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Attorneys for the People

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

THE PEOPLE OF THE STATE OF)
CALIFORNIA,)
Plaintiff,)
)
)
vs.)
)
)
)
)
LAWRENCE EMILIO MASCHINO)
Defendant.)

No. C1121623

**PETITION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION AND
ANY OTHER PROTECTIVE RELIEF
PURSUANT TO PENAL CODE
SECTION 186.11(e)(2).**

Comes now the plaintiff, the People of the State of California, by and through its attorneys, JEFFREY F. ROSEN, District Attorney, and CHERIE BOURLARD, Deputy District Attorney, and respectfully submits the following Petition for Temporary Restraining Order and Preliminary Injunction and any other Protective Relief Necessary to Preserve Defendants' Property and Assets Pursuant to Penal Code Section 186.11(e)(2).

STATEMENT OF THE CASE

In a complaint filed on December 12, 2011, the defendant was charged with six felony counts of Penal Code section 368(d) (Theft from an Elder), one felony count of Penal Code section 484e(d) (Acquiring an Access Card with Fraudulent Intent) and one felony account of Penal Code section 186.10(a) (Money Laundering), with an allegation of Penal Code section 186.10(c)(a) (Transaction Exceeding \$150,000.) In addition, the defendant is charged with Allegations and Enhancements pursuant to Penal Code sections 12022.6(a)(2) (Excessive Taking Enhancement, over \$200,000), 1203.045 (Probation Ineligibility / Exceeds \$100,000) and 186.11(a)(1)/(3) (White Collar Crime Enhancement, loss over \$100,000). He is also charged with six prison priors, in violation of Penal Code section 667.5(b). The Theft offenses were alleged to have occurred on and between August 3, 2011 and August 30, 2011 against elder victim BonnieVee Loeber (aged 86).

It has been alleged that the defendant committed two or more related felonies, a material element of which is fraud or embezzlement, which involved a pattern of related felony conduct and the taking of more than one hundred thousand dollars (\$100,000), within the meaning of Penal Code section 186.11(a)(1).

The petitioner believes that the defendant in the foregoing criminal case owned and/or possessed the following personal property, which was seized pursuant to search warrants and incident to the arrest of the defendant. The property, described below, is now in custody of the San Jose Police Department, to wit:

Money: \$66,699.73, seized on September 1, 2011, from Alliance Credit Union Acct. #188718, via check #2154963. Account Holder Lawrence Maschino;

Money: \$10,748.00, seized on November 8, 2011, from the Hard Rock Hotel and Casino Acct. #43269, via check #1262. Account Holder Lawrence Maschino;

Cash: \$35,000.00 in cash, seized on September 8, 2011 from the trunk of the herein described Porsche, incident to the arrest of Defendant Maschino. Located at Paradise Bay Ct., Richmond, CA;

Cash: \$2,507.00 in cash, seized on September 8, 2011 from Def Maschino's person incident to arrest. Located at Paradise Bay Ct., Richmond, CA;

Porsche Vehicle: 1999 Silver Porsche Boxster. Cal. Lic. # 4ECR474, VIN WPOCA2981XU622527, and key. Located at Paradise Bay Ct., Richmond, CA; Registered owners: Lawrence Maschino and Ceola Williams;

3 Apple iPads
 1. Apple iPad2 Model A1396 3G 64, Serial #DKVG40PADFJ2 (in original box). Located at 233 Paradise Bay Ct., Richmond, CA;
 2. Apple iPad2 Model A1397 3G 64, Serial #DLXG32JNDJHG, with black case. Located in rear seat of cab at Paradise Bay Ct., Richmond, CA;
 3. Apple iPad2 Model A1396 3G 64, Serial #DTG5255DFJ2 (wrapped, in original box). Located at 233 Paradise Bay Ct., Richmond, CA;

Apple Macbook Pro Apple Macbook Pro Computer, Serial #C02G7098DRJH. Located at 233 Paradise Bay Ct., Richmond, CA;

HP Computer HP Computer Model Pavilion DV6-6135dx, Serial #SCH1273JJB, with black soft case, power cord and wireless mouse. Located at 233 Paradise Bay Ct., Richmond, CA;

Computer Bag Diesel Computer Bag, Serial #OOX834P8136T8013;

Luggage and Cases
 1. Louis Vuitton Cloth Bag;
 2. Louis Vuitton Travel Suitcase, Serial #HPU259D38-B;
 3. Louis Vuitton KeepAll, Serial # S02181
 3. Swiss Army Lugano Travel Suitcase, Serial #069040011;
 4. Swiss Army Travel Geneva Suitcase, Serial #069040063;
 5. Retro Calif Briefcase: Marc New York
 Located at 233 Paradise Bay Ct., Richmond, CA;

Monster Headphones Black Monster Beats Headphones "Beats by DRE," with black case and box. Located at 233 Paradise Bay Ct., Richmond, CA;

Apple Headphones Apple Headphones, Model # MA850G/B, Serial #4547597722882, with remote and mic. Located at 233 Paradise Bay Ct., Richmond, CA;

Sunglasses (4) 1. Prada Sunglasses Model SPR564, Serial #1BC-5Z1, with case
2. Prada Sunglasses Model SPR541, Serial #1BC-5Z1, with case.
3. Oliver People's Farrel Sunglasses, Serial #OV1003-0717, w/ case.
4. Persol Sunglasses, Serial #2747-S, with case.
Located at 233 Paradise Bay Ct., Richmond, CA;

Watch Swarovski Citra Sphere Black Watch, Serial #1094364. Located at 233 Paradise Bay Ct., Richmond, CA;

Shirts Three boxes of shirts, including Armani (Property Item #1). Located at 1544 Puerto Vallarta Dr., San Jose, CA.

PRAYER

We will, and do hereby request, based on the record in this case, the declaration of Mark Huiskens, and other argument, that the court issue such protective relief as necessary to preserve said property and assets. Specifically, the Petitioner prays for the following:

1) A temporary order freezing the funds as described above in order to assure payment of partial restitution and fines at the conclusion of the criminal prosecution;

2) A temporary order restraining the defendants and third-parties from transferring, encumbering or hypothecating the above-listed property;

3) An order that such items be inventoried and stored by the San Jose Police Department until such time as this court appoints a receiver for the personal property of the above-named defendants and third-parties or order disposition of said items;

4) A temporary order that upon conviction in this case, all costs of executing and maintaining the above orders be made part of any restitution order at sentencing on this case;

5) A temporary order restraining the defendant from transferring, encumbering, hypothecating or otherwise disposing of any property referred to above and any other assets presently unknown to the Petitioner.

Dated: April _____, 2012

Respectfully submitted,
JEFFREY F. ROSEN, District Attorney

By:

CHERIE BOURLARD
Deputy District Attorney

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LAWRENCE EMILIO MASCHINPO)
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No. C1121623

**DECLARATION OF MARK
HUISKENS IN SUPPORT OF
PETITION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION
PURSUANT TO PENAL CODE
SECTION 186.11(e)(2).**

STATEMENT OF PROBABLE CAUSE

I, Mark Huiskens of the San Jose Police Department, do on oath swear that the facts expressed in the foregoing affidavit and the attached and incorporated Temporary Restraining Order are true and that based thereon I have probable cause to believe that the assets sought pursuant to this order for protective relief are lawfully seizable assets pursuant to Penal Code section 186.11 and are now located at the locations set forth in the affidavit and the order for protective relief.

AFFIDAVIT OF MARK HUISKENS

I, Mark Huiskens, am a San Jose Police Department Officer. I am the investigating officer in the above-entitled case. As the case investigator, I have personal knowledge of the criminal investigation underlying the above entitled case. This prosecution includes felony charges of Grand Theft of an Elder, Money Laundering, and Acquiring an Access Card Account.

A criminal complaint was filed with the Santa Clara County Superior Court on December 12, 2011 under Santa Clara County docket number C1121623. (It is requested this court take judicial notice of said complaint and respective filed reports.) According to the complaint, the defendant has been charged with two or more felonies, as specified in subdivision (a) of Penal Code Section 186.11, and the “Aggravated White Collar Crime Enhancement” pursuant to that section.

I have been advised that the above noted enhancement allows the Superior Court to preserve any asset or property that is in the control of the defendants charged with that enhancement until the conclusion of the criminal prosecution. Upon conviction of the two felonies as specified in Section 186.11(a), these assets may be levied upon by the Superior Court to pay restitution to the victims of the alleged crimes and fines imposed pursuant to Section 186.11(c). (See Section 186.11(e)(1).)

Based upon the investigative reports filed in the above Santa Clara County docket number C1121623, I have probable cause to believe that the defendant has committed the acts alleged in the criminal complaint and that the losses are in excess of \$200,000. Penal Code section 186.11 makes the defendants liable for fines of at least double the amount of the loss. The Superior Court, therefore, has jurisdiction to preserve up to \$400,000 in assets under the control of the defendants. (See section 186.11(e)(1).)

I am aware of the following assets described herein as listed in the above Petition for Temporary Restraining Order and Preliminary injunction. I have probable cause to believe that the value of seized items, notwithstanding any additional items and collections of items of personal property held by the defendant is less than \$400,000 and therefore does not exceed the amount of potential restitution and fines in this case.

I believe that such assets may be in danger of being dissipated or secreted, within the meaning of Section 186.11(e)(2), if they are allowed to be controlled by the defendant. The amount of bail in this matter is currently set at \$320,000. I have probable cause to believe the defendant in this case may liquidate or otherwise use the listed assets in order to post bail. Furthermore, the existence of these assets is evidence of the crimes charged. Consequently, I have probable cause to believe that the defendant may attempt to conceal, dissipate or otherwise hide these assets from the prosecution.

I declare under penalty of perjury that the aforementioned information is true and correct to the best of my knowledge.

Executed in the County of Santa Clara on April _____, 2012.

Mark Huiskens
Affiant

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

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CALIFORNIA,)	No. C1121623
Plaintiff,)	
)	ORDER FOR PROTECTIVE
)	RELIEF TO PRESERVE PROPERTY
)	AND ASSETS PURSUANT TO PENAL
)	CODE SECTION 186.11(f)
)	SECTION 186.11(f).
vs.)	
)	
LAWRENCE EMILIO MASCHINO)	
Defendant.)	
<hr/>)	

GOOD CAUSE HAVING BEEN SHOWN, the following is hereby ordered:

1) All funds listed in the attached Exhibit 1 are ordered frozen and to refuse access to, delivery or payment of any funds, checks, notes or instruments requiring payment of money by or from the account by the defendant or third-parties or their agents, servants or employees until such time as the court can appoint a receiver for such funds or orders further disposition;

2) Items listed in the attached Exhibit 1 shall be inventoried and stored by the San Jose Police Department until such time as this court appoints a receiver for or orders disposition of the personal property of the above-named defendant;

3) Upon conviction in this case, all costs of executing and maintaining the above and said orders shall be made part of any restitution order at sentencing on this case;

4) The defendant and third-parties shall not transfer, encumber, hypothecate or otherwise dispose of any property referred to above and any other assets presently unknown to the Petitioner.

Dated: April _____, 2012

By: _____

Judge of the Superior Court

EXHIBIT 1

Seized pursuant to search warrants and incident to arrest as referenced in Santa Clara County Court docket number C1121623, and now in the custody of the San Jose Police Department:

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