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EASTERN DISTRICT OF CALIFORNIA
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1 BENJAMIN B. WAGNER
United States Attorney
2 BRIAN K DELANEY
ANGELA L. SCOTT
3 Assistant U.S. Attorney
2500 Tulare Street, Suite 4401
4 Fresno, CA 93721
(559) 497-4000
5 (559) 497-4099 FAX

6 Attorney for Plaintiff
7 United States of America

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9
10 IN THE UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12
13 UNITED STATES OF AMERICA,
14 Plaintiff,

15 V.

16
17 DAMACIO DIAZ
18 Defendant.

) CASE NO.
) 1:15 CR 00326 LJO SKO
) VIOLATIONS:
) 21 U.S.C. §§846 & 841(a)(1) –
) CONSPIRACY TO DISTRIBUTE AND
) POSSESS WITH THE INTENT TO
) 19 DISTRIBUTE METHAMPHETAMINE; 18
) U.S.C. § 666(a)(1)(B) – FEDERAL
) PROGRAMS BRIBERY (3 Counts); 21
) U.S.C. §§ 841(a)(1) – POSSESSION AND
) 20 ATTEMPTED POSSESSION WITH THE
) INTENT TO DISTRIBUTE
) METHAMPHETAMINE (9 Counts); 18
) U.S.C. § 2511 (1) (e) - INTENTIONAL
) 21 DISCLOSURE OF WIRETAP
) INFORMATION IN ORDER TO
) 22 OBSTRUCT, IMPEDE, OR INTERFERE
) WITH A CRIMINAL INVESTIGATION;
) 23 26 U.S.C. §7206(1) – MAKING AND
) SUBSCRIBING A FALSE TAX RETURN
) 24 (2 Counts); 18 U.S.C. § 981(a)(1)(C); 21
) U.S.C. § 853; 28 U.S.C. § 2461 -
) 25 CRIMINAL FORFEITURE
)
)
)

26
27 INDICTMENT
28

1 The Grand Jury charges:

2 DAMACIO DIAZ,

3 Defendant herein, as follows:

4 **GENERAL ALLEGATIONS**

5 At all times relevant to this Indictment:

6
7 1. The Bakersfield Police Department (“BPD”) was an agency of the City of Bakersfield,
8 State and Eastern District of California. BPD was vested by Section 830 et. seq. of the
9 California Penal Code with law enforcement powers, as well as the exercise and performance of
10 all duties and obligations imposed on the agency by law.

11
12 2. In each calendar year, from 2011 through 2015, the BPD received more than \$10,000
13 in funds from the United States Government in the form of grants, contracts, subsidies, loans,
14 guarantees, insurance, and other forms of federal assistance.

15 3. Defendant DAMACIO DIAZ was a sworn police officer with the City of Bakersfield.
16 As a sworn police officer, the Defendant was entrusted with the investigation of criminal
17 offenses, was authorized to carry a firearm, and was empowered to make arrests and to conduct
18 searches and seizures in furtherance of his duty to enforce criminal laws.

19
20 4. At various times, Defendant DIAZ was assigned to the BPD’s Narcotics Unit. As a
21 narcotics officer, Defendant DIAZ was responsible for the investigation and arrest of individuals
22 involved in the illegal sale, distribution, and possession of narcotics.

23 5. At various times, Defendant DIAZ was assigned as a BPD narcotics officer to the
24 Drug Enforcement Administration Task Force (DEATF) and the Southern Tri-County Task Force of
25 the Central Valley High Intensity Drug Trafficking Area (HIDTA). The HIDTA was a multi-
26 jurisdictional drug task force made up of law enforcement officers from the BPD, the Drug
27 Enforcement Administration (DEA), the Department of Homeland Security, the Kern County
28

1 Sheriff's Office, the Tulare County Sheriff's Office, and the California Highway Patrol. The
2 HIDTA was responsible for investigating violators of both state and federal criminal narcotic
3 laws. HIDTA received funding from the United States Government.

4 6. As a narcotics officer with the BPD, the DEATF, and the HIDTA, Defendant DIAZ
5 worked with and oversaw the use of paid and unpaid criminal narcotic informants. Criminal
6 narcotic informants were utilized by Defendant DIAZ to make controlled purchases of narcotics
7 from individuals suspected of being involved in the drug trade. Controlled purchases of
8 narcotics were made to obtain probable cause to seek search warrants. According to BPD policy,
9 narcotics obtained by Defendant DIAZ from controlled purchases were to be marked and secured
10 in the evidence room of the BPD. BPD officers were allowed to maintain possession of
11 narcotics only during their initial seizure or recovery. BPD officers were to most promptly
12 deliver the narcotics to the departmental evidence room.
13

14 7. Pursuant to BPD, DEATF, HIDTA and Kern County Sheriff's Department policy,
15 criminal informants were not allowed to break any laws or commit any crimes. In addition,
16 informants were not allowed to handle any drugs unless specifically authorized to do so.
17 Informants were also not allowed to carry any weapon or firearm.
18

19 8. Pursuant to BPD policy, if an informant was arrested, was pending arrest, or was
20 involved in a criminal investigation, the officer responsible for controlling or handling the
21 informant was not allowed to attempt to dissuade officers from their proposed enforcement
22 action.
23

24 9. Defendant DIAZ abused his position of trust and authority as a BPD Police Officer
25 and as a HIDTA Agent in that on more than one occasion he secured narcotics in the course of
26 his duties as a police officer, but intentionally failed to submit the seized narcotics to the BPD
27 evidence room for secure and lawful retention. Instead, he retained possession of the seized
28

1 narcotics for his own unlawful gain and purpose.

2 10. Defendant DIAZ abused his position of trust and authority as a BPD Police Officer
3 and as a HIDTA Agent in that he embezzled and converted for his own personal use funds of the
4 BPD and the HIDTA that were intended to be used for the payment of informants and for the
5 payment for narcotics in controlled purchases.

6 11. Defendant DIAZ abused his position of trust and authority as a BPD Police
7 Officer and as a DEATF and HIDTA Agent in that he wrongfully disclosed the names and
8 identities of criminal informants of the BPD, HIDTA, and the Kern County Sheriff's Department
9 to a convicted felon in violation of departmental policies, the disclosure of which potentially
10 exposed the informants to danger and retribution for their cooperation.

11 12. Defendant DIAZ abused his position of trust and authority as a BPD Police
12 Officer in that he wrongfully disclosed to a subject of a wiretap investigation that the subject had
13 been intercepted on the wire, a disclosure which significantly compromised the criminal
14 investigation.

15 13. Defendant DIAZ abused his position of trust and authority as a BPD Police
16 Officer and as a HIDTA Agent in that in return for the unlawful payment of monies and bribes,
17 he agreed to tip-off and protect a known drug dealer's illegal narcotic distribution business from
18 law enforcement authorities.

19 **COUNT ONE: [21 U.S.C. §§ 846 & 841(a)(1) - Conspiracy to Distribute and Possess**
20 **with the Intent to Distribute Methamphetamine]**

21 The Grand Jury charges:
22

23 DAMACIO DIAZ,
24

25 Defendant herein, as follows:
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1 14. The allegations contained in paragraphs 1 through 13 of this Indictment are
2 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

3 15. From on or about April 18, 2012 to on or about February 20, 2015 in the County
4 of Kern, State and Eastern District of California, and elsewhere, DAMACIO DIAZ,
5 Defendant herein, did knowingly and intentionally conspire with Guillermo Magallanes, to
6 distribute and possess with the intent to distribute, methamphetamine, a Schedule II controlled
7 substance, in violation of Title 21, United States Code, Sections 846 and 841(a)(1).
8

9 **OBJECTS, MEANS, AND METHODS**

10 16. The principal objects of the conspiracy were to make money from the sale and
11 distribution of methamphetamine and to conceal this criminal activity from law enforcement.

12 17. It was further part of the conspiracy that Defendant DIAZ, by virtue of his
13 position as a sworn police officer of the BPD, would assist and further Guillermo Magallanes'
14 illegal drug trafficking activity by providing Magallanes with intelligence on law enforcement
15 practices and activities, tip-off Magallanes to any potential or ongoing police investigations
16 relating to him, and when possible provide protection to Magallanes from impending search,
17 seizure, arrest, and prosecution. Magallanes was convicted of conspiring to distribute and
18 possess with intent to distribute methamphetamine in United States District Court on September
19 17, 2015.
20

21 18. It was further part of the conspiracy that Guillermo Magallanes would pay monies
22 and bribes to Defendant DIAZ in return for DIAZ's protection of Magallanes and his illegal drug
23 business.
24

25 19. It was further part of the conspiracy that from time to time Defendant DIAZ
26 would purchase methamphetamine from Guillermo Magallanes for his own personal gain or
27 purpose.
28

1 Defendant herein, as follows:

2 25. The allegations contained in paragraphs 1 through 13 and 16 through 24 of this
3 Indictment are hereby repeated, re-alleged, and incorporated by reference as though fully set
4 forth herein.

5 26. From on or about April 18, 2012 to on or about December 31, 2012 in the County
6 of Kern, State and Eastern District of California, and elsewhere, DAMACIO DIAZ, Defendant
7 herein, a sworn police officer and agent of the BPD, did corruptly solicit, demand, accept, and
8 agree to accept something of value, intending to be influenced and rewarded in connection with
9 the business, transaction, and series of transactions of the BPD involving something of value of
10 \$5,000 or more, namely: Defendant DIAZ, accepted over \$5,000 in cash payments from
11 Guillermo Magallanes, intending to be influenced and rewarded in connection with his official
12 acts as a police officer of BPD.
13

14 All in violation of Title 18, United States Code, Sections 666(a)(1)(B).

15
16 **COUNT THREE: [18 U.S.C. § 666(a)(1)(B) - Federal Programs Bribery]**

17 The Grand Jury further charges:

18 DAMACIO DIAZ,

19 Defendant herein, as follows:

20 27. The allegations contained in paragraphs 1 through 13 and 16 through 24 of this
21 Indictment are hereby repeated, re-alleged, and incorporated by reference as though fully set
22 forth herein.
23

24 28. From on or about January 1, 2013 to on or about December 31, 2013 in the
25 County of Kern, State and Eastern District of California, and elsewhere, DAMACIO DIAZ,
26 Defendant herein, a sworn police officer and agent of the BPD, did corruptly solicit, demand,
27 accept, and agree to accept something of value, intending to be influenced and rewarded in
28

1 connection with the business, transaction, and series of transactions of the BPD involving
2 something of value of \$5,000 or more, namely: Defendant DIAZ, accepted over \$5,000 in cash
3 payments from Guillermo Magallanes, intending to be influenced and rewarded in connection
4 with his official acts as a police officer of BPD.

5 All in violation of Title 18, United States Code, Sections 666(a)(1)(B).

6
7 **COUNT FOUR:** [18 U.S.C. § 666(a)(1)(B) - Federal Programs Bribery]

8 The Grand Jury further charges:

9 DAMACIO DIAZ,

10 Defendant herein, as follows:

11 29. The allegations contained in paragraphs 1 through 13 and 16 through 24 of this
12 Indictment are hereby repeated, re-alleged, and incorporated by reference as though fully set
13 forth herein.

14 30. From on or about January 1, 2014 to on or about December 31, 2014 in the
15 County of Kern, State and Eastern District of California, and elsewhere, DAMACIO DIAZ,
16 Defendant herein, was a sworn police officer and agent of BPD, did corruptly solicit, demand,
17 accept, and agree to accept something of value, intending to be influenced and rewarded in
18 connection with the business, transaction, and series of transactions of the BPD involving
19 something of value of \$5,000 or more, namely: Defendant DIAZ, accepted over \$5,000 in cash
20 payments from Guillermo Magallanes, intending to be influenced and rewarded in connection
21 with his official acts as a police officer of BPD.

22 All in violation of Title 18, United States Code, Sections 666(a)(1)(B).

23
24
25 **COUNT FIVE:** [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted Possession
26 with the Intent to Distribute Methamphetamine]

27 The Grand Jury further charges:

28 DAMACIO DIAZ,

1 Defendant herein, as follows:

2 31. The allegations contained in paragraphs 1 through 13 of this Indictment are
3 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

4 32. On or about March 22, 2011, in the County of Kern, State and Eastern District of
5 California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and intentionally
6 possess and attempt to possess with intent to distribute methamphetamine, a Schedule II
7 controlled substance.
8

9 **Substantial Step**

10 In attempting to possess with intent to distribute methamphetamine, and to accomplish
11 the object thereof, the Defendant committed, among others, the following substantial steps in the
12 County of Kern, State and Eastern District of California:

13 33. On or about March 22, 2011, the Defendant caused a BPD criminal narcotics
14 informant to make a controlled purchase of approximately one ounce of methamphetamine from
15 an individual involved in the illegal sale of methamphetamine.
16

17 34. On or about March 22, 2011, after securing the methamphetamine from the
18 controlled purchase, the Defendant agreed with the criminal informant to divide the
19 methamphetamine into two separate portions and to dilute the portion to be returned to the BPD
20 evidence locker with "Epsom Salts" so as it would weigh approximately one ounce.
21

22 35. On or about March 22, 2011, the Defendant checked the diluted portion of
23 methamphetamine which now contained "Epsom Salts" into the BPD evidence room as if it were
24 the true and actual narcotic purchased by the criminal narcotic informant on or about March 21,
25 2011.
26
27
28

1 36. On or about March 22, 2011, the Defendant agreed with the criminal narcotic
2 informant that the informant would sell the undiluted portion of the purchased methamphetamine
3 and split the proceeds from the sale with the Defendant.

4 37. On or about March 29, 2011, the criminal informant paid Diaz his share of the
5 sale of the undiluted portion of the controlled purchase.

6 All in violation of Title 21, United States Code, Sections 841(a)(1) and 846, and Title 18,
7 United States Code, Section 2.

8
9 **COUNT SIX: [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted Possession
with the Intent to Distribute Methamphetamine]**

10 The Grand Jury further charges:

11 DAMACIO DIAZ,

12 Defendant herein, as follows:

13 38. The allegations contained in paragraphs 1 through 13 of this Indictment are
14 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

15 39. On or about April 29, 2011 in the County of Kern, State and Eastern District of
16 California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and intentionally
17 possess and attempt to possess with intent to distribute methamphetamine, a Schedule II
18 controlled substance.
19

20 **Substantial Step**

21 40. In attempting to possess with intent to distribute methamphetamine, and to
22 accomplish the object thereof, the Defendant committed, among others, the following substantial
23 steps in the County of Kern, State and Eastern District of California:
24

25 41. On or about April 29, 2011, the Defendant, while acting in an undercover
26 capacity, made a controlled purchase of approximately one ounce of methamphetamine from a
27
28

1 person known to the Grand Jury and referred to herein as Person 1, an individual involved in the
2 illegal sale of methamphetamine.

3 42. On or about April 29, 2011, in violation of BPD policy, the Defendant failed to
4 book the methamphetamine obtained from the controlled buy into the BPD evidence room and
5 maintained possession with the intent to sell the narcotics for his own personal gain.

6 43. On or about July 14, 2011 after the Defendant learned that new criminal charges
7 were to be filed against Person 1 based on the April 29, 2011 controlled buy, the Defendant
8 caused an ounce of methamphetamine to be booked into the BPD evidence room related to that
9 incident.
10

11 All in violation of Title 21, United States Code, Sections 841(a)(1) and 846, and Title 18,
12 United States Code, Section 2.

13 **COUNT SEVEN: [21 U.S.C. §§ 841(a)(1) and 846 Possession and Attempted Possession**
14 **with the Intent to Distribute Methamphetamine]**

15 The Grand Jury further charges:

16 DAMACIO DIAZ,

17 Defendant herein, as follows:

18 44. The allegations contained in paragraphs 1 through 13 of this Indictment are
19 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

20 45. On or about September 15, 2011 in the County of Kern, State and Eastern District
21 of California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and
22 intentionally possess and attempt to possess with intent to distribute methamphetamine, a
23 Schedule II controlled substance.
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Substantial Step

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2 In attempting to possess with intent to distribute methamphetamine, and to accomplish
3 the object thereof, the Defendant committed, among others, the following substantial steps in the
4 County of Kern, State and Eastern District of California:

5 46. On or about September 15, 2011 the Defendant caused a BPD criminal narcotic
6 informant to make a controlled purchase of approximately one ounce of methamphetamine from
7 an individual involved in the illegal sale of methamphetamine.

8 47. On or about September 15, 2011, after the controlled purchase of the
9 methamphetamine, the Defendant took possession of the methamphetamine from the BPD
10 criminal informant.

11 48. On or about September 15, 2011, in violation of BPD policy the Defendant failed
12 to book the methamphetamine obtained from the controlled buy into the BPD evidence room and
13 maintained possession with the intent to sell the narcotics for his own personal gain.
14

15 All in violation of Title 21, United States Code, Sections 841(a)(1) and 846, and Title 18,
16 United States Code, Section 2.
17

18 **COUNT EIGHT: [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted**
19 **Possession with the Intent to Distribute Methamphetamine]**

20 The Grand Jury further charges:

21 DAMACIO DIAZ,

22 Defendant herein, as follows:

23 49. The allegations contained in paragraphs 1 through 13 of this Indictment are
24 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

25 50. On or about June 19, 2012 in the County of Kern, State and Eastern District of
26 California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and intentionally
27 possess and attempt to possess with intent to distribute methamphetamine, a Schedule II
28

1 controlled substance.

2 **Substantial Step**

3 In attempting to possess with intent to distribute methamphetamine, and to accomplish
4 the object thereof, the Defendant committed, among others, the following substantial steps in the
5 County of Kern, State and Eastern District of California:

6 51. On or about June 19, 2012 the Defendant caused a BPD criminal narcotic
7 informant to make a controlled purchase of approximately one ounce of methamphetamine from
8 an individual involved in the illegal sale of methamphetamine.

9
10 52. On or about June 19, 2012, after the controlled purchase of the methamphetamine,
11 the Defendant took possession of the methamphetamine from the BPD criminal informant.

12 53. On or about June 19, 2012, in violation of BPD policy the Defendant failed to
13 book the methamphetamine obtained from the controlled buy into the BPD evidence room and
14 maintained possession with the intent to sell the narcotics for his own personal gain.

15 All in violation of Title 21, United States Code, Sections 841(a)(1) and 846, and Title 18,
16 United States Code, Section 2.

17
18 **COUNT NINE: [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted
19 Possession with the Intent to Distribute Methamphetamine]**

20 The Grand Jury further charges:

21 DAMACIO DIAZ,

22 Defendant herein, as follows:

23 54. The allegations contained in paragraphs 1 through 13 of this Indictment are
24 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

25 55. On or about August 7, 2012, in the County of Kern, State and Eastern District of
26 California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and intentionally
27 possess and attempt to possess with intent to distribute methamphetamine, a Schedule II
28

1 controlled substance.

2 **Substantial Step**

3 In attempting to possess with intent to distribute methamphetamine, and to accomplish
4 the object thereof, the Defendant committed, among others, the following substantial steps in the
5 County of Kern, State and Eastern District of California:

6 56. On or about August 7, 2012, the Defendant caused a BPD criminal narcotic
7 informant to make a controlled purchase of approximately one ounce of methamphetamine from
8 an individual involved in the illegal sale of methamphetamine.

9
10 57. On or about August 7, 2012, after the controlled purchase of the
11 methamphetamine, the Defendant took possession of the methamphetamine from the BPD
12 criminal informant.

13 58. On or about August 7, 2012, in violation of BPD policy the Defendant failed to
14 book the methamphetamine obtained from the controlled buy into the BPD evidence room and
15 maintained possession with the intent to sell the narcotics for his own personal gain.

16
17 All in violation of Title 21, United States Code Sections, 841(a)(1) and 846, and Title 18,
18 United States Code, Section 2.

19 **COUNT TEN:** [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted
20 Possession with the Intent to Distribute Methamphetamine]

21 The Grand Jury further charges:

22 DAMACIO DIAZ,

23 Defendant herein, as follows:

24 59. The allegations contained in paragraphs 1 through 13 of this Indictment are
25 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

26 60. On or about September 20, 2012, in the County of Kern, State and Eastern
27 District of California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and
28

1 intentionally possess and attempt to possess with intent to distribute methamphetamine, a
2 Schedule II controlled substance.

3 **Substantial Step**

4 In attempting to possess with intent to distribute methamphetamine, and to accomplish
5 the object thereof, the Defendant committed, among others, the following substantial steps in the
6 County of Kern, State and Eastern District of California:

7 61. On or about September 20, 2012 the Defendant, in his capacity as BPD narcotics
8 officer assigned to the HIDTA, caused a uniformed BPD dog handler officer to make a stop of a
9 vehicle operated by two individuals from Yakima, Washington. In conducting an initial search
10 of the vehicle, the BPD dog handler uncovered an ice chest containing multiple bags of
11 methamphetamine. The BPD dog handler did not seize any evidence from the vehicle.
12

13 62. On or about September 20, 2012, after the initial search of the vehicle, the BPD
14 dog handler left the scene leaving the Defendant with the responsibility of securing the
15 methamphetamine and booking it promptly into the BPD evidence room.
16

17 63. On or about September 27, 2012, in violation of BPD policy, the Defendant
18 booked approximately one pound of methamphetamine from the September 20, 2012 vehicle
19 stop into evidence. The methamphetamine booked into evidence was only a portion of the
20 methamphetamine contained in the ice chest. Defendant maintained possession of the remainder
21 of the methamphetamine seized from the vehicle with the intent to sell it for his own personal
22 gain.
23

24 64. It is further alleged that Defendant DIAZ did knowingly and intentionally possess
25 and attempt to possess with intent to distribute 500 grams and more of a mixture or substance
26 containing a detectable amount of methamphetamine, and that DIAZ knew or should have
27 reasonably known that these quantities were involved.
28

1 All in violation of Title 21, United States Code, Section 841(b)(1)(A) and 846, and Title
2 18, United States Code, Section 2.

3
4 **COUNT ELEVEN: [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted**
5 **Possession with the Intent to Distribute Methamphetamine]**

6 The Grand Jury charges:

7 DAMACIO DIAZ,

8 Defendant herein, as follows:

9 65. The allegations contained in paragraphs 1 through 13 of this Indictment are
10 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

11 66. On or about December 6, 2012, in the County of Kern, State and Eastern District
12 of California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and
13 intentionally possess and attempt to possess with intent to distribute methamphetamine, a
14 Schedule II controlled substance.

15
16 **Substantial Step**

17 In attempting to possess with intent to distribute methamphetamine, and to accomplish
18 the object thereof, the Defendant committed, among others, the following substantial steps in the
19 County of Kern, State and Eastern District of California:

20 67. On or about December 6, 2012, the Defendant caused a BPD criminal narcotic
21 informant to make a controlled purchase of approximately one half ounce of methamphetamine
22 from an individual involved in the illegal sale of methamphetamine.

23
24 68. On or about December 6, 2012, after the controlled purchase of the
25 methamphetamine, the Defendant took possession of the methamphetamine from the BPD
26 criminal informant.

1 69. On or about December 6, 2012, in violation of BPD policy, the Defendant failed
2 to book the methamphetamine obtained from the controlled buy into the BPD evidence room and
3 maintained possession with the intent to sell the narcotics for his own personal gain.

4 All in violation of Title 21, United States Code Sections 841(a)(1) and 846, and Title 18
5 United States Code, Section 2.

6 **COUNT TWELVE: [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted Possession**
7 **with the Intent to Distribute Methamphetamine]**

8 The Grand Jury further charges:

9 DAMACIO DIAZ,

10 Defendant herein, as follows:

11 70. The allegations contained in paragraphs 1 through 13 of this Indictment are
12 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.

13 71. On or about December 7, 2012, in the County of Kern, State and Eastern District
14 of California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and
15 intentionally possess and attempt to possess with intent to distribute methamphetamine, a
16 Schedule II controlled substance.
17

18 **Substantial Step**

19 In attempting to possess with intent to distribute methamphetamine, and to accomplish
20 the object thereof, the Defendant committed, among others, the following substantial steps in the
21 County of Kern, State and Eastern District of California:

22 72. On or about December 7, 2012, the Defendant caused a BPD criminal narcotic
23 informant to obtain approximately a quarter pound of methamphetamine from an individual
24 involved in the illegal sale of methamphetamine. The criminal informant obtained the
25 methamphetamine without charge from the individual, based upon the promise that he would
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1 return the narcotics after he showed them to the presumed interested party, as the narcotics were
2 only to be used for show.

3 73. On or about December 7, 2012, the Defendant took possession of the quarter
4 pound of methamphetamine from the BPD criminal informant, and refused initially to return the
5 narcotics to the criminal informant. Defendant made the criminal informant leave after taking
6 possession of the methamphetamine.

7 74. Later, on or about Decembert 7, 2012, Defendant met again with the criminal
8 informant and agreed to return the methamphetamine. Unknown to the criminal informant at the
9 time, the Defendant removed approximately one ounce of the methamphetamine and maintained
10 possession of that methamphetamine with the intent to sell the narcotics for his own personal
11 gain.
12

13 All in violation of Title 21, United States Code Sections 841(a)(1) and 846, and Title 18
14 United States Code, Section 2.

15 **COUNT THIRTEEN:** [21 U.S.C. §§ 841(a)(1) and 846 - Possession and Attempted
16 Possession with the Intent to Distribute Methamphetamine]

17 The Grand Jury further charges:

18 DAMACIO DIAZ,

19 Defendant herein, as follows:

20 75. The allegations contained in paragraphs 1 through 13 of this Indictment are
21 hereby repeated, re-alleged, and incorporated by reference as though fully set forth herein.
22

23 76. On or about March 18, 2013 in the County of Kern, State and Eastern District of
24 California, and elsewhere, DAMACIO DIAZ, Defendant herein, did knowingly and intentionally
25 possess and attempt to possess with intent to distribute methamphetamine, a Schedule II
26 controlled substance.

27 **Substantial Step**

1 In attempting to possess with intent to distribute methamphetamine, and to accomplish
2 the object thereof, the Defendant committed, among others, the following substantial steps in the
3 County of Kern, State and Eastern District of California:

4 77. On or about March 18, 2013, the Defendant caused a BPD criminal narcotics
5 informant to make a controlled purchase of approximately one ounce of methamphetamine from
6 an individual involved in the illegal sale of methamphetamine.

7 78. On or about March 18, 2013, after the controlled purchase of the
8 methamphetamine, the Defendant took possession of the methamphetamine from the BPD
9 criminal informant.

10 79. On or about March 18, 2013, in violation of BPD policy, the Defendant failed to
11 book the methamphetamine obtained from the controlled buy into the BPD evidence room and
12 maintained possession with the intent to sell the narcotics for his own personal gain.
13

14 All in violation of Title 21, United States Code, Sections 841(a)(1), and 846, and Title 18,
15 United States Code, Section 2.
16

17 **COUNT FOURTEEN:** [18 U.S.C. § 2511(1)(e) - Intentional Disclosure of Wiretap
18 Information in Order to Obstruct, Impede, and Interfere with
a Criminal Investigation]

19 The Grand Jury further charges:
20

21 DAMACIO DIAZ,

22 Defendant herein, as follows:

23 80. The allegations contained in paragraphs 1 through 13 and 16 through 24 of this
24 Indictment are hereby repeated, re-alleged, and incorporated by reference as though fully set
25 forth herein.

26 81 That in or about June 20, 2014 through on or about July 10, 2014 in the County of
27 Kern, State and Eastern District of California, Defendant DIAZ, while a sworn police officer
28

1 with the City of Bakersfield , intentionally disclosed to another person the contents of a wire,
2 oral, and electronic communication intercepted pursuant to a wiretap authorized by the Superior
3 Court of Kern County upon the submission of a DEA affidavit on June 5, 2014, Wiretap Number
4 14-04 and in accordance with 18 U.S.C. §2511(2)(a)(ii), knowing or having reason to know that
5 the information was obtained through the interception of such communication in connection with
6 a criminal investigation, having received and obtained the information in connection with a
7 criminal investigation, and with the intent to improperly obstruct, impede, and interfere with a
8 duly authorized criminal investigation. Specifically, on or about June 20, 2014, Defendant DIAZ
9 was advised by fellow BPD Detective 1 that DIAZ's informant - Guillermo Magallanes - was
10 intercepted on a DEA wiretap involved in the purchase of pounds of methamphetamine and
11 would no longer be a viable informant to Detective 1. Shortly thereafter, but no later than on or
12 about June 30, 2014, Defendant DIAZ intentionally disclosed to Guillermo Magallanes that
13 Magallanes was intercepted on a DEA wire and that he should be careful and lay low.
14

15 All in violation of Title 18, United States Code, Section 2511(1)(e).
16

17 **COUNT FIFTEEN: [Making and Subscribing a False Income Tax Return - 26**
18 **U.S.C. § 7206(1)]**

19 The Grand Jury further charges:
20

21 DAMACIO DIAZ

22 Defendant herein as follows:
23

24 82. The allegations contained in paragraphs 1 through 13 and 16 through 24 of this
25 Indictment are hereby repeated, re-alleged, and incorporated by reference as though fully set
26 forth herein.
27

28 83. On or about April 4, 2013, in the County of Kern, State and Eastern District of
California, Defendant DIAZ, a resident of McFarland, California, did willfully make and
subscribe a joint U.S. Individual Income Tax Return, for the calendar year 2012, which was

1 verified by a written declaration that it was made under the penalties of perjury and which he did
2 not believe to be true and correct as to every material matter. That income tax return, which was
3 filed with the Internal Revenue Service, reported total income in the amount of \$168,485,
4 whereas, as he then and there knew and believed, he received total income in addition to the
5 amount stated in the return.

6 In violation of Title 26, United States Code, Section 7206(1).

7 **COUNT SIXTEEN:** [Making and Subscribing a False Income Tax Return - 26
8 U.S.C. § 7206(1)]

9 The Grand Jury further charges:

10 DAMACIO DIAZ

11 Defendant herein as follows:

12 84. The allegations contained in paragraphs 1 through 13 and 16 through 24 of this
13 Indictment are hereby repeated, re-alleged, and incorporated by reference as though fully set
14 forth herein.

15 85. On or about February 13, 2014, in the County of Kern, State and Eastern District
16 of California, Defendant DIAZ, a resident of McFarland, California, did willfully make and
17 subscribe a joint U.S. Individual Income Tax Return, for the calendar year 2013, which was
18 verified by a written declaration that it was made under the penalties of perjury and which he did
19 not believe to be true and correct as to every material matter. That income tax return, which was
20 filed with the Internal Revenue Service, reported total income in the amount of \$143,275
21 whereas, as he then and there knew and believed he received total income in addition to the
22 amount stated in the return.

23 In violation of Title 26, United States Code, Section 7206(1).

24 **FORFEITURE ALLEGATION:** [18 U.S.C. § 981(a)(1)(C), 21 U.S.C. §853, and 28 U.S.C.
25 § 2461(c) – Criminal Forfeiture]
26
27
28

1 The Grand Jury further alleges:

2 The allegations set forth in the above Indictment are incorporated by reference as
3 though fully set forth herein for the purpose of alleging forfeiture pursuant to 18 U.S.C. §
4 981(a)(1)(C); 21 U.S.C. § 853; and 28 U.S.C. § 2461(c).

5 Pursuant to one or more of the following: 18 U.S.C. § 981(a)(1)(C); 21 U.S.C. §
6 853; and 28 U.S.C. § 2461(c), and upon conviction of one or more of the offenses alleged as
7 Counts 1 through 14 in this Indictment, any property, real or personal, which constitutes, or is
8 derived from, or is traceable to the proceeds obtained directly or indirectly from the commission
9 of the criminal conduct, or scheme, or conspiracy, alleged in this Indictment; or any property
10 traceable to such property, shall be forfeited to the United States, including but not limited to the
11 following:
12

- 13 1. 2011 Toyota Sequoia SR5, Vehicle Identification Number
14 5TDZY5819BS037141;
- 15 2. Approximately \$49,000.00 seized from Valley Republic Bank account number
16 01802925, held in the name of DAMACIO Diaz;
- 17 3. Real Property located at 157 Famoso Hills Road, McFarland, California, Kern
18 County, APN: 074-020-72-00-4; and
- 19 4. A sum of money equal to the total amount of proceeds obtained as a result of the
20 offenses of which the defendant is convicted.

21 Pursuant to 21 U.S.C. § 853, and upon conviction of one or more of the offenses alleged
22 as Counts 1 and 5-14 in this Indictment, any property, real or personal, that is used or is intended
23 to be used to facilitate or used commit the criminal conduct, or scheme, or conspiracy alleged in
24 this Indictment; or is involved in or intended to be involved in the criminal conduct, or scheme,
25 or conspiracy alleged in this Indictment; or any property traceable to such property, shall be
26 forfeited to the United States, including but not limited to the following:

- 27 1. 2011 Toyota Sequoia SR5, Vehicle Identification Number
28 5TDZY5819BS037141;
2. Approximately \$49,000.00 seized from Valley Republic Bank account number
01802925, held in the name of DAMACIO Diaz; and
3. Real Property located at 157 Famoso Hills Road, McFarland, California, Kern

County, APN: 074-020-72-00-4.

Pursuant to 21 U.S.C. § 853 and 28 U.S.C. § 2461(c), if any property subject to forfeiture, as a result of any act or omission of Defendant(s) or agents of Defendant(s) or upon direction by the Defendant(s):

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot

be divided without difficulty, the United States of America shall be entitled to forfeiture of any other property of the Defendants, up to the value of the property subject to forfeiture, including but not limited to a personal forfeiture money judgment, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461(c).

A TRUE BILL.

/s/ Signature on file w/AUSA

FOREPERSON

BENJAMIN B. WAGNER
United States Attorney

By: **Mark E. Cullers**

MARK E. CULLERS,
Assistant U.S. Attorney
Chief, Fresno Office