

AFFIDAVIT

I, Perry Woo, hereby depose and state as follows:

INTRODUCTION

1. I have been employed as a Special Agent of the Federal Bureau of Investigation ("FBI") since December 2004. Since April 2005, I have been assigned to the Los Angeles Division of the FBI, and have worked on white collar crimes since then. Before this, I was a Certified Public Accountant for approximately one year, and I worked as an auditor at Deloitte & Touche for approximately two years.

CRIMINAL COMPLAINT

2. This affidavit is made in support of a criminal complaint and arrest warrant for TINO LEE, also known as Robert Lopez, and GINA LIZ NICHOLAS, also known as Liz Nicholas, for violations of Title 18, United States Code, Section 917, False Personation of Red Cross Members or Agents.

SUMMARY

3. On September 16, 2005, I reviewed a report prepared by Burbank Police Officer Eddie Hartwick. That report states the following:

a. On September 15, 2005, Officer Hartwick was assigned to the Retail Crimes Detail. At approximately 6:40 p.m., she was patrolling in a marked black and white police car. She observed three subjects, later identified as defendants TINO

LEE, GINA LIZ NICHOLAS, and a juvenile, in front of the Best Buy, 1501 Victory Place, Burbank, California. Officer Hartwick sat at the end of the parking lot observing the subjects for approximately five minutes. The subjects were seated on three chairs at a table. As patrons passed by into and out of the store, they placed money into a box located on the table.

b. Officer Hartwick then drove towards the subjects and circled the area. She noticed that they had a sign attached to a white box and another sign on the table. The signs said "American Red Cross-Katrina Disaster." As the officer turned around and approached the subjects, she observed LEE look at her and then try to avoid eye contact. LEE then shuffled around and motioned to NICHOLAS and the juvenile to leave. The three subjects quickly began picking up the table, chairs, and money.

c. Officer Hartwick exited her car and began to walk towards the subjects. They appeared to walk away in order to avoid her.

d. Officer Hartwick noticed that NICHOLAS and the juvenile were wearing laminated badges with an American Red Cross logo with handwritten names on top of the laminate. She also noticed that these badges appeared to be of poor quality and did not appear authentic.

e. Officer Hartwick asked the subjects what they were collecting for. NICHOLAS stated it was for the American Red

Cross Katrina Disaster. Officer Hartwick asked LEE and the juvenile if they were also collecting donations. The juvenile stated she was. LEE stated he was not and that he just walked up as Officer Hartwick arrived. Officer Hartwick told him she had observed him sitting at the table for at least five minutes. He denied being there at all and stated he just came by to check on the girls when the officer arrived. LEE and NICHOLAS stated they were only leaving because it was getting late.

f. Officer Hartwick asked the subjects for documentation to verify that they legitimately represented the American Red Cross. NICHOLAS stated she had such documentation but did not give the officer anything. The officer again asked for the paperwork, at which time NICHOLAS stated that she had the paperwork, but not with her. She stated that her cousin had the paperwork with him and she forgot to bring it. The officer asked LEE and the juvenile if they had any paperwork. Both stated that they did not possess any documentation. LEE said that he was not collecting donations and was not a part of the group. He insisted that he has not solicited for any reason.

g. The officer asked all three subjects for identification. They all stated that they did not have any. A few minutes later, NICHOLAS gave the officer an identification card from Arizona.

h. Officer Hartwick told NICHOLAS that she needed the

documentation in her presence and that the officer felt that her signs and badges were not legitimate. NICHOLAS stated: "Please, officer, I don't do none of this. We were just going to leave. We don't want to cause any trouble." She also added that she is 100% Christian. Officer Hartwick asked her what she meant by not doing "none of this," to which she stated that she would not be collecting money illegitimately. She stated it was going to a good cause.

i. In response to a call Officer Hartwick had made for backup, Burbank Police Department Sergeant Gerry Miguez and Officer Mike Macias arrived.

j. Officer Hartwick inspected the box from the table. It was old and torn, and had a flyer for American Red Cross/Katrina taped on the front. The opening was torn and messy. The box was a plain cardboard box wrapped in white paper. Officer Hartwick noticed that there was a large amount of \$1 and \$5 bills in the box and a number of coins. There was also a personal check for \$200.

k. Officers Hartwick and Macias then attempted to get identification information from the subjects in order to perform a records check. LEE gave the name of Robert Lopez. NICHOLAS gave the name of Liz Nicholas. When asked for addresses, phone numbers, dates of birth, and other such information, the subjects hesitated, repeated the questions back to the officers, and then

each answered to the effect that they had just moved there or were only temporarily in town and staying with a friend. When asked twice, the subjects gave different dates of birth, spellings of their names, addresses, and stories as to how they obtained American Red Cross items.

l. Officer Hartwick entered the Best Buy store and asked various employees how long the subjects had been in front of the store. Witness Freeman stated that they had been out there all day and that they had been there since the beginning of the week. Witness Alvarado stated that he noticed that NICHOLAS had been out there predominantly, and that one day he saw a group of six other people with NICHOLAS with a longer table set up. Freeman and Alvarado stated that various people had been collecting donations throughout the week, but mainly they observed NICHOLAS and sometimes LEE.

m. Officer Hartwick again asked LEE why he was at Best Buy. He stated he just came over to check on the girls. After Officer Hartwick again told him that she had observed him at the donation table and that he seemed evasive when he saw her, he stated he had come to pick up NICHOLAS and the juvenile. He later stated that he came to Best Buy to shop. He stated that a friend gave him a ride and dropped him off, however, he could not remember his friend's name. LEE stated his friend drove a black Toyota Corolla. He later told Officer Macias that his friend Sam

dropped him off and drove a White Corolla. LEE then said he came by just to take the girls to eat. He again denied collecting donations with them that day or any day.

n. The juvenile stated that the juvenile was helping NICHOLAS to collect donations and had helped her for a couple of days. The juvenile later stated that that day was her first day. The juvenile stated she had no documentation or verification from the American Red Cross. She stated that NICHOLAS was collecting donations for NICHOLAS' cousin.

o. Officer Hartwick then spoke to NICHOLAS. NICHOLAS stated that she has been helping out her cousin with collecting donations. NICHOLAS stated her cousin was authorized and she was just helping him out. When the officer asked her what her cousin's name was, she paused and repeated the question. She paused again, then said, "Jerry." She finally gave the full name of Jerry Mitchell. Officer Hartwick asked her if she could call him and have him bring some documentation; however, NICHOLAS stated she did not know his phone number or his address. She stated that a friend dropped her and the juvenile off at the Best Buy earlier that day. Later in the conversation, she stated that Jerry dropped them off. She then stated that her mother had dropped them off. She stated they were just leaving when the officer arrived because their friend was picking them up. Officer Hartwick asked where their friend went. NICHOLAS stated

she did not know and that he never showed up.

p. Officer Hartwick asked each subject if they had a wallet. LEE stated he did not, however, Officer Hartwick noticed a bulge in the shape of a wallet in his left front pocket.

q. Officer Hartwick asked all subjects if they had any contraband, personal information or items related to the American Red Cross on their person. Each stated they did not. Officer Macias asked all subjects for consent to do a pat-down, and all subjects agreed. LEE then stated he did have Arizona identification on his person.

r. Officer Hartwick patted down NICHOLAS. In her wallet, she found numerous \$1 and \$5 bills. She also had a large amount of coins. Officer Hartwick asked NICHOLAS why she had such a large amount of \$1 bills and coins. NICHOLAS said that her mother gave her money for lunch and the coins were from her piggy bank. She denied that any of that money was from donations.

s. Officer Hartwick then asked Best Buy to make an announcement to their customers stating that if anyone made a donation in front of the store on that date, to contact an officer at the front of the store. Officers Hartwick and Macias received the following statements:

i. Victim Castillo stated that on that date, when she arrived at Best Buy, she saw the subjects asking for

donations. She identified LEE, NICHOLAS, and the juvenile. She stated NICHOLAS and the juvenile were sitting down in chairs and LEE was standing up. Castillo approached the table and LEE made eye contact with her. She then handed \$10.00 to LEE. He took the money and said "Thank You." The others stated "God bless you," and "thank you."

ii. Victim Dahdal stated that on that day, she saw the donation table and asked if it was for the Katrina disaster. NICHOLAS and the juvenile said it was, so she gave them \$5.00. Both girls stated "thank you so much."

iii. Victim Baghdasarian stated she is an employee and had seen the people in front of the store before that day. She did not think about whether they were legitimate. She saw the signs and assumed they were. On September 14, 2005, she gave \$1.00. She pointed out NICHOLAS as one of the subjects there when she donated the money.

iv. Victim Vasquez stated that on that day, he saw the American Red Cross sign up and gave \$1.00 to the cause. He identified NICHOLAS as one of the subjects sitting at the table. NICHOLAS stated "God bless you."

v. Victim Baghoomian stated that on September 14, 2005, he was walking to the entrance of the store when NICHOLAS asked him if he would like to donate to the Red Cross. He donated some change he had, approximately \$.25.

NICHOLAS stated "God bless you." Baghoumian pointed NICHOLAS out to Sergeant Misquez.

vi. Victim Danielian stated that on September 13, 2005, he donated approximately \$1.00 and again on September 15, 2005, he donated approximately \$.35. He pointed NICHOLAS out as being at the table each day he donated.

vii. Victim Danyalian stated that he noticed a group in front of the store collecting for a few days. He noticed they worked in groups. He saw 6-7 people at the table earlier in the week, but now they appeared to have divided up into shifts. On September 14, 2005, he donated some change, approximately \$1.00. He remembered seeing NICHOLAS at the table at that time.

viii. Victim Shirvanian stated that on September 14, 2005, he gave \$5.00. He saw NICHOLAS there with a couple of other girls. He saw the American Red Cross sign and believed it was legitimate.

ix. Victim Alvarado stated that on September 14, 2005, he and his mother were at the store and gave approximately \$5.00. He pointed out NICHOLAS as being there. He noticed LEE, the juvenile, and NICHOLAS at the Best Buy all day that day. He stated that he saw LEE at the store with another man earlier in the week. He noticed the other man to be collecting donations in front of Best Buy a few days before also.

t. The officers then arrested LEE, NICHOLAS, and the juvenile for violating California Penal Code Section 182/532D(a), Conspiracy to Solicit with False Pretenses as a Charitable Organization.

u. LEE and NICHOLAS were placed in the rear seat of Officer Macias' patrol car, with the tape recorder activated.

v. After being taken to the police station, NICHOLAS waived her Miranda rights and agreed to speak to the officers. She insisted that she used no other name than Liz Nicholas, and said she had no middle name. She denied keeping any money. She stated that she delivered the money to a woman at the American Red Cross somewhere in Los Angeles. NICHOLAS could not name the woman but said she wore glasses. Officer Hartwick recovered receipts in the name of Gina, various items in the names of Liz Nichols and Janey Mitchell, and \$91.32 in small bills and change from NICHOLAS' wallet.

w. LEE identified himself as Robert Lopez, and stated that he lived in Arizona. In his wallet, Officer Hartwick recovered numerous business cards and personal information from the Los Angeles area, as well as items with the name TINO LEE. She also recovered \$153.91 from the wallet. Sergeant Misqueuz confronted LEE with the new name found, and LEE said his true name was TINO LEE and that he had a local address in Burbank.

x. Officer Hartwick spoke to the juvenile's father, who stated that they were legitimately collecting donations for the Red Cross. He stated that his nephew, Jerry Mitchell, has documentation which authorizes him and his family to collect for the American Red Cross. Officer Hartwick told him to bring the documentation when they came to pick up the juvenile.

y. At approximately 11:00 p.m., the juvenile's mother arrived, along with other individuals, including John Mitchell, the juvenile's uncle. Mitchell stated that they had certification to collect for the American Red Cross. He presented an American Red Cross business card, a Best Buy Business card, an American Red Cross flyer, and approximately 100 empty American Red Cross collection envelopes as the authorization.

z. The following money was recovered: \$91.32 in NICHOLAS' possession, \$116.63 in cash and a check for \$200 in the donation box, \$28.34 in the juvenile's possession, and \$153.91 in LEE's possession.

4. On September 16, 2005, I reviewed a police report prepared by Burbank Police Department Officer Mike Macias. That report states the following:

a. As Officer Macias stood with the subjects at the Best Buy, he asked LEE how he arrived there. LEE said that he was dropped off by his friend "John" in a white Toyota. LEE said

that he was at home when John picked him up. Officer Macias asked LEE why he came to Best Buy and he said, "Just to look around." LEE admitted to knowing NICHOLAS and the juvenile.

b. After several minutes had passed, Officer Macias repeated his question of how LEE had arrived at Best Buy. LEE said that he walked to his friend's house and "Sam" dropped him off at Best Buy in a green Toyota. He also insisted that his name was Robert Lopez.

c. After the parties had been arrested and brought to the jail, Officer Macias read NICHOLAS her Miranda rights, which she waived. She stated that she had lived in Los Angeles her whole life. He asked her if she ever lived anywhere else, and she said, "No." He asked her why she had an Arizona identification and she said, "Oh yeah, I lived in Arizona for six years." He asked her if she lived in Tucson, Arizona, and she said "Yes." On her Arizona identification card it states that she resides in Phoenix. He asked for her Arizona address and she was not able to provide the information that was on her identification card.

d. NICHOLAS admitted that she does not work or volunteer for the American Red Cross. She stated she was collecting donations on her own. She insisted that her true full name was Liz Nicholas.

e. Officer Macias also spoke to the juvenile. The

juvenile stated that NICHOLAS' name was really "Gina" and that NICHOLAS got all the Red Cross materials from her cousin. The juvenile stated that the juvenile does not work or volunteer for Red Cross, and that the juvenile keeps the money and does not give it to the Red Cross.

f. Officer Macias reviewed the recording from the back of the police car, which included the following statements:

LEE: "They'll find out my name because I've been booked before."

LEE: "I should of just kept walking while you guys stayed there."

NICHOLAS: "You should of walked inside."

LEE: "I should of."

NICHOLAS: "We should of just left earlier."

NICHOLAS: "I should of took the [juvenile] and went to Panda Express."

5. On September 16, 2005, I reviewed a police report prepared by Burbank Police Department Officer Thor Merich. That report states the following:

a. He contacted Nick Samaniego at the American Red Cross. Mr. Samaniego is responsible for media relations for the Los Angeles chapter of the American Red Cross. He stated that if the subjects actually worked for the Red Cross, they would have a Red Cross identification. Sometimes, third parties solicit donations for the Red Cross. When that occurs, the involved parties are required to have a Third Party Fund Raising Agreement

with them at all times. They are required to present this contract to anyone who asks and it also doubles as identification for their activities. Mr. Samaniego further related that anyone soliciting donations for the Red Cross is required to obtain permits from the cities in which they work. If they are on private property while soliciting these donations, they need written permission from the property owner.

b. Mr. Samaniego, when provided the names of the subjects, stated that Red Cross records did not show those persons as being authorized to solicit funds.

6. On September 16, 2005, Special Agent E. Paul Bertrand and I spoke to H.T. Linke, Director of Communications and Marketing for the American Red Cross, Greater Los Angeles. He related the following:

a. The technical name for the organization is the "American National Red Cross."

b. The American Red Cross is a national humanitarian service organization, with IRC 501(c)(3) tax exempt status. Katrina is a hurricane that struck the Gulf Coast in late August 2005. The hurricane and its aftermath have triggered the largest domestic disaster relief operation in the organization's 125-year history. The media attention is unprecedented, and the outpouring of public support, including donations to the American Red Cross, is also unprecedented.

c. Any volunteers need permission either verbally or in writing to collect money for the American Red Cross. Details are required regarding where and how long people are going to be collecting donations.

d. However, in some cases people may simply go to the American Red Cross website, download a flyer, and the Red Cross trusts that the money will be delivered to them.

e. Only American Red Cross volunteers are permitted to wear badges. People soliciting money do not wear badges. Neither LEE nor NICHOLAS are volunteers. An individual named "John Mitchell" is a volunteer with American Red Cross. This individual has an address different than that provided by the juvenile's uncle.

f. The organization rarely has individuals soliciting donations outside stores or in other public locations, and when they do such solicitations it will normally be in partnership with other major organizations and the media. Additionally, Red Cross volunteers will always offer a receipt for cash donations, although the agency prefers that donors write checks made out to the American Red Cross.

g. Mr. Linke viewed a picture of the badge that was seized from NICHOLAS, and stated that the American Red Cross has temporary volunteer badges, but they are not laminated and do not have a line for a name to be written in, unlike the badge seized

from NICHOLAS.

7. On September 16, 2005, I spoke to Frank Estrada. Mr. Estrada told me the following:

a. He is an American Red Cross volunteer.

b. On September 14, 2005, he went to the Best Buy in Burbank. He saw two females and a male who appeared to be collecting donations for the American Red Cross. One of the females and the male were seated at a table, and the other female was standing nearby smoking a cigarette. Mr. Estrada felt the fact that the woman was smoking while collecting donations did not present a good image.

c. Mr. Estrada approached the smoking female and introduced himself. She said her name was Liz. He then went to the table. He saw that the two people seated there were wearing identification badges, with first initials and last names. He asked them questions regarding who had sent them out there, and they claimed they were out of the Burbank American Red Cross, and they had started a week before.

d. Mr. Estrada introduced himself to the other female and she gave her name. He noticed that it was different from what was on her name tag. He asked her why the name was different, and she said the Burbank American Red Cross gave her the wrong name tag. He asked her who they knew there, at the Burbank Red Cross, and they replied they hadn't really met

anyone. He asked if they knew Kelli Donigan, and they responded that they did not know who she was. Mr. Estrada knew that Ms. Donigan covers the North Area, which includes Burbank, as a Disaster Services Specialist for the American Red Cross. She would have directed them, had they been real volunteers.

e. All three individuals wore official-looking T-shirts, which new volunteers don't usually have. Moreover, the Red Cross would not send new volunteers out to solicit money without a seasoned veteran. As he departed, one of the females and the male said "God bless you." This was odd because the American Red Cross does not have a religious affiliation, and volunteers would not normally say such a thing.

CONCLUSION

21. Based upon the facts set forth above, I believe there is probable cause to believe that TINO LEE and GINA LIZ NICHOLAS committed False Personation of Red Cross Members or Agents, in violation of 18 U.S.C. 917.

Perry Woo
Special Agent, FBI

Sworn and subscribed to
before me on this ____ day
of September, 2005

UNITED STATES MAGISTRATE JUDGE