



ORIGINAL

Approved: [Signature]
SHEB SWETT
Assistant United States Attorney

DOC # _____

Before: THE HONORABLE BARBARA C. MOSES
United States Magistrate Judge
Southern District of New York

17 MAG 1870

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|--------------------------|---|------------------------|
| ----- X | : | <u>COMPLAINT</u> |
| UNITED STATES OF AMERICA | : | |
| - v. - | : | Violations of |
| | : | 18 U.S.C. §§ 505, 371, |
| | : | and 2 |
| MICHAEL ARNSTEIN, | : | |
| Defendant. | : | COUNTY OF OFFENSE |
| | : | NEW YORK |
| ----- X | : | |

SOUTHERN DISTRICT OF NEW YORK, ss.:

MAXIME VALES, being duly sworn, deposes and says that he is a Deputy United States Marshal with the United States Marshals Service ("USMS"), and charges as follows:

COUNT ONE
(Forgery of a Judge's Signature)

1. Between on or about February 20, 2014 and on or about October 22, 2014, in the Southern District of New York and elsewhere, MICHAEL ARNSTEIN, the defendant, willfully and knowingly forged the signature of a judge, register, and other officer of any court of the United States, and of any Territory thereof, and forged and counterfeited the seal of any such court, and knowingly concurred in using any such forged or counterfeit signature and seal, for the purpose of authenticating any proceeding and document, and tendered in evidence any such proceeding and document with a false and counterfeit signature of any such judge, register, and other officer, and a false and counterfeit seal of the court, subscribed and attached thereto, knowing such signature and seal to be false and counterfeit, to wit, ARNSTEIN forged the signature of a United States District Judge in the United States District Court for the Southern District of New York and affixed

such forged signature to a counterfeit court order that was used to de-index search results from an internet search engine.

(Title 18, United States Code, Sections 505 and 2.)

COUNT TWO

(Forgery of a Judge's Signature)

2. Between on or about November 21, 2014 and on or about December 1, 2014, in the Southern District of New York and elsewhere, MICHAEL ARNSTEIN, the defendant, willfully and knowingly forged the signature of a judge, register, and other officer of any court of the United States, and of any Territory thereof, and forged and counterfeited the seal of any such court, and knowingly concurred in using any such forged or counterfeit signature and seal, for the purpose of authenticating any proceeding and document, and tendered in evidence any such proceeding and document with a false and counterfeit signature of any such judge, register, and other officer, and a false and counterfeit seal of the court, subscribed and attached thereto, knowing such signature and seal to be false and counterfeit, to wit, ARNSTEIN forged the signature of a United States District Judge in the United States District Court for the Southern District of New York and affixed such forged signature to a counterfeit court order that was used to de-index search results from an internet search engine.

(Title 18, United States Code, Sections 505 and 2.)

COUNT THREE

(Conspiracy to Forge a Judge's Signature)

3. From at least in or about February 2014 up to and including in or about February 2017, in the Southern District of New York and elsewhere, MICHAEL ARNSTEIN, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to forge a judge's signature, in violation of Title 18, United States Code, Section 505.

4. It was a part and an object of the conspiracy that MICHAEL ARNSTEIN, the defendant, and others known and unknown, willfully and knowingly, would and did forge the signature of a judge, register, and other officer of any court of the United States, and of any Territory thereof, and forged and counterfeited the seal of any such court, and knowingly concurred in using any such forged or counterfeit signature and

seal, for the purpose of authenticating any proceeding and document, and tendered in evidence any such proceeding and document with a false and counterfeit signature of any such judge, register, and other officer, and a false and counterfeit seal of the court, subscribed and attached thereto, knowing such signature and seal to be false and counterfeit, in violation of Title 18, United States Code, Section 505.

Overt Acts

5. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about October 3, 2014, MICHAEL ARNSTEIN, the defendant, emailed an individual in the Southern District of New York and instructed that individual to create a counterfeit judicial order by digitally altering a genuine judicial order.

b. On or about October 22, 2014, MICHAEL ARNSTEIN, the defendant, emailed a copy of a counterfeit judicial order to Google, Inc. ("Google") and requested that Google de-index Uniform Resource Locators ("URLs") contained in the counterfeit order.

(Title 18, United States Code, Section 371.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

6. I am a Deputy United States Marshal with the USMS and have been so employed for approximately six years. This affidavit is based upon my personal participation in the investigation of this matter, as well as on my conversations with other law enforcement officers and my examination of documents, reports, and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts I have learned during the investigation. Where the contents of documents or the actions, statements, or conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview of the Defendant's Forgery Scheme

7. As set forth more fully below, in or about October 2012, MICHAEL ARNSTEIN, the defendant, obtained a

genuine judicial order from the United States District Court in the Southern District of New York, and then used this judicial order to create counterfeit orders. In order to suppress negative information relating to his business, ARNSTEIN subsequently provided these counterfeit orders to internet search engines, including Google, to request that the internet search engines remove from their search results websites that were identified as defamatory in the counterfeit orders.

Background on the Counterfeit Orders

8. Based on my review of publicly available documents, and my conversations with other law enforcement officers and other individuals, I have learned, in substance and in part, the following:

a. MICHAEL ARNSTEIN, the defendant, is the Chief Executive Officer and owner of a company located in Manhattan, New York, that principally sells sapphires and sapphire jewelry (the "ARNSTEIN Company").

b. On or about July 22, 2011, the ARNSTEIN Company filed a civil complaint against an individual ("Civil Defendant-1") and a company ("Civil Defendant-2," and collectively, the "Civil Defendants"), in the United States District Court for the Southern District of New York (the "Civil Action"). On or about October 17, 2011, the ARNSTEIN Company filed an amended complaint (the "Amended Complaint") against the Civil Defendants, alleging, inter alia, a claim of defamation under New York law. The Amended Complaint sought damages, attorney's fees and costs, and any other relief the court deemed just and equitable. The case was assigned to the Honorable Alison J. Nathan in or about February 2012.

c. Civil Defendant-1 appeared pro se on or about March 20, 2012. Civil Defendant-1 subsequently entered into a settlement with the ARNSTEIN Company. Civil Defendant-2 failed to appear in the Civil Action, and on or about October 26, 2012, Judge Nathan entered an Order for Default Judgment (the "Default Judgment Order") against Civil Defendant-2. The Default Judgment Order enjoined Civil Defendant-2 from posting defamatory reviews of the ARNSTEIN Company online and ordered Civil Defendant-2 to take down 54 URLs, which are essentially the internet addresses for websites, that contained purportedly defamatory information regarding the ARNSTEIN Company. The Default Judgment Order was signed by Judge Nathan. On or about November 9, 2012, Judge Nathan closed the Civil Action.

The Defendant's Forgery of the Default Judgement Order

9. Based on my review of documents obtained from Google, I have learned, in substance and in part, the following:

a. The email account marnstein@gmail.com ("Email Account-1") is registered to an individual named "Michael Arnstein." The user of Email Account-1 has accessed Email Account-1 from an IP address associated with the ARNSTEIN Company's Manhattan office. In addition, MICHAEL ARNSTEIN, the defendant, identifies himself in emails sent from Email Account-1.

b. The email account michael@[the ARNSTEIN Company].com ("Email Account-2")¹ is registered to an individual named "Michael Arnstein." The user of Email Account-2 has accessed Email Account-2 from an IP address associated with the ARNSTEIN Company's Manhattan address. In addition, the recovery email address for Email Account-2 is Email Account-1. MICHAEL ARNSTEIN, the defendant, identifies himself in emails sent from Email Account-2.

c. Accordingly, it appears that both Email Account-1 and Email Account-2 are controlled and used by the same person, i.e., MICHAEL ARNSTEIN, the defendant.

d. Google has a policy of "de-indexing," or removing from its search results, websites that have been identified as defamatory by court order.

e. On or about July 16, 2014, MICHAEL ARNSTEIN, the defendant, sent an email to a third party, in which he said:

[N]o bullshit: if I could do it all over again I would have found another court order injunction for removal of links (probably something that can be found online pretty easily) made changes in photoshop to show the links that I wanted removed and then sent to 'removals@google.com' as a pdf - showing the court order docket number, the judges [sic] signature - but with the new links put in. google isn't checking this stuff; that's the bottom line b/c I spent \$30,000 fuckin thousand dollars and nearly 2 fuckin years to do what legit could have been done for about 6 hours of

¹ The email domain "[the ARNSTEIN Company].com" is hosted by Google.

searching and photoshop by a guy for \$200., all in ONE DAY...

f. On or about February 20, 2014, ARNSTEIN sent an email from Email Account-2 to an employee in the ARNSTEIN Company's Manhattan office ("Employee-1") with the subject line, "update to injunction and send back the updated file please." The email stated, "please add these below pricescope listing[s]," and then listed two URLs.

g. On or about May 22, 2014, ARNSTEIN sent an email to Employee-1 with the subject line, "Please make these into a pdf court order injunction file." The email listed four URLs. Employee-1 responded by email to ARNSTEIN, stating, "These link reviews are very bad, so what do you want me to do? . . . Should i put just those links in PDF as usual?" ARNSTEIN replied by email, "yes add them to the last pdf you made that had only 1 link. hopefully google will remove them, but it only works about 25% of the time."

h. On or about October 3, 2014, ARNSTEIN emailed Employee-1, stating, "can you send me a new court order injunction with only these links please (change the stamp date to Sept 24 2014 thanks!" The email listed six URLs ("Six URLs-1"). Employee-1 responded, "here is the court injunction_03 as requested and please let me know if you want me to change anything else on it."

i. On or about October 22, 2014, Google received an email from Email Account-1. The email was submitted to Google in support of a request to have Google de-index certain URLs relating to the ARNSTEIN Company. Attached to the email was a file labeled "Court Injunction_03," which appeared to be an "Order for Default Judgment," purportedly signed by Judge Nathan in the Civil Action ("Counterfeit Order-1"). Counterfeit Order-1 resembled the Default Judgment Order in its language and layout except in two respects. First, the genuine Default Judgment Order was dated October 26, 2012, while Counterfeit Order-1 was dated September 24, 2014, almost two years after the Civil Action was closed. Second, Counterfeit Order-1 listed the Six URLs-1 as containing purportedly defamatory information relating to the ARNSTEIN Company, none of which were included among the 54 URLs listed in the genuine Default Judgment Order.

j. On or about November 19, 2014, Google responded to Email Account-1, saying:

Thanks for reaching out to us. It is Google's policy to voluntarily remove content pursuant to a court order directed at a third party, when appropriate. In accordance with this policy, we have removed the following URL(s) from our Google.com search results: [Six URLs-1].

k. On or about November 21, 2014, ARNSTEIN forwarded this email to Employee-1, adding, "Hey [Employee-1], Good news, many of the links have been removed from the work you put into that PDF. There are links that are almost the same that have been created from the same website that is coming up high now. Can you add the following links to the doc and send it back to me again please. change the date to October 30th too." The email then listed six additional URLs ("Six URLs-2").

l. On or about November 30, 2014, ARNSTEIN sent an email to Employee-1 with the subject line, "did you get my email request on the pdf update?" On or about December 1, 2014, Employee-1 responded, "I almost finished it on last week Friday and now this morning I finished it so here is the edited Court injunction pdf and please let me know if you want me to change anything else on it."

m. On or about December 1, 2014, Email Account-1 sent an email to Google that contained a counterfeit order dated October 30, 2014 ("Counterfeit Order-2"). Counterfeit Order-2 listed Six URLs-2 as URLs containing allegedly defamatory information.

n. On or about December 18, 2014, Google responded to Email Account-1, stating that it would de-index certain of the Six URLs-2 from its search results "pursuant to a court order directed at a third party."

o. Between on or about January 19, 2015 and on or about February 10, 2017, Google received at least ten more emails in support of requests to de-index URLs relating to the ARNSTEIN Company. Attached to these emails were counterfeit orders similar to Counterfeit Order-1 and Counterfeit Order-2, that is, default judgment orders that resemble the genuine Default Judgment Order, including the purported signature of Judge Nathan, but bearing different dates and listing different purportedly defamatory URLs (collectively, with Counterfeit Order-1 and Counterfeit Order-2, the "Counterfeit Orders"). Many of the URLs listed in the Counterfeit Orders are unrelated to the Civil Defendants.

p. The Counterfeit Orders were marked as having been "filed" in the Southern District of New York on or about the following dates: September 24, 2014, October 30, 2014, November 28, 2014, December 22, 2014, January 15, 2015, May 5, 2015, July 5, 2015, August 7, 2015, January 8, 2016, February 15, 2016, and March 12, 2016. I have reviewed the ECF docket sheet in the Civil Action and there are no docket entries for any of those dates. Judge Nathan has confirmed that she did not issue the Counterfeit Orders.

q. On or about September 4, 2014, MICHAEL ARNSTEIN, the defendant, sent an email to a third party, in which he said:

I think you should take legal advice with a grain of salt. I spent 100k on lawyers to get a court order injunction to have things removed from Google and Youtube, only to photoshop the documents for future use when new things 'popped up' and google legal never double checked my docs for validity...I could have saved 100k and 2 years of waiting/damage if I just used photoshop and a few hours of creative editing...Lawyers are often worse than the criminals.

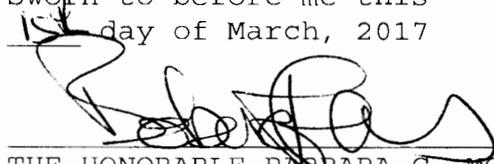
r. On or about January 29, 2016, MICHAEL ARNSTEIN, the defendant, sent an email to third parties, in which he said, "I have copies of real injunction orders from when I was railroaded by the [] programmer which work very well when I submit them with new bogus reviews that come up in organic search."

WHEREFORE, the deponent respectfully requests that a warrant issue for the arrest of MICHAEL ARNSTEIN, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



MAXIME VALES
Deputy United States Marshal
United States Marshals Service

Sworn to before me this
15th day of March, 2017



THE HONORABLE BARBARA C. MOSES
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK