

DECLARATION OF FBI SPECIAL AGENT MELANIE ADAMS

I, Melanie Adams, do hereby declare and state:

1. I have been a Special Agent (SA) of the Federal Bureau of Investigation (FBI) for eleven years. My training consisted of a sixteen (16) week FBI new agents class during which I received instruction on various aspects of federal investigations. In addition to new agent training, I have received approximately 369 hours of training related to computer and internet crime, and eight (8) hours of training related to the forensic analysis of computer related evidence. I have participated in a wide variety of criminal investigations, including investigations involving the distribution of illegal narcotics many of which were federal wire interception investigations, internet fraud, computer intrusion, child pornography, and other federal computer crimes. I have participated in numerous search warrants and interviews. Prior to that, I worked for over nine years as an analyst for the FBI.

2. On June 15, 2007, the FBI obtained a federal search warrant authorizing the search of and seizure of evidence at 8465 Regents Road, Apt. 448, San Diego, California, the address of a company called Digital Point Solutions as well as the residence of Mr. Shawn Hogan. On June 18, 2007, I participated during the execution of this search warrant.

3. I was one of the last agents to enter the location being searched. Mr. Hogan was in the living room. Mr. Hogan was provided a copy of the search warrant and attachments. FBI SA Todd Walbridge and I then approached Mr. Hogan, identified ourselves, and told him that FBI agents were executing a search warrant. We advised Mr. Hogan that he was not under arrest or being detained in any way. I also told Mr. Hogan that I would like to talk to him but he was not obligated to talk to us. Mr. Hogan indicated that he would be willing to talk to us. At no point in my interactions with Mr. Hogan, did I draw my weapon or expose it to Mr. Hogan.

4. During the interview of Mr. Hogan, we were all sitting down, except for a few times that SA Walbridge stood up to deal with administrative matters involving the search. I believe that I was sitting on the couch in Mr. Hogan's living room that had its back to the windows. I remember that Mr. Hogan was not sitting on the same couch as me but on the couch/chair to my left. There was a glass coffee table in front of me. SA Walbridge was sitting on a different chair adjacent to us. I was not wearing an FBI/police jacket or vest. We did not restrain Mr. Hogan in any way or apply any pressure to detain him in any way. Also, we did not isolate Mr. Hogan and did not prevent him from leaving or talking with anyone.

5. Mr. Hogan willingly continued to talk to us at length about his involvement with the eBay Affiliate Program, including his use of a 1x1 pixel script to stuff cookies, and other matters. The conversation with Mr. Hogan was friendly, relaxed, and two-way. By two-way, I mean that there was a free-flowing exchange between the agents and Mr. Hogan. Mr. Hogan seemed eager to tell his side of the story. While SA Walbridge and I were speaking to Mr. Hogan, the other agents were busy executing the search warrant. They did not participate in the interview.

6. I do not recall how long the interview with Mr. Hogan lasted. However, I remember that the interview ended while the search was still going on. So, at that point, the conversation shifted to chit-chat and casual talk about Mr. Hogan's cats, the new house he was building, his dating of the actress who plays the Pink Power Ranger, and other topics. Mr. Hogan offered to show me the blueprints to this new house, which were on the dining room table.

7. At some point, we asked if he would give us consent to search his vehicle located in the garage, a brand-new Hummer H2, and if he would give us consent to search his off-site

servers at a business called SimpleNet. Mr. Hogan provided verbal consent to search his vehicle and also willingly and voluntarily signed an FD-26 Consent to Search form for the vehicle. Moreover, Mr. Hogan provided verbal consent to image his off-site servers at SimpleNet and willingly and voluntarily signed an FD-941 Consent to Search Computer(s) form for that purpose.

8. During this conversation, Mr. Hogan indicated that the SimpleNet location was secure. Because Mr. Hogan did not think we would be able to get in without him, he offered to go with us. I recall that Mr. Hogan drove his Hummer H2 to SimpleNet and SA Walbridge and I followed him in another vehicle. Tim Hamon, an FBI forensic examiner also met us outside SimpleNet. Once we arrived at SimpleNet, Mr. Hogan escorted us in by signing the entry log, entering his code, and scanning his finger. At that time, I believed that, based on his previous consent, Mr. Hogan was going to allow us to image multiple servers at SimpleNet. That is why the FBI forensic examiner was there. However, even though there were many servers present in the server racks, Mr. Hogan chose one particular hard drive and gave it to us. That choice was then documented on the consent form.

9. On June 19, 2007, the next day after the search, I received an unsolicited telephone call from Mr. Hogan. I asked him if he was represented by an attorney and he said no. He advised he had some additional information he wanted to provide to me concerning the matter about which I had interviewed him the day before. Mr. Hogan then provided me with this additional information, including details about a meeting he had with some eBay Affiliate Program team members at the eBay Developer Conference in Las Vegas, Nevada.

10. On June 29, 2007, I received another unsolicited telephone call from Mr. Hogan. I asked him if he was represented and he said no. He advised that he had a few questions and

some additional information regarding the matters for which he was previously interviewed. He also wanted to know when he would get back items seized from his business/residence, including his Apple Tower computer, paper copies of bills, and passport. In addition, Mr. Hogan also provided me with some other information about a meeting he had with eBay and some of the people present at that meeting.

11. On August 29, 2007, I sent an email to Mr. Hogan in which I attached a photograph. I asked Mr. Hogan to review the attached photograph to determine if the photograph depicted an individual whom Mr. Hogan had told me about on a previous occasion. Mr. Hogan replied to my email shortly after it was sent and stated affirmatively, "Yep, that's him."

12. On March 17, 2009, I received a letter from Mr. Hogan stating he had obtained legal counsel through Coast Law Group LLP and he requested the return of additional items of evidence.

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

Executed on October __, 2012, at San Jose, California.

Melanie Adams
Special Agent
Federal Bureau of Investigation

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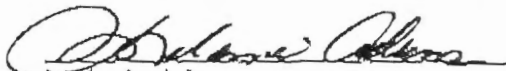
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