
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : **CRIMINAL COMPLAINT**
 :
 v. : Hon. Cathy L. Waldor
 :
 JACK KOCH, : Mag. No. 20-9426
 a/k/a "Ismail Yilmaz," :
 :
 STEVEN KOCH, :
 a/k/a "Selim Memis." :

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

SEE ATTACHMENT A

I further state that I am a Postal Inspector with the United States Postal Inspection Service and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.



Patrick Boyle, Postal Inspector
United States Postal Inspection Service

I, Patrick Boyle, Postal Inspector, attested to this Affidavit by telephone pursuant to FRCP 4.1(b)(2)(A) on November 23, 2020.

Sworn to before me and subscribed in my presence,
November 23, 2020, Essex County, New Jersey

@ 12:17 pm

HONORABLE CATHY L. WALDOR
UNITED STATES MAGISTRATE JUDGE


Signature of Judicial Officer

ATTACHMENT A

COUNT ONE
(Theft of Government Property)

From at least as early as in or around January 2018 through in or around September 2020, in Bergen County, in the District of New Jersey, and elsewhere, defendants

JACK KOCH, a/k/a “Ismail Yilmaz,”
and
STEVEN KOCH, a/k/a “Selim Memis”

did willfully and knowingly steal, purloin and convert to their use money and a thing of value, namely, United States Postal Service stamps generated through Vendor A, of a value exceeding \$1,000.00, with the intention of depriving the United States of the use or benefit of the true value of the postage stamps.

In violation of Title 18, United States Code, Sections 641 and 2.

COUNT TWO
(Forged Postage)

From at least as early as in or around January 2018 through on or about September 2020, in Bergen County, in the District of New Jersey, and elsewhere, defendants

JACK KOCH, a/k/a "Ismail Yilmaz,"
STEVEN KOCH, a/k/a "Selim Memis"

did make and print, and did authorize the making and printing of, postage stamps of the kind authorized and provided by the United States Postal Service, without the special authority and direction of the United States Postal Service.

In violation of Title 18, United States Code, Sections 501 and 2.

ATTACHMENT B

I, Patrick Boyle, am a Postal Inspector with the United States Postal Inspection Service (“USPIS”). I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, and items of evidence. Where the content of documents and the actions, statements, and conversations of individuals are recounted herein, they are recounted in substance and in part. Because this Criminal Complaint is being submitted for the limited purpose of establishing probable cause, I have not set forth each and every fact that I know concerning this investigation. Unless specifically indicated, where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged. All times are approximate.

Background

1. The United States Postal Service (“USPS”) offers customers a variety of methods to affix postage to pieces of mail. One available method is Priority Mail, the price of which is typically determined either by weight and distance or by “Flat Rate” pricing. Weight-and-distance pricing, is determined by how much the mail piece weighs and how far it travels to get to its destination. “Flat Rate Envelope” pricing, in contrast, provides a single flat rate for any item sent to any domestic destination, so long as the item weighs 70 pounds or less and fits into a USPS-produced compact envelope.

2. Unlike other mail pieces, whose labels need not show the postage paid in a human-readable format, USPS policy requires the visual endorsement “FLAT RATE ENV” to appear on all mail pieces sent using the “Flat Rate Envelope” discounted rate, to allow USPS employees to determine whether the appropriate postage was in fact paid—*i.e.*, to make sure that each mail piece sent using that discounted rate does in fact weigh 70 pounds or less and fit into the special USPS compact envelope.

3. Thus, by removing the required visual endorsement “FLAT RATE ENV” from such a label, a fraudster can use that altered Flat Rate Envelope label to ship a larger package at the discounted rate, thereby defrauding USPS of postage revenue.

4. Another form of USPS postage is “ePostage,” an electronic-payment option created by USPS to accommodate the significant growth of ecommerce. This payment method allows small merchants selling goods through an online marketplace to buy postage through their marketplace account, then print the labels and mail their packages. Once the merchant buys the postage, USPS receives payment for numerous postage purchases through one central e-retailer account instead of receiving payment from each individual purchaser of postage, thereby streamlining payment process and reducing costs.

5. Amazon.com (“Amazon”) is a third-party vendor, focusing on e-commerce, among other things, and provides an extensive online marketplace for goods such as books, electronics, software, apparel, furniture, food, toys, household items, and jewelry.

6. One type of ePostage that USPS offers through Amazon is Amazon Transportation for Merchants (“ATFM”). The ATFM program assigns each participating retailer a unique Customer Reference Number (a “CRN”), which the retailer uses to purchase postage through Amazon. The retailer can then apply that postage, in the form of a printed label, to the retailer’s shipments to Amazon customers. Amazon periodically uses the CRN to compute the total postage purchased by each retailer, aggregates all retailers’ total postage purchases into a single file, and submits that file electronically to USPS. USPS then deducts the total postage amount from an Amazon account with USPS.

7. Each ATFM postage label bears a unique USPS delivery confirmation number and barcode carrying information associated with the particular ATFM retailer. For example, the delivery confirmation number is linked to the retailer’s CRN, the mailing date, the class of mail, the postage amount, and the parcel’s weight. Thus, every ATFM postage label can be linked back to a specific Amazon merchant.

8. For this reason, if an ATFM shipping label is altered to show data other than the information generated by the ePostage system, the USPS could be defrauded out of the proper and lawful rate of postage for the mailing and delivery of the mail piece.

Defendant and Relevant Individuals and Entities

9. At all times relevant to this Complaint:
- a. Fresh N Clear, LLC (“Fresh N Clear”) was a limited liability company organized in New Jersey, with its principal place of business in Wood Ridge, New Jersey. Fresh N Clear was a high-volume e-commerce seller of various household items.
 - b. Defendant Jack Koch a/k/a “Ismail Yilmaz” (“J.KOCH”)¹, was a resident of Elmwood Park, New Jersey, and one of the owners of Fresh N Clear.
 - c. Defendant Steven Koch a/k/a “Selim Memis” (“S.KOCH”), is a resident of Pompton Lakes, New Jersey, and one of the owners of Fresh N Clear.

¹ DMV records reveal that Ismail Yilmaz formally changed his name to “Jack Koch.”

- d. Cooperating Witness-1 is a resident of Elmwood Park, New Jersey, and an employee at Fresh N Clear.

Probable Cause

Overview

10. From at least as early as in or around January 2018, through in or around September 2020, J.KOCH and S.KOCH (collectively “the KOCHs” or the “Defendants”) perpetrated a fraudulent postage scheme where they altered postage labels in a manner designed to benefit Fresh N Clear, while causing losses in revenue to USPS.

11. Specifically, the Defendants purchased Flat Rate Envelope postage labels and altered those labels to remove the visual endorsement “FLAT RATE ENV.” In furtherance of this scheme, the Defendants also directed their employee, Cooperating Witness-1, to alter the postage labels. After removing the visual endorsement from the labels, the KOCHs and Cooperating Witness-1 affixed the altered labels to packages larger than the compact USPS envelopes eligible for Flat Rate Envelope Shipping. This enabled the Defendants to ship Fresh N Clear’s merchandise without paying the appropriate postage rate thus depriving USPS of at least \$6 million in postage revenue.

Investigation

12. From at least as early as in or around July 2016, Fresh N Clear began selling household items on the Amazon online marketplace.² A review of the Amazon Marketplace shows that Fresh N Clear sold a wide variety of household items, including cases of bottle water, laundry detergent, and cases of soda—items that would not ordinarily fit into a Flat Rate envelope.³ Investigation shows that Fresh N Clear shipped approximately 30,000 parcels per month through the Amazon Marketplace using ePostage.

13. A review of Amazon merchant shipping records revealed that between in or around January 2020 through in or around September 2020, the KOCHs caused Fresh N Clear to purchase approximately 240,471 USPS Priority Mail postage labels – almost all at Flat Rate Envelopes. However, investigation revealed that the vast majority of the mail pieces sent by Fresh N Clear were packaged in boxes bearing fraudulently altered Flat Rate Envelope labels. Law enforcement observed that Fresh N Clear engaged in a pattern of conduct where it shipped larger packages bearing Flat Rate Envelope postage

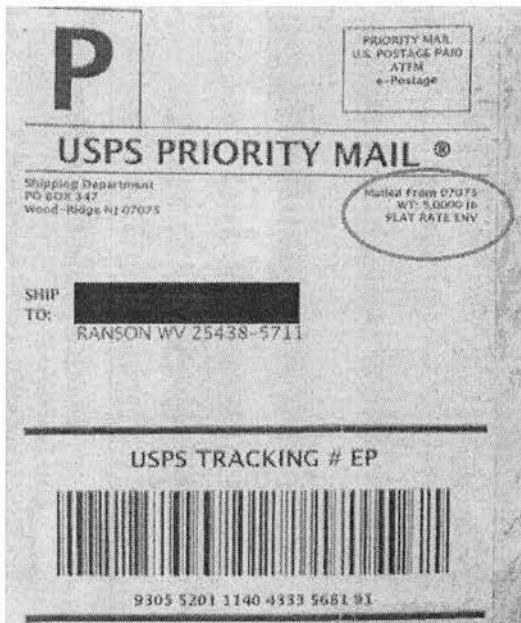
² Investigation revealed that Fresh N Clear sold merchandise on the Amazon Marketplace under the Amazon moniker “Better Shopping.”

³ As of July 16, 2020, there were approximately 655 different items offered for sale on Amazon by Fresh N Clear.

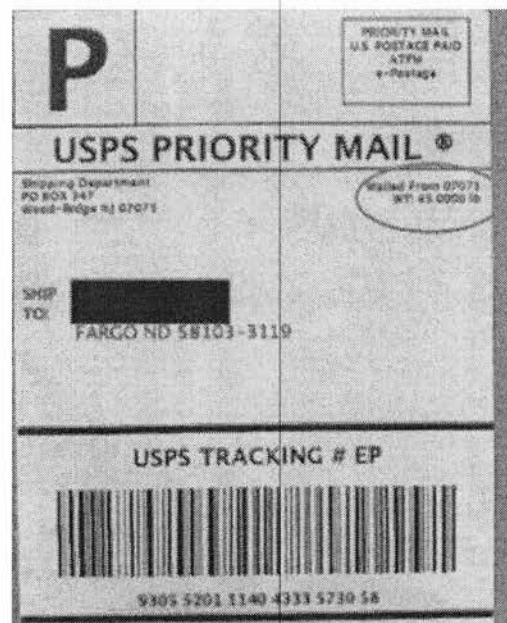
labels, even though those packages were not eligible for such postage rates. Law enforcement further observed that the labels were altered to remove the visual endorsement “FLAT RATE ENV,” thus giving the packages the appearance that the appropriate postage had been paid. On or about February 25, 2020, March 4, 2020, March 30, 2020, June 2, 2020, June 5, 2020, June 10, 2020, June 23, 2020 and August 31, 2020, law enforcement examined approximately 1,000 parcels originating from Fresh N Clear, approximately 97% of those parcels were affixed with fraudulently altered postage labels.

14. For example, on or about February 25, 2020, Fresh N Clear purchased a Flat Rate Envelope postage label for \$7.15. The investigation revealed that the Defendants, or others acting at their direction, affixed the \$7.15 label onto a box larger than the USPS compact envelope eligible for the Flat Rate Envelope price. Once that package arrived at the USPS distribution center, law enforcement inspected the label and observed that it had been manipulated to remove the “FLAT RATE ENV” visual endorsement. Had the Defendants purchased an appropriate label, the postage would have cost Fresh N Clear approximately \$98.38. This fraud therefore deprived USPS of \$91.23.

15. Below is an example of a legitimate Flat Rate Envelope postage label and a fraudulently altered Flat Rate Envelope postage label. The legitimate Flat Rate Envelope postage label includes the visual endorsement “FLAT RATE ENV,” while the altered postage label does not.



Legitimate Postage Label



Altered Postage Label

16. From in or around January 2020 through in or around September 2020, the KOCHs caused Fresh N Clear to purchase approximately 240,471

USPS Priority Mail postage labels – almost all at Flat Rate Envelope, causing USPS an estimated loss in revenue of at least \$6 million.

17. On or about September 22, 2020, law enforcement officers executed a search warrant at Fresh N Clear's warehouse, where they discovered 225 Priority Mail parcels. Of the 225 Priority Mail parcels found, 223 were affixed with fraudulently altered postage labels.

18. During the execution of the search warrant, law enforcement interviewed S.KOCH and Cooperating Witness-1. KOCH advised law enforcement, in substance and part, that the Defendants' business, Fresh N Clear, sold items on the Amazon Marketplace under the Amazon moniker "Better Shopping." S.KOCH also advised that he, J.KOCH, and Cooperating Witness-1 "cleaned up" the postage labels Fresh N Clear purchased from Amazon, by removing the visual endorsements in order to send merchandise in boxes at the lower Flat Rate Envelope price. S.KOCH further advised that the Defendants altered the postage labels in order to keep Fresh N Clear competitive with other e-commerce businesses.

19. Cooperating Witness-1 also admitted to law enforcement that the Defendants directed Cooperating Witness-1 to alter postage labels to remove the visual endorsement from the labels before shipping Fresh N Clear's merchandise. Cooperating Witness-1 stated, in substance and part, that if an item could not fit into a flat rate envelope, the Defendants directed Cooperating Witness-1 to manipulate the postage label by removing the visual endorsement, "FLAT RATE ENV," enabling Fresh N Clear to avoid paying the full amount of postage required for their packages.