who is responsible for “managing or supervising fund-raising activities in or from Iowa,” is Michael Davies, Director-President.

8. The 10/5/10 registration filing referred to in the preceding paragraph was accompanied by a check to the Secretary of State in the amount of \$10 drawn on account number 10011070 at First American Bank (routing number 073900807), as the annual professional commercial fundraiser registration fee. The check is dated 9/14/10, and the pre-printed name and address on the upper left-hand portion of the front of the check bears the following names and address:

LINO'S
MIKE & VICKY DAVIES
2829 WESTOWN PKWY, SUITE 111
WEST DES MOINES, IA 50266

I used the United States Postal Service website to determine that the full zip code for Lino’s Westown Parkway address is 50266-1314.

9. The 10/5/10 registration filing referred to in the preceding paragraph also included a letter from legal counsel for Lino’s, Inc. listing seven (7) organizations for which Lino’s, Inc. was engaging in fundraising and for which “Charitable Organization Financial Information Forms” were being submitted as part of Lino’s, Inc. registration. The seven (7) organizations listed were A Child’s Wish Association of America; American Veterans Foundation; Americans Helping Veterans Corps.; Defeat Diabetes Foundation, Inc.; Firefighters Burn Funds, Inc.; Hope Cancer Funds, Incorporated; and Reserve Police Officers Association.
10. The above-referenced Professional Commercial Fund-Raiser Registration files also included materials submitted by and for Lino’s, Inc. and dated 9/1/09, which listed the above seven (7) and also listed Operation Lookout National Center For Missing Youth. The 9/1/09 submission also included the following:
 - A contract between Lino’s, Inc. and A Child’s Wish Association providing that 82% of donated funds are paid to Lino’s (less the cost of any overnight carrier fees), and indicating that A Child’s Wish Association is located in Sarasota, Florida.
 - A contract between Lino’s, Inc. and Americans Helping Veterans Corp providing that 82% of donated funds are paid to Lino’s (less overnight carrier fees and bookkeeping fees).

- A contract between Lino's, Inc. and American Veterans Foundation providing that 82% of donated funds are paid to Lino's (less overnight carrier fees and bookkeeping fees).
 - A contract between Lino's, Inc. and Firefighters Burn Fund, Inc. providing that 85% of donated funds are paid to Lino's (less overnight carrier fees and banking fees).
 - A contract between Lino's, Inc. and Operation Lookout National Center For Missing Youth providing that 80% of donated funds are paid to Lino's (less overnight carrier fees and accountant/bookkeeping fees).
 - A contract between Lino's, Inc. and Reserve Police Officers Association providing that 80% of donated funds are paid to Lino's (with the proviso that for "extraordinary donations" the 80% fee is to be paid only on the first \$500 donated during a calendar year).
11. Based on my training and experience: it is not uncommon for telephone solicitors to use "phone names," that is, a false name by which the solicitor identifies himself or herself to persons called; telemarketers seeking charitable donations commonly receive compensation that reflects their success at generating donations; individuals who are called are more inclined to make donations if they believe that a caller is a volunteer directly associated with the charity rather than a paid employee of a professional commercial fundraiser; individuals who are called are more inclined to make donations if they believe that a substantial portion of their donation goes to the charitable purpose rather than to a third party engaged in professional fundraising; and callers who make telephone solicitations as employees of professional fundraisers are aware of the above-described inclinations and preferences of would-be donors and donors.
12. The Consumer Protection Division has obtained from Etha Carson and from Teresa Stalker, both employees of the state agency Iowa Workforce Development (IWD), quarterly payroll records for Lino's, Inc., pursuant to subpoena issued to IWD. These records show the names of employees on Lino's payroll for the last two quarters of 2009 and the first three quarters of 2010. Information derived from such records is referenced below in connection with Recordings A - L.
13. The United States Postal Service maintains records showing who is authorized to receive mail at a given Post Office Box and pays for use of such PO Box. Masami Knox is a Postal Inspector in the Des Moines, Iowa office of the United States Postal Inspection Service, and has provided me

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with the United States Postal Service forms [P.S. Form 1093] relating to the PO Boxes referenced below in connection with Recordings A - L.

14. DOJ employee Kathy Gray has provided me with cassette tape-recordings of the following charitable solicitation calls, and informed me that she received the calls and made the recordings on the dates indicated on the tapes, which dates are indicated below. I have listened to each recording, and each one records an exchange between one speaker whom I recognize to be Ms. Gray, and one or more other speakers who state that they are calling for or on behalf of the organizations listed below. Ms. Gray also provided me with copies of mailings that were sent to the undercover identity in question shortly after the phone calls indicated, and the mailings had the features indicated below.

Recording A: Dated 8/24/09, a caller identifies herself as "Robin calling with A Child's Wish Association," and states: that "seventy percent" of a donation goes to A Child's Wish; and that she is a volunteer. The donor (Gray) responds by pledging to donate \$20.00.

Pledge mailing: A mailing from A Child's Wish referencing a \$20 pledge and postmarked 8/25/09 was received at the Attorney General's undercover mailing address. It asked that the \$20 donation be sent to P.O. Box 132, Waukee, IA 50263.

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 132 was obtained for "Business Use" by applicants Mike and Vicky Davies on or about January 8, 2006, listing "Child's Wish Association of America" as the name to which the box was assigned, all according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above indicate that a Robin Barquenquast was employed at Lino's in the third quarter of 2009 and received \$1,458.75 in compensation that quarter.

Recording B: Dated 6/2/10, an unidentified caller states: that he is "with A Child's Wish here in Des Moines"; that "we're right up next to Valley West Mall"; that all of the \$12 donation would go to kids, except 68 cents for phone and postage costs; and that he is a volunteer.

Pledge mailing: A mailing from A Child's Wish referencing a \$25 [sic] pledge and postmarked 6/3/10 was received at the Attorney General's undercover mailing address. It asked that the \$25 donation be sent to P.O. Box 132, Waukee, IA 50263. The following words appeared on the mailing: "Thanks again from Ray Ellis!"

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 132 was obtained for "Business Use" by applicants Mike and Vicky Davies on or about January 8, 2006, listing "Child's Wish Association of America" as the name to which the box was assigned, all according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above for the second quarter of 2010 do not list a "Ray Ellis" among the thirteen employees listed.

Recording C: Dated 6/22/10, a caller identifies himself as "Chuck" with "the Firefighters Burn Fund here in Des Moines," and states: when asked how much of a \$15 donation would go to the burn victims, responds that "outside of the phone bill and the light bill, I would assume all if it would"; and that he is a volunteer. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from Firefighters Burn Fund referencing a \$15 pledge and postmarked 6/23/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 22053, Des Moines, IA 50325-9402.

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 22053 was obtained by applicant Mike Davies on or about 6/23/09, listing an office address as 2829 Westown Parkway #111, West Des Moines, Iowa, and listing the "box customer" as "Firefighter Burn Fund, all according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above indicate that a Chuck Bruce was employed at Lino's in the second quarter of 2010 and received \$1,406.75 in compensation that quarter.

Recording D: Dated 7/12/10, a caller identifies himself as "Mike Grasso" with Firefighters Burn Fund, and states: that "we're right here in West Des Moines behind Valley West Mall"; that all of a \$10 donation will go to the burn victims except for 68 cents for phone and postage costs; and that he is a "volunteer firefighter." The donor responds by pledging to donate \$10.00.

Pledge mailing: A mailing from Firefighters Burn Fund referencing a \$20 [sic] pledge and postmarked 7/12/10 was received at the Attorney General's undercover mailing address. It asked that the \$20 donation be sent to P.O. Box 22053, Des Moines, IA 50325-9402.

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 22053 was obtained by applicant Mike Davies on or about 6/23/09, listing an office address as 2829 Westown Parkway #111, West Des Moines, Iowa, and listing the "box customer" as "Firefighter Burn Fund, all according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records for the third quarter of 2010 referred to in paragraph 12 above do not list a "Mike [or Michael] Grasso" among the eighteen employees listed, but do indicate that a Michael Davies and a Michael Bogle were employed at Lino's that quarter and received \$8,300.00 (Davies) and \$888.70 (Bogle) in compensation for the quarter.

Recording E: Dated 3/15/10, a caller identifies himself by saying "Jim Crow, I'm with Operation Lookout, the National Center For Missing Children," and states: that "we're here in Des Moines"; that of a \$15 donation, all would go to Operation Lookout except for about 67 cents to cover the cost of the phone call and postage and handling; and that he is a volunteer. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from Operation Lookout referencing a \$15 pledge and postmarked 3/16/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 7534, Urbandale, IA 50322. The following words appeared on the mailing: "Thanks again from Jim Crow!"

P.O. Box: The 9/1/09 Professional Commercial Fund-Raiser Registration submitted to the Attorney General's office by Lino's (referred to in paragraph 7 above) states that the address used by Lino's to receive donations to Operation Lookout is P.O. Box 7534, Urbandale, IA 50322.

Payroll records: The payroll records referred to in paragraph 12 above for the first quarter of 2010 do not list a "Jim [or James] Crow" among the twelve employees listed, but do indicate that a James Tounsley was employed at Lino's that quarter and received \$2,328.75 in compensation that quarter.

Recording F: Dated 3/17/10, a caller identifies himself as "Jim Kelly with the Reserve Police Officers," and states: that he's located in West Des Moines, by Valley West Mall; that of a \$10 donation, all would go to the Reserve Police Officers except for 68 cents for phone call and postage and handling; and that he is a volunteer. The donor responds by pledging to donate \$10.00.

Pledge mailing: A mailing from Reserve Police Officers Association referencing a \$10 pledge and postmarked 3/19/10 was received at the

Attorney General's undercover mailing address. It asked that the \$10 donation be sent to P.O. Box 22105, Des Moines, IA 50325. The following words appeared on the mailing: "Thanks again from Jim Kelly!"

P.O. Box: The 9/1/09 Professional Commercial Fund-Raiser Registration submitted to the Attorney General's office by Lino's (referred to in paragraph 7 above) states that the address used by Lino's to receive donations to the Reserve Police Officers Association is P.O. Box 22105, Des Moines, IA 50325-9402.

Payroll records: The payroll records referred to in paragraph 12 above for the first quarter of 2010 do not list a "Jim [or James] Kelly" among the twelve employees listed, but do indicate that a James Tounsley was employed at Lino's that quarter and received \$2,328.75 in compensation that quarter.

Recording G: Dated 3/17/10, a caller (calling a different undercover identity than the 3/17/10 call described immediately above) identifies himself as "Joe Hunt ... with the Reserve Police Officers," and states: that he's located "right behind Valley West Mall on Westown Parkway"; that of a \$15 donation, all would go to the reserve police officers except for the cost of the phone and postage and handling; and that he is a volunteer." The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from Reserve Police Officers Association referencing a \$15 pledge and postmarked 3/19/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 22105, Des Moines, IA 50325. The following words appeared on the mailing: "Thanks again from Joe Hunt!"

P.O. Box: The 9/1/09 Professional Commercial Fund-Raiser Registration submitted to the Attorney General's office by Lino's (referred to in paragraph 7 above) states that the address used by Lino's to receive donations to the Reserve Police Officers Association is P.O. Box 22105, Des Moines, IA 50325-9402.

Payroll records: The payroll records referred to in paragraph 12 above for the first quarter of 2010 do not list a "Joe [or Joseph] Hunt" among the twelve employees listed.

Recording H: Dated 8/16/10, a caller identifies himself by saying "this is George Major. I'm calling here in Des Moines with the veterans of Iowa." The caller then states: that he is calling from Waukee; and that of a \$15 donation, all would go to the homeless vets except for the cost of the phone and postage and handling. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from "Americans Helping Veterans Corps" referencing a \$15 pledge and postmarked 8/17/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 322, Waukee, IA 50263. The following words appeared on the mailing: "Thanks again from Bob Smith!"

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 322 was obtained by Michael Davies, listing Michael Davies and Vicky Davies as persons authorized to accept mail addressed to that box, on or about April 8, 1999, according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above for the third quarter of 2010 do not list a "Bob [or Robert] Smith," but do list a "George Major," among the eighteen employees listed.

Recording I: Dated 9/8/10, a caller identifies himself as "Jim Marshall," saying "I'm with the Reserve Police Officers Association." The caller then states: that the donor had contributed \$35.00 before; that all of a donation would go to the officers except for 25 cents for the phone call and forty-seven cents for the mailing; and that he's a volunteer. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from Reserve Police Officers Association referencing a \$15 pledge and postmarked 9/9/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 22105, Des Moines, IA 50325-9402. The following words appeared on the mailing: "Tahnks [sic] again from Jim Marshall!"

P.O. Box: The 9/1/09 Professional Commercial Fund-Raiser Registration submitted to the Attorney General's office by Lino's (referred to in paragraph 7 above) states that the address used by Lino's to receive donations to the Reserve Police Officers Association is P.O. Box 22105, Des Moines, IA 50325-9402.

Payroll records: The payroll records referred to in paragraph 12 above for the third quarter of 2010 do not list a "Jim [or James] Marshall," but do indicate that a James Tounsley was employed at Lino's that quarter and received \$2,639.25 in compensation for the quarter.

Recording J: Dated 9/16/10, a caller identifies himself as "Tim" with "Firefighters Burn Fund for Iowa children," and states: that he's "calling out of Des Moines"; that all of a donation goes to the kids except the costs of printing the brochure, the mailing, the postage, and the phone call,

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amounting to more than half of the donation going to the kids; and that he is a volunteer. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from Firefighters Burn Fund referencing a \$15 pledge and postmarked 9/20/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 22053, Des Moines, IA 50325-9402. The following words appeared on the mailing: "Thanks again from Tim Watson!"

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 22053 was obtained by applicant Mike Davies on or about 6/23/09, listing an office address as 2829 Westown Parkway #111, West Des Moines, Iowa, and listing the "box customer" as "Firefighter Burn Fund, all according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above for the third quarter of 2010 do not list a "Tim Watson," but do indicate that a Tim Allen was among the eighteen people employed at Lino's that quarter and received \$2,330.89 in compensation that quarter.

Recording K: Dated 9/20/10, a caller identifies himself as "Tim" with "Amvets of Iowa, American Veterans Foundation," and states: that he's "calling right here out of Des Moines"; that the donor had contributed \$25.00 before; and that all of a donation goes to the homeless vets except the costs of the printing, the mailing, the postage, and the phone call, amounting to more than half of the donation going to the homeless vets. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from American Veterans Foundation referencing a \$15 pledge and postmarked 9/21/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 22113, Des Moines, IA 50325-9402. The following words appeared on the mailing: "Thanks again from Tim McCoy!"

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 22113 was obtained by applicant Mike Davies on or about July 24, 2009, listing the "box customer" as "American Veterans Foundation," according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above for the third quarter of 2010 do not list a "Tim McCoy," but do indicate that a Tim Allen was among the eighteen people employed at Lino's that quarter.

Recording L: Dated 11/8/10, a caller identifies himself as "Bob Smith" with "the Veterans of Iowa," specifically the "American Veterans Foundation," and states: that he's calling from "here in West Des Moines" and is located "on Westown Parkway ... behind Valley West Mall"; that all of a donation goes "directly to the cause" of sending care packages to Iowa troops overseas except the costs of the phone calls and postage and handling, amounting to more than half of the donation going to the cause. The donor responds by pledging to donate \$15.00.

Pledge mailing: A mailing from American Veterans Foundation referencing a \$15 pledge and postmarked 11/9/10 was received at the Attorney General's undercover mailing address. It asked that the \$15 donation be sent to P.O. Box 22113, Des Moines, IA 50325-9402. The following words appeared on the mailing: "Thanks again from Bob Smith!"

P.O. Box: The U.S. Postal Service records referred to in paragraph 13 above indicate that the above-referenced P.O. Box 22113 was obtained by applicant Mike Davies on or about July 24, 2009, listing the "box customer" as "American Veterans Foundation," according to the US Postal Services "PS Form 1093" (Application for Post Office Box or Caller Service").

Payroll records: The payroll records referred to in paragraph 12 above for the third quarter (the most recently completed quarter) of 2010 do not list a "Bob [or Robert] Smith" among the eighteen employees listed.

15. Documents and transactions evidence needed to be obtained from LINO'S, INC. include, but are not limited to :

- Scripts and instructions to callers and other employees
- Records of donors, donations, and disbursements
- Records of interactions with client organizations
- Financial records of Lino's and its principals
- Lead lists, and acquisition and transfers of such lists
- Employee records
- Bank Records, including signature cards, statements
- Contracts, including rental or lease agreements
- Insurance Policies
- Federal and State Income Tax Returns
- Partnership Agreements and/or corporate documents
- Articles of Incorporation, bylaws, and/or minutes
- Correspondence with any clients and/or donors or prospects
- U.S. Currency and/or financial instruments
- PO Box or Commercial Mail Box information
- recordings
- Address and telephone numbers

- Foreign and domestic bank records
- Property Deeds
- Records of contacts with governmental authorities
- Travel records and receipts, bank safe deposit records, correspondence, ledgers, telephone books, and other documents tending to establish the acquisition and disposition of donated sums
- Computer terminal, files, disks, screen, keyboard, connection wires and cables, hard drive, soft drive and instruction book(s).

16. By accessing online bank records for an account maintained by the Iowa Department of Justice on which checks have been written as donations in response to solicitation calls placed by telephone solicitors employed by Lino's to the DOJ's undercover phone, I ascertained that a donation check written to "Americans Helping Vets" dated July 9, 2010 and mailed to P.O. Box 322, Waukee, Iowa 50263 in response to a pledge mailing that followed a telephone solicitation was deposited on July 15, 2010 at First American Bank (routing number 073900807), 12333 University Avenue, Clive, Iowa, into account no. 11279473.

Conclusion

Based upon information contained in this affidavit and search warrant application, I, Department of Justice Investigator Marc Wallin, believe there exists probable cause that within the following location are currently contained items which constitute evidence of the fruits and instrumentalities of violations of Iowa Code section 714.1(3), Theft by Deception; Iowa Code 706B.2, Money Laundering; and Iowa Code 706A.2, Ongoing Criminal Conduct: Lino's, Inc., 2829 Westown Parkway, Suite 111, West Des Moines, Iowa, 50266; and First American Bank, 12333 University Avenue, Clive, Iowa. Based on my experience and training as a Department of Justice Investigator, the circumstances of the actions of Lino's, Inc. representatives are consistent with violations of the Theft by Deception statute, which violations appear to be ongoing, continuous, and occurring at the above address(es). *Attachments A and B hereto are incorporated herein.*

(PBT)

x *Marc Wallin*

 Affiant

Subscribed and sworn to before me this 16th day of November, 2010.

COURT NO. SWCR 242157

Richard L. Blawie

 Magistrate/Judge

(17) P.B.