

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 20CF 000796

DAVID W. HENRY

4822 Pflaum Road

Madison, WI 53718

DOB: 4/22/1951

Sex/Race: M/W

Eye: Brown Hair: Brown,

Defendant.

CRIMINAL COMPLAINT

The State of Wisconsin by Christopher A. Liegel, Assistant Attorney General as assistant to the Dane County District Attorney pursuant to Wis. Stat. § 978.05(8)(b) and, with independent jurisdiction pursuant to Wis. Stat. § 71.80(6) over a violation of Wis. Stat. § 71.83(2)(a)1., alleges that the defendant committed the following violations of the criminal code of the State of Wisconsin and charges him as follows:

COUNT 1: THEFT OF SALES TAX—WIS. STAT. § 77.60(11)

The defendant, between on or about January 1, 2004, and on or about February 28, 2018, in the City of Madison, Dane County, State of Wisconsin, did collect tax moneys imposed under Wis. Stat. §§ 77.52 and 77.71 from consumers, users or purchasers and did intentionally fail or refuse to pay over those tax moneys to the state at the time required by Wis. Stat. § 77.58 or fraudulently withheld, appropriated or used those tax moneys contrary to Wis. Stat. § 77.60(11).

Because the combined amount of the defendant's thefts of sales tax exceeds \$100,000, a conviction for this offense is a Class G felony. Wis. Stat. § 971.36(3). Upon conviction for a Class G felony, the defendant may be fined not more than Twenty-Five Thousand Dollars (\$25,000) or imprisoned not more than ten (10) years, or both. Wis. Stat. §§ 70.60(11), 939.50(3)(g), and 940.20(3)(cm). The maximum term of initial confinement in prison may not exceed five (5) years. Wis. Stat. § 973.01(2)(b)7. The term of extended supervision may not exceed five (5) years. Wis. Stat. § 973.01(2)(d)4.

COUNT 2: FAILURE TO FILE AN INCOME TAX RETURN— WIS. STAT. §71.83(2)(a)1.

The defendant on or about October 15, 2017, for the tax year January 1, 2016 to December 31, 2016, in Dane County, State of Wisconsin, as a person required by law to make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in Wis. Stat. §§ 71.03(6), 71.24 or 71.44 contrary to Wis. Stat. § 71.83(2)(a)1.

Upon conviction of this offense, a misdemeanor, the defendant may be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned for not to exceed nine (9) months or both. In addition, the defendant may be ordered to pay the cost of prosecution. Wis. Stat. § 71.83(2)(a)1.

COUNT 3: FAILURE TO FILE AN INCOME TAX RETURN— WIS. STAT. §71.83(2)(a)1.

The defendant on or about October 15, 2018, for the tax year January 1, 2017 to December 31, 2017, in Dane County, State of Wisconsin, as a person required by law to make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in Wis. Stat. §§ 71.03(6), 71.24 or 71.44 contrary to Wis. Stat. § 71.83(2)(a)1.

Upon conviction of this offense, a misdemeanor, the defendant may be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned for not to exceed nine (9) months or both. In addition, the defendant may be ordered to pay the cost of prosecution. Wis. Stat. § 71.83(2)(a)1.

COUNT 4: FAILURE TO FILE AN INCOME TAX RETURN— WIS. STAT. §71.83(2)(a)1.

The defendant on or about October 15, 2019, for the tax year January 1, 2018 to December 31, 2018, in Dane County, State of Wisconsin, as a person required by law to make, render, sign or verify any return, did willfully fail or refuse to make a return at the time required in Wis. Stat. §§ 71.03(6), 71.24 or 71.44 contrary to Wis. Stat. § 71.83(2)(a)1.

Upon conviction of this offense, a misdemeanor, the defendant may be fined not more than Ten Thousand Dollars (\$10,000) or imprisoned for not to exceed nine (9) months or both. In addition, the defendant may be ordered to pay the cost of prosecution. Wis. Stat. § 71.83(2)(a)1.

COUNT 5: OPERATING AS A SELLER WITHOUT A PERMIT OR AFTER SELLER PERMIT REVOKED— WIS. STAT. § 77.52(12)

The defendant between on or about June 30, 2016, and on or about August 1, 2019, at 4822 Pflaum Road in the City of Madison, Dane County, State of Wisconsin did operate as a seller required to collect sales tax, without a permit or after a permit had been suspended or revoked contrary to Wis. Stat. § 77.52(12).

Upon conviction for this offense, an unclassified misdemeanor, the defendant may be fined not more than Five-Hundred Dollars (\$500) or imprisoned not more than thirty (30) days, or both. Wis. Stat. § 939.61(2).

COUNT 6: POSSESSION OF A FIREARM BY A FELON— WIS. STAT. § 941.29(1m)(a)

The defendant on or about May 3, 2018, at 4822 Pflaum Road in the City of Madison, Dane County, State of Wisconsin did possess a firearm, having been convicted of a felony in this state contrary to Section 941.29(1m)(a) of the Wisconsin Statutes.

Upon conviction for this offense, a Class G Felony, the defendant may be fined not more than Twenty-Five Thousand Dollars (\$25,000) or imprisoned not more than ten (10) years, or both.

Wis. Stat. § 939.50(3)(g). The maximum term of initial confinement in prison may not exceed five (5) years. Wis. Stat. § 973.01(2)(b)7. The term of extended supervision may not exceed five (5) years. Wis. Stat. § 973.01(2)(d)4.

FACTUAL BASIS

Complainant is a Special Agent with the Wisconsin Department of Revenue (DOR), Office of Criminal Investigation, and bases this complaint upon his own investigation, the investigation of other agents and employees of the Wisconsin Department of Revenue, statements of sworn law enforcement officers, the statements of witnesses to complainant and law enforcement officers, and the statements of the defendant. For the purpose of establishing probable cause, statements from civilian witnesses are properly presumed to be truthful and reliable when there is no evidence the witness is involved in the charged criminal conduct. Statements of the defendant inculcate him in criminal activity and are therefore against his penal interest and thus, presumed to be truthful and reliable.

Based upon information and belief, complainant states as follows:

David W. Henry is the owner and operator of an entity doing business under the name of "Dave's Auto Service." Dave's Auto Service is located at 4822 Pflaum Road in the City of Madison, Dane County, Wisconsin. Affixed to the exterior front of the building is a large sign with the words, "DAVE'S AUTO SERVICE." Below these words, in smaller lettering, are the words, "Personalized Care for Your Car." The sign also contains an emblem with the letters "ASE." This sign is positioned over the double doors that complainant knows to be the front entrance to the building.

Dave's Auto Service has maintained an internet webpage at <https://www.davecanfixyourcar.com> since at least 2007. On the first page of the website in large lettering it states, "DAVE'S AUTO SERVICE" and an address of "4822 Pflaum Rd, Madison, WI

53718.” By clicking on the “About” tab, a hyperlink takes the user to a page with the same header as the home page and a subheading, “MEET OUR TEAM.” The first listing below that heading is for “Dave Henry, Owner.” Below that heading a narrative paragraph begins with, “Dave Henry is the owner of Dave’s Auto Service and a ASE certified master technician.” A picture of Mr. Henry is to the left of the entry. Complainant recognizes the picture to be an image of the defendant.

Complainant states that he checked the internet archive located at <https://web.archive.org>, commonly known as the Wayback Machine. Complainant states that he is familiar with the website and knows from his own experience it to be a reliable digital archive of internet sites. Complainant states that he used the Wayback Machine to determine the history of the web address <http://davecanfixyourcar.com>. Complainant states that his search revealed the first archived webpage for <http://davecanfixyourcar.com> is dated February 22, 2007. This webpage is substantially similar to the current webpage at <http://davecanfixyourcar.com>. The May 19, 2007, webpage is a similar advertising webpage for “Dave’s Auto Service,” and under the “Staff” tab lists “Dave Henry.” Under that heading it states in part, “Dave Henry is the owner of Dave’s Auto Service and a ASE certified master technician.” A significant difference from the current webpage is that the February 22, 2007, site lists an address of “71 South Stoughton Road, Madison, Wisconsin.” From reviewing the archived webpages advertising Dave’s Auto Service, complainant notes that Dave’s Auto Service is advertised as located at 71 S. Stoughton Road continuing through an archived page dated March, 6 2014. An archived page dated May 17, 2014, lists 4822 Pflaum Road, Madison, WI. Complainant states that this is the first archived webpage he located for Dave’s Auto Service at <http://davecanfixyourcar.com> with the Pflaum Road address. All archived webpages after May 17, 2014, list the 4822 Pflaum Road address. Complainant states that no other addresses are listed on the archived webpages for <http://davecanfixyourcar.com> and

that both the Pflaum Road address and the Stoughton Road address are located in the City of Madison in Dane County. Complainant further notes that his review of the archived webpages at <http://davecanfixyourcar.com> have images of individuals. Complainant recognizes the defendant as depicted in at least one image on each archived website.

Complainant states that he has reviewed copies of federal tax returns filed by the defendant with the Wisconsin Department of Revenue. Complainant states that he has looked at IRS Form 1040, Schedule C provided by the defendant each year from 2004 through 2010. Complainant states that Schedule C is for a taxpayer to report income or loss from a business the taxpayer operated as a sole proprietor. Complainant states that on the Schedule C provided with his 2004 and 2005 Wisconsin tax returns the defendant listed “Dave’s Auto Service” as the business name and “3706 Milwaukee St. Madison, WI 53714” as the business address. On the Schedule C provided with the defendant’s 2006 Wisconsin tax return the defendant listed “Dave’s Auto Service” as the business name and “71 S. Stoughton Rd. Madison, WI 53714” as the business address. Complainant states that on the Schedule C provided with the defendant’s 2007, 2008, 2009, and 2010 Wisconsin tax returns the defendant listed “Dave’s Auto Service” as the business name and “40 N. Roby Rd. Madison, WI 53726” as a business address. Complainant states that 40 N. Roby Rd. is a private residence in a residential neighborhood. Complainant states that he has no information that the defendant filed any Federal income tax returns tax returns after 2010. According to DOR records, the defendant has filed no State of Wisconsin income tax returns since 2010.

Complainant states that he has obtained and examined the Wisconsin sales tax returns—Form ST-12—filed in the defendant’s name, in the name of “J20 Productions,” and in the name of “Secured Business Corp.” Complainant states that the sales tax returns that were filed in the name

of “Dave’s Auto Service” covering the period of between February 1, 2004, through December 31, 2009, each list the business name as “Daves Auto Service” and legal name as “David W. Henry.” The mailing address is listed as “40 N. Roby Rd., Madison, WI 53726.” Under a certification stating, “I hereby certify that this return, including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is a true, correct and complete return,” each of these returns bears the name and signature of the defendant.

Complainant states that ST-12s beginning with the period from December 15, 2009 to December 31, 2009, until the return for the month of June 2010 were filed for Dave’s Auto Service. These returns list the business name as, “Dave’s Auto Service” and a legal name of, “J20 Productions, Inc.” The mailing address is listed as “2710 Thomes Ave., Suite 630, Cheyenne, WY 82001.” Under the certification these returns bear the name and signature of “Dan LaGrange.”

The returns from July 2010 through June 2016 list “Dave’s Auto Service, J20 Productions Inc., 4822 Pflaum Rd, Madison, WI 53718-6724.” These returns were submitted electronically through the Wisconsin Department of Revenue website application, “My Tax Account.” In order to submit the sales tax return, the submitter must agree that,

1. This return, including any accompanying schedules, has been examined by me and to the best of my knowledge and belief is true, correct, and complete.
2. The business I am filing on behalf of has authorized me to file this return.
3. The business I am filing on behalf of has assigned me the duty to file this return.

Beginning for the period of August 2016 through March 31, 2018 seven quarterly ST-12 quarterly returns were filed for “Secured Business Corp.” These returns were submitted electronically using, “My Tax Account.” Each of these seven returns indicate no sales and no tax owed.

For December 2017 an ST-12 is filed for “Dave’s Auto Service, J20 Productions Inc., 4822 Pflaum Rd, Madison, WI 53718-6724.” It indicates no sales and no tax owed.

Complainant states that he has obtained documents related to J20 Productions Inc. Complainant states that documents filed with the Wyoming Secretary of State reveal that J20 Productions Inc. is a corporation organized under the laws of the State of Wyoming. On December 15, 2009, a Gerald Pitts, as director of J20 Productions Inc. appointed the defendant as director and Pitts resigned his position as director effective December 16, 2009. Complainant further states that he has obtained cancelled checks for J20 Productions. These checks contain the preprinted name and address of the drawer on the top left next to a logo “ASE.” The drawer is, “J 20 Productions Inc, d/b/a Dave’s Auto Service, 4822 Pflaum Rd., Madison, WI 53718, 608.240.9000.” The bank name/drawee is, “ASSOCIATED BANK, NA, MADISON, WI 53717, 79-067/759.” The signature line bears a signature consistent with signatures that complainant has observed on other documents signed by the defendant.

Complainant states that he has reviewed records of Associated Bank, NA of Madison. Those records show that an account was created in the name of “J20 PRODUCTIONS INC – DBA DAVES AUTO SERVICE.” Dave Henry signed the documents to open the account, is the only signer for the account, and is listed as “owner” on the bank account documents.

Complainant states that he has reviewed documents related to Secured Business Corp. Secured Business Corp registered with the Wisconsin Department of Financial Institutions on July 5, 2016, as a foreign corporation with a principal office of 1712 Pioneer Ave, Ste 1309, Cheyenne, WY 82001. Secured Business Corp. opened a bank account with The Park Bank in Madison, Wisconsin, on August 15, 2016. David W. Henry signed the Account Agreement documents and was named as the only authorized signer on the account. The email provided to

Park Bank was “dave@davecanfixyourcar.com” and a phone number of “608 240 9000” was given.

Wisconsin Stat. § 77.52(2) imposes upon the defendant, as furnishing services in this state, a sales tax of 5% of the sales price. Wisconsin Stat. § 77.70 allows Wisconsin counties to adopt an ordinance imposing an additional 0.5% tax on sales subject to state sales tax under Wis. Stat. Ch. 77. Dane County adopted such an ordinance in 1995. Dane County Ordinance §§ 24.11 & 24.12. The addition of a county sales tax requires the collection of an additional 0.5% tax by the merchant obligated to collect sales tax under Wis. Stat. ch. 77. The 5.5% sales tax is then remitted to the Wisconsin Department of Revenue which administers the county tax on behalf of the county. As a provider of taxable services in Dane County the defendant was obligated to collect sales tax of 5.5% from his customers on qualifying transactions.

The merchant collecting sales taxes acts as a trustee for those funds. Wis. Stat. § 77.60 states,

Whenever a person collects tax moneys imposed under s. 77.52, 77.53 or 77.71 from a consumer, user or purchaser, the person receives those tax moneys as trust funds and state property. Any person who intentionally fails or refuses to pay over those tax moneys to the state at the time required by this subchapter or who fraudulently withholds, appropriates or uses any of those tax moneys is guilty of theft under s. 943.20 punishable as specified in s. 943.20(3) according to the amount of tax moneys involved. This subsection applies regardless of the person’s interest in those tax moneys. Payment to creditors in preference to the payment of those tax moneys to the state by any person is prima facie evidence of an intent to fraudulently use those tax moneys.

Wis. Stat § 77.60(11).

Complainant states that on May 3, 2018, Wisconsin Department of Revenue Special Agents (SA) Alan Kurth and Nick Weidman spoke with adult citizen [Witness 1]. The interview took place at Dave’s Auto Service located at 4822 Pflaum Road, Madison, Wisconsin. [Witness 1] told the agents that he is the service advisor for Dave’s Auto Service. [Witness 1] stated that he has worked in this position for the past four months and is paid a weekly salary. [Witness 1] states

that his paychecks are direct deposited in his bank. His bank statements show the payer to be “Secured Business Corp.”

[Witness 1] states that Dave’s Auto Service employs him to act as the liaison between the technicians in the shop and the customers. [Witness 1] states that as part of his job he rings up sales. To do this he uses one of the computer/cash registers on the front counter. To record sales Dave’s Auto Service uses a point of sale software program called Mitchell ShopKey. [Witness 1] states that the software automatically charges sales tax. [Witness 1] states that the defendant also rings up sales. [Witness 1] states that he rings up sales for cash as well as non-cash sales using one of these cash registers. [Witness 1] states that there are two cash registers and the defendant uses one and he uses the other. When a sale is for cash, [Witness 1] states that he will give the cash to the defendant who will then put the cash in his wallet. If the defendant is not at the counter, [Witness 1] puts the cash in the till behind the counter.

[Witness 1] states that the defendant lives in two back rooms of Dave’s Auto Service. [Witness 1] said that the defendant has a key and keeps the doors to his living quarters locked during business hours. [Witness 1] stated that during his work for Dave’s Auto Service he has seen mail addressed to David Henry that includes the names “J20 Production, Inc.” and “Secured Business Corp.” [Witness 1] stated that he has also seen correspondence and documents with corporate names and addresses in Montana.

Complainant states that on May 3, 2018, he, along with other agents of the Wisconsin Department of Revenue and officers from the City of Madison Police Department, executed a search warrant at Dave’s Auto Service, located at 4822 Pflaum Road, Madison, Wisconsin. Complainant states that he and other agents of the Wisconsin Department of Revenue seized the computerized cash registers, other computer equipment, and computer storage devices.

Complainant states that inside of 4822 Pflaum Road was a room which was being used as a bedroom. A search of the nightstand to the left of the bed revealed a Glock Model 22, .40 caliber handgun, with serial number STR093. A trace on the gun performed by the Milwaukee Office of the Bureau of Alcohol, Tobacco and Firearms revealed that the gun had been reported stolen by the Oconto County Sheriff's Department. Complainant states that he reviewed police reports from the Oconto County Sheriff's Department. Those reports stated that on July 17, 2012, the firearm was reported stolen in a burglary of Pintsch's True Value Hardware, 17891 WI-Hwy 32, Townsend, Wisconsin.

On May 3, 2018, DOR Special Agent in Charge Tyler Quam engaged in the following conversation with the defendant:

SAC Quam: So, that back room with the bed in it, do you live there? Is that your residence?

Defendant: Yes.

SAC Quam: Okay, are you the only one that lives there?

Defendant: Yes.

SAC Quam: Does anyone else go into that room?

Defendant: No.

The defendant denied that the Glock handgun belonged to him.

Complainant states that on May 9, 2018, he brought the computer equipment to the Wisconsin Department of Justice, Department of Criminal Investigation for forensic analysis. Complainant states that Christine Byars, Senior Digital Forensic Examiner, conducted the forensic analysis of the computer equipment he provided. Complainant states that Byars provided him with protected copies of the digital files from the computer equipment he provided. Complainant states that the protected files allowed him to view the information stored on the computer equipment for evidence without risking altering the actual digital files contained on the seized computer equipment.

Complainant states that his review of the digital files returned to him by Forensic Examiner Byars showed the following: Dave's Auto Service uses a point of sale software called: Michell 1 Manager SE. This software is used to record sales transactions, calculate sales tax, create estimates, create invoices and other auto repair specific information. It appears to complainant that this software is the program that has been used by Dave's Auto Service to record customer transactions including recording sales and calculating sales tax from January 1, 2004, until at least February 28, 2018.

The Mitchell 1 software indicates the company name as "Dave's Auto Service," with an address of "4822 Pflaum Road, Madison, Wisconsin." It lists an email of "info@davecanfixyourcar.com" and a website of "www.davecanfixyourcar.com." A telephone number is listed as "(608) 240-9000."

The sales data includes records of sales from January 1, 2004, until February 28, 2018. Sales are recorded for every month for every year between these dates and there are no sizable gaps in the sales data. Complainant states that his review of these records reveals that Dave's Auto Service had sales subject to sales tax totaling \$7,891,613.63 from January 1, 2004 through February 28, 2018. The sales taxable reported for these periods for "David W. Henry," "J20 Productions, Inc.," and "Secured Business Corp.," were \$2,636,943.91. Dave's Auto Service reported collections of \$142,721.41 of sales tax on the returns filed. Complainant states that his review of these records show that Dave's Auto Service actually collected \$424,020.23 of sales tax from January 1, 2004, through February 28, 2018. This is an underreporting of \$281,298.82.

Complainant states that his review of records maintained by the Wisconsin Department of Revenue from January 1, 2004 to February 28, 2018, reveals that payments of \$105,609.05 were remitted to the Wisconsin Department of Revenue on behalf of: "David W. Henry,"

“J20 Productions, Inc.,” and “Secured Business Corp” on the respective sales tax accounts. Complainant notes that this amount includes payments made by the defendant and involuntary tax levy payments from business accounts. All payments were made after the due date. The Wisconsin Department of Revenue assesses interest and penalties when payments are late. The \$105,609.05 in payments were first applied to interest and penalties of \$42,338.88. The remaining \$63,270.17 was applied to the sales tax balance due. \$424,020.23 of sales tax was collected to be remitted to the Wisconsin Department of Revenue. \$63,270.17 was paid. The defendant collected and failed to remit to the Wisconsin Department of Revenue \$360,750.06 in sales tax.

In searching the defendant’s computer, Complainant discovered an email sent by the defendant on December 15, 2011. The email stated, “In retrospect, although it was not my attention [sic], it appears that have survived by using the money I collected for state sales tax for living expenses.”

The Wisconsin Administrative Code delineates what businesses are required to obtain a sellers permit:

2) PERMITS AND CERTIFICATES REQUIRED. (a) *Seller’s permit.* Every individual, partnership, corporation, or other organization making retail sales, licenses, leases, or rentals of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Stats., or selling, licensing, performing, or furnishing taxable services at retail in Wisconsin shall have a seller’s permit for each place of operation, unless the seller is exempt from taxation.

Wis. Admin. Code § Tax 11.002(2)(a).

Complainant states that on June 23, 2016, Wisconsin Department of Revenue Field Agent (FA) Melissa Cota personally served the defendant with a document captioned, “WISCONSIN DEPARTMENT OF REVENUE MADISON, WISCONSIN, In the Matter of the Hearing on Revocation of Tax Account No. 1027038287 held by J20 PRODUCTION INC., FINDINGS AND ORDER OF REVOCATION.” The findings of fact notes that J20 Productions Inc. has failed to

pay the following taxes due: sales and use, withholding tax, corporate tax, and security deposit tax. It also notes that J20 Productions Inc. has failed to file sales and corporate tax returns. The document ends, "IT IS THEREFORE ORDERED, pursuant to sec. 77.52(11), Wisconsin Statutes, that the seller's permit number 1027038287 held by J20 PRODUCTIONS INC. is revoked effective on June 30, 2016, at the close of business on that date." It is signed, "Susan Dukes, Chief, Compliance Services Section."

Complainant states that FA Cota served the defendant personally with this document at 4822 Pflaum Road, Madison. Upon service, the defendant told Cota that he will not close, it is not an option, and neither is it an option to pay the balance in full. He also told Cota that he will fight tooth and nail and continue to play these games until he dies if he has to.

Complainant states that the defendant continued to operate Dave's Auto Service after his seller's permit was revoked. Complainant states that no individual or entity has possessed a valid seller's permit for a business at 4822 Pflaum Road, Madison since the defendant's seller's permit—under the name of J20 Productions, Inc—was revoked on June 30, 2016.

Complainant states that his review of the defendant's sales records on the seized computer reveals that from June 30, 2016, until February 28, 2018, Dave's Auto Service generated 3,866 sales invoices and \$1,614,525.11 in sales.

Complainant states that on July 31, 2019, he and DOR SA Steven Kosmosky went to 4822 Pflaum Road, Madison. Complainant stated that the building had a prominent sign, "Dave's Auto Service" over the front entrance. Complainant states SA Komosky entered the business and he remained in the car. Complainant states that he observed SA Komosky enter through the front entrance. Complainant states that SA Komosky informed him that he saw the defendant standing at the front counter and other employees could be observed working in the repair area.

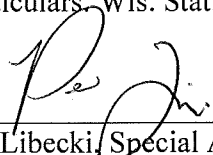
The defendant told SA Kosmosky that the business is open Monday through Friday from 8:00 a.m. to 6:00 p.m. Complainant states that the defendant offered to install tires for SA Kosmosky.

Complainant states that his review of records maintained by the Wisconsin Department of Revenue reveal that the defendant last filed an income tax return in 2010. He did not file an income tax return in 2011 or in any year after. Complainant states that no corporate income tax return has been filed by any of the entities the defendant has used during the same period.

Complainant states that he has reviewed certified copies of the official court documents in *State of Wisconsin vs. David W. Henry*, Dane County Circuit Court Case Number 90CF1559. These documents show that on March 20, 1991, the defendant was convicted of the felony crime of forgery in violation of Wis. Stat. § 943.38(2). Complainant states that this conviction remains of record and unreversed.

Complainant states that the information contained this complaint was included for the purpose of establishing probable cause. It is not intended to, nor does it represent a summary of all the facts known to complainant, a summary of all the facts discovered during the investigation, or a summary of the facts that may be introduced at a trial.

Legal note of prosecuting attorney: The statute of limitations for a continuing offense does not run until the last act is done which, viewed alone, is a crime. *State v. Miller*, 2002 WI App 197, 257 Wis. 2d 124. In any case of theft involving more than one theft but prosecuted as a single crime, it is sufficient to allege generally a theft of property to a certain value committed between certain dates, without specifying any particulars. Wis. Stat. § 971.36(4).



Paul Libeck, Special Agent
Complainant

Telephonically subscribed and sworn to before me
and approved for filing

CHRISTOPHER A. LIEGEL

Electronically signed,
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