


Approved:


Amanda Kramer
Assistant United States Attorney

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Before: HONORABLE JAMES C. FRANCIS IV
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
-v.-	:	Violation of
	:	18 U.S.C. § 875(d)
ANTHONY DIGATI,	:	COUNTY OF OFFENSE:
Defendant.	:	NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

MITCHELL S. THOMPSON, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

1. From on or about February 22, 2010, in the Southern District of New York and elsewhere, ANTHONY DIGATI, the defendant, unlawfully, knowingly, and willfully, and with intent to extort from a corporation any money and other thing of value, did transmit in interstate commerce a communication containing a threat to injure the property and reputation of the addressee, to wit, DIGATI, in a message posted on a website and in an email transmitted to an insurance company located in New York, New York (the "Company"), in substance and in part, threatened to make public statements and transmit spam in an effort to damage the reputation of the Company and cost it millions in revenue unless the Company, among other things, paid DIGATI approximately \$200,000.

(Title 18, United States Code, Section 875(d).)

The basis for my knowledge and for the foregoing charges are as follows:

2. I am a Special Agent with the FBI, and have been employed in that position for approximately three and-a-half

years. I am currently assigned to a squad that investigates criminal offenses including, among others, those involving the transmission of threatening and extortionate communications over the Internet. Over the past three and-a-half years I have participated in numerous investigations involving computer crimes. I have also executed several search warrants and arrested individuals associated with crimes involving computers and the Internet. Based upon my training and experience, I am familiar with the means by which individuals engage in these offenses.

3. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every detail of every aspect of the investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause. In addition, the information contained in this affidavit is based upon conversations with other law enforcement officers and others, as well as my personal observation and knowledge. Unless otherwise specifically indicated, all conversations and statements described in this affidavit are related in substance and in part only.

4. During the course of this investigation, I have reviewed public records and documents provided by the Company and other entities. In addition, I have had conversations with individuals at the Company and with other entities. From these and other sources, I have learned the following:

5. In or about June 2007, ANTHONY DIGATI, the defendant, a former registered agent and manager at the Company, contacted the Company and purchased variable universal life insurance from the Company.

THE JANUARY 2010 CUSTOMER SERVICE TELEPHONE CALL

6. In or about January 2010, ANTHONY DIGATI, the defendant, contacted a customer service representative (the "Representative") at the Company by telephone. During the call, DIGATI provided a policy number that corresponds to a variable universal life insurance policy owned by DIGATI. DIGATI also provided unique personal identifiers, including his date of birth, the last four digits of his social security number, and his home address in Chino, California. From my search of public records, I know that those unique personal identifiers belong to DIGATI. During the telephone call, DIGATI expressed, in sum and substance, that he was dissatisfied with the performance of his variable universal life insurance.

THE FEBRUARY 8, 2010 LETTER FROM DIGATI

7. On or about February 8, 2010, the Company received a letter dated February 4, 2010 in its office in New York, New York, from ANTHONY DIGATI, the defendant. In sum and substance, the letter expressed DIGATI's dissatisfaction with the performance of the variable universal life insurance DIGATI had purchased from the Company. Among other things, DIGATI demanded that the Company return all of the premiums he had paid to date. The letter was signed, and below the signature was the name "Anthony Digati," the phone number (951) 203-8172, and the email address "adigati@earthlink.net."

8. By letter dated February 11, 2010, the Company advised ANTHONY DIGATI, the defendant, in substance and in part, that the premiums would not be returned, and that, as set forth in the prospectus for the insurance, the performance of variable universal life insurance is impacted by stock market activity.

THE FEBRUARY 22, 2010 EXTORTIONATE EMAIL FROM DIGATI

9. On or about February 22, 2010, more than one dozen Company employees, executives, and one board member, many of whom were located in New York, New York received an email signed "Anthony Digati" from the email address "anthony@[the Company]products.com."¹ The email reads, in part:

[An employee of the Company] denied my claim with your company.

I HIGHLY suggest you visit this website and contact me afterwards.

[http://www.\[the Company\]products.com](http://www.[the Company]products.com)²

I'm sorry it had to come to this, but I guess you won't listen to what the customers [sic] concerns are. You enjoy ripping policy holders off with obscure products bought because of the trust you have established over

¹The extension of the email address is the true name of the Company followed by "products.com."

²The website address is "www." followed by the true name of the Company, followed by "products.com."

160+ years. You enjoy misleading the public and I will make it my purpose in life to educate them.

THE EXTORTIONATE WEBSITE

10. I have used the internet to access the website "www.[the Company]products.com" (the "Website"). The Website displays the name "Anthony Digati," the phone number (951) 203-8172, and the email address "anthony@[the Company]products.com." It also includes, among other things, the following text:

a. "I HIGHLY SUGGEST YOU READ EVERY WORD ON THIS WEBSITE WITH A IT GUY, AS WELL AS SOMEONE WHO HAS THE AUTHORITY TO WRITE ME A CHECK. These actions described below will go live MARCH 8, 2010."

b. "These things, unless you honor the below claim, WILL HAPPEN on March 8, 2010."

c. "As you have denied my claim I can only respond in this way. You no longer have a choice in the matter, unless of course you want me to continue with this outlined plan. I have nothing to lose, you have everything to lose."

d. "I must now make demand in the following manner: . . . The total amount of paid premiums on these policies is \$49,575.97. Because of the denial, lack of trust and my inconvenience and your misleading product, I must now ask that the amount of claim will be multiplied by 4. My demand is now for \$198,303.88. This amount is NOT negotiable, you had your chance to make me an offer, now I call the shots."

e. "At this point you're probably asking yourselves why should I even listen to this crazy fool, what can he do and why should I pay him. *NUISANCE VALUE* is why, I am going to cause you millions of dollars in lost revenue, good faith and general trust in your company."

f. "Now for How: My Plan for [the Company]"

i. "Ask your IT guy where the search engines are going to index a website entitled [the Company] Products listing every product and service you have with 56 pages of relevant content? The files

are already there, I just need to change a few extensions to go live."

- ii. "I belong to every forum I could find that deals with financial services (over 200). I have over 2000 posts on these forums with my signature, on March 8th, 2010, my signature will be changed to reflect this websites [sic] name, that is over 2000 links to this website OVERNIGHT."
- iii. "I have 6 MILLION emails going out to couples with children age 25-40, this email campaign is ordered and paid for. 2 million go out on the 8th and every two days 2 million more for three weeks rotating the list. Of course it is spam, I hired a spam service, I could care less, The damge [sic] will be done."
- iv. "I am a huge social networker, and I am highly experienced. 200,000 people will be directly contacted by me through social networks, slamming your integrity and directing them to this website within days."
- v. "I also have a list that includes EVERY AGENT you have in the USA. An email will go out to them as well directing them to this website. That should cause your employee line to ring!"
- g. "I think you get the idea, I am going to drag your company name and reputation, through the muddiest waters imaginable. This will cost you millions in lost revenues, trust and credibility not to mention the advertising you will be buying to counter mine. Sad thing is it's almost free for me!"
- h. "What will I do for you to settle with me? Never put up the site and destroy its content. Transfer ownership of this website and its domain name to you. Promise and sign an NDA that I will never utter the words [the Company] again. You may also strike me from your records as a policyholder[.] I will also forfeit any retirement benefits owed

to me. Anything else you want me to sign to protect the integrity of [the Company]".

i. "The process is in motion and will be released on March 8th, 2010. If you delay and the site goes live, The price will then be \$3,000,000.00."

j. "By the way: Yes, I am crazy . . . Yes, I am vindictive. Yes, I am extremely upset. Yes, I will do everything that I said. I have absolutely nothing to lose or any fear of retaliation, no judge in the world is going to rule for a 200 billion dollar company when there is a lonely customer that you stole from!"

k. "There is really nothing to discuss, please have your attorneys prepare the releases, arrange for the release of funds. Contact me for review of the documents and I will notify you of how we will handle the exchange after we agree on the releases."


11. Based on my review of public records and records obtained from private entities, I am aware that the telephone number (951) 203-8172 is associated with ANTHONY DIGATI, the defendant, that DIGATI uses the email address "adigati@earthlink.net," and that DIGATI resides at the address in Chino, California provided by DIGATI to the Representative in or about January 2010 during the telephone call discussed in paragraph 5 above.

12. Based on my review of records and conversations with a website registration service, I am aware that the website "www.[the Company]products.com" is registered to an individual using the email address "adigati@earthlink.net" with the same address in Chino, California as that provided by ANTHONY DIGATI, the defendant, to the Representative in or about January 2010 during the telephone call discussed in paragraph 5 above.


THE FEBRUARY 24, 2010 EXTORTIONATE EMAIL FROM DIGATI

13. On or about February 24, 2010, more than one dozen Company employees, executives, and one board member, many of whom were located in New York, New York, received an email from ANTHONY DIGATI, the defendant, from the email address "anthony@[the Company]products.com." The email reads, in substance and in part: "Dear [the Company] People, Were [sic] already number 3 on Google. Clock is ticking, and I haven't even put up content yet. :-)" The email also provides another link to the Website.

WHEREFORE, the deponent prays that the above-named defendant be arrested, and imprisoned or bailed as the case may be.


MITCHELL S. THOMPSON
Special Agent
Federal Bureau of Investigation

Sworn to before me this
4th the day of March, 2010


HONORABLE JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK