

## AFFIDAVIT

I, E. Nesbitt Kuyrkendall (the "Affiant"), being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed for the past ten (10) years. I am currently assigned to PB-2, the Violent Crimes and Major Offenses Squad of the Palm Beach County Resident Agency, Miami Division. Among my responsibilities as a Special Agent are investigating crimes against children, particularly offenses involving child pornography and the exploitation of children.

2. I make this affidavit in support of an application by the United States of America for issuance of a warrant to search and seize evidence of violations of Title 18, United States Code, Sections 371, 1591, 2252, 2252A, 2422, and 2423; instrumentalities of such violations; and any fruits of those crimes located within electronic media, specifically two 128MB CompactFlash memory cards, seized in October 2005 by The Town of Palm Beach Police Department ("PBPD") during the execution of a State of Florida search warrant at the premises located at 358 El Brillo Way, Palm Beach, Florida 33480, owned by Jeffrey Epstein (hereinafter, "Epstein's residence"). Those CompactFlash memory cards are more fully described as follows: (a) one Ritz Big Print Digital Film 128 Megabyte CompactFlash memory card, marked 3608128AW4801CF53, and (b) one PNY Technologies 128 Megabyte CompactFlash memory card, marked THNCF128MMA(T00CB)999223 TAIWAN 0247 (hereinafter jointly referred to as "CompactFlash memory cards").

3. The facts set forth in this affidavit are based on my personal knowledge, information obtained in this investigation from others, including other law enforcement officers, my review of documents and records related to this investigation, and information gained through my training and

experience. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation, but have set forth only those facts necessary to establish probable cause to believe that evidence of violations of Title 18, United States Code, Sections 371, 1591, 2252, 2252A, 2422, and 2423 will be found stored within the electronic media, specifically the CompactFlash memory cards.

#### **The Statutes Involved**

4. The investigation involves possible violations of Title 18, United States Code, Sections 371, 1591, 2252, 2252A, 2422, and 2423, which provide as follows:

a. 18 U.S.C. § 371 makes it an offense for two or more persons to conspire to commit an offense against the United States;

b. 18 U.S.C. § 1591(a) makes it an offense for anyone to knowingly, in or affecting interstate commerce, recruit, entice, provide, or obtain by any means a person, knowing that the person has not attained the age of eighteen and will be caused to engage in a commercial sex act;

c. 18 U.S.C. §§ 2252 and 2252A prohibit the manufacture, possession, distribution, and receipt of child pornography;

d. 18 U.S.C. § 2422(b) prohibits the use of a facility of interstate commerce, including the telephone, to persuade, induce, or entice a minor to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense; and

e. 18 U.S.C. § 2423(b) makes it an offense for anyone to travel in interstate commerce for the purpose of engaging in any illicit sexual conduct with another person. "Illicit sexual conduct" includes a commercial sex act with a person under eighteen or other sexual conduct

with a person under the age of sixteen.

5. Section 2422(b) refers to activity “for which any person can be charged with a criminal offense.” Pursuant to:

a. Florida Statutes Section 794.05, a “person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree;”

b. Florida Statutes Section 794.021, “ignorance of the age [of the victim] is no defense,” and that neither “misrepresentation of age by [the victim] nor a bona fide belief that such person is over the specified age [shall] be a defense;”

c. Florida Statutes Sections 800.04(5)(a) and 800.04(5)(c)(2), an adult “who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation,” which is a felony of the second degree if the victim is 12 years of age or older but less than 16 years of age;

d. Florida Statutes Sections 800.04(6)(a) and 800.04(6)(b), an adult “who [i]ntentionally touches a person under 16 years of age in a lewd or lascivious manner or [s]olicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct,” which is a felony of the second degree;

e. Florida Statutes Sections 800.04(7)(a) and 800.04(7)(c), an adult “who: (1) [i]ntentionally masturbates; (2) [i]ntentionally exposes the genitals in a lewd or lascivious

manner; or (3) [i]ntentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to . . . the simulation of any act involving sexual activity in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition,” which is a felony of the second degree.

f. Florida Statutes Section 800.04(2), “[n]either the victim’s lack of chastity nor the victim’s consent is a defense to the crimes proscribed by [Section 800.04].”

g. Florida Statutes Section 800.04(3), “[t]he perpetrator’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the perpetrator’s bona fide belief of the victim’s age cannot be raised as a defense in a prosecution under [Section 800.04].”

h. Florida Statutes Section 800.02, a “person who commits any unnatural and lascivious act with another person commits a misdemeanor of the second degree.”

#### **The Epstein Investigation**

6. In the Spring of 2006, Detective Joseph Recarey with the Town of Palm Beach Police Department contacted me about the investigation of Jeffrey Epstein’s solicitation of minors to engage in prostitution and his lewd and lascivious conduct with minors. The FBI opened a case file in July 2006, and your Affiant is the case agent assigned to the investigation.

7. At around the same time that the FBI opened its investigation, the U.S. Attorney’s Office began a grand jury investigation. Your Affiant is one of the agents on the Federal Rule of Criminal Procedure 6(e) list, that is, someone who is authorized to have access to the facts of the investigation and the materials related thereto.

8. As part of the Federal Grand Jury investigation, a subpoena was issued for all of the physical evidence obtained by PBPD during the course of its investigation, including the evidence seized when PBPD executed the search warrant at Epstein's residence in October 2005. Included in the evidence seized during the search of the Premises were the two CompactFlash memory cards. I have reviewed that evidence, which included a number of photographs of topless and nude young women taken at Epstein's residence. The evidence, including the two CompactFlash memory cards that are the subject of this application, have been in the custody of the Federal Bureau of Investigation since September 2006 and have not been tampered with or altered. Prior to that, they were in the custody of the Evidence Custodian of the Palm Beach Police Department, and I understand that the evidence was not tampered with or altered while in PBPD's custody.

9. I note that I am aware that Epstein's attorneys have alleged that Detective Recarey made misstatements in his application for the state search warrant, but they have not moved to suppress any of that evidence in connection with the prosecution of Epstein by the State Attorney's Office for felony solicitation of prostitution. No federal agency was involved in the application for or execution of the search warrant, and this application is based upon evidence obtained through the FBI's independent investigation.

10. During the course of the federal investigation, federal agents have interviewed more than two dozen young women who have reported engaging in sexual activity with Jeffrey Epstein while they were under eighteen. All of those girls have reported essentially the same information. While they were under the age of eighteen (between the ages of fourteen and seventeen), they were approached by a colleague – either an acquaintance at school, a co-worker, a “friend of a friend,” or the like – who told them that they could make a lot of money performing a “massage” for a

wealthy older man who lived on Palm Beach island. In some cases the girls were told that they would have to remove some clothing during the massage, other girls were not told about this. The girls traveled to Epstein's residence and entered through a side door into the kitchen of the residence. There they were met by Epstein and/or one of his personal assistants, usually [REDACTED]. The girls would be led up to the master bathroom area of Epstein's bedroom. The bathroom had a separate room similar to a dressing area where a massage table would be set up. The girls described the presence of nude and topless photographs of young women throughout the house. Epstein would lie face down on the massage table and the girl would begin by massaging his back and legs. Epstein would then turn over and begin to masturbate while instructing the girl to pinch his nipples or to straddle him. In some cases, Epstein would place a large back massager/vibrator on the victim's vagina. With some girls, he would digitally penetrate her vagina while he masturbated. The sexual activity with some minors progressed to oral sex, sexual intercourse, and the introduction of an adult female into the activity. With some girls, the sexual activity began with the first massage; with others, there was no sexual activity at first; but in all cases, Epstein pushed the girls to engage in more and more sexual activity with each visit.

11. All of the sexual massages ended the same way, when Epstein ejaculated. Epstein or one of his assistants would pay the girl \$200 or more, depending on how much sexual activity occurred. A fee of \$200 also would be paid to the "recruiter" who brought the girl for the visit. If Epstein liked the girl, he or his assistant would ask for the girl's telephone number. Later, one of Epstein's assistants would call the girl directly to arrange for the girl to return the next time that Epstein was in Florida. During those calls, the assistant would invite the girl to return to Epstein's home to "work," which was a euphemism for performing a sexual massage. None of the girls ever

spontaneously went to Epstein's home to provide a sexual massage. All of the appointments were set up over the telephone.

12. The victims interviewed by the federal agents were asked about Epstein's knowledge that they were minors. Many of the victims specifically discussed their ages with Epstein, and he provided them with birthday gifts, made statements about trips that he wanted to take them on when they were eighteen, and discussed high school events and college plans with them. For other victims, the subject of age was never discussed, and for others, their "recruiter" instructed them to lie and say they were eighteen.

13. One of the young women interviewed during the course of the FBI's investigation was "C" who stated that she first met Epstein at the age of fourteen. Epstein paid C \$200 - \$400 to provide him with massages. According to C, during the three years that she saw Epstein, all but three of the over one hundred massages she provided were sexual in nature. The sexual activity ranged from self masturbation on Epstein's part to Epstein touching C's vagina. On a separate occasion, Epstein introduce an unidentified female during a massage, who performed oral sex on C while Epstein had sexual intercourse with the unidentified female.

14. When C was approximately sixteen years old, [REDACTED], Epstein's assistant, contacted C and told her that Epstein wanted Kellen to take some photographs of her. Kellen, utilizing a digital camera, took nude photographs of C in several different locations in and around Epstein's Palm Beach residence. Kellen paid C \$500 for posing for the nude photographs. Other victims whom I have interviewed have described a sense that they were being photographed while they were in Epstein's residence, although they cannot state for certain that pictures were taken and they repeatedly pointed to the existence of the pictures of nude and semi-nude women throughout

the residence.

15. Efforts have been made to corroborate the statements of C and the other young women who have described their sexual relationships with Epstein. With respect to C, there are telephone records showing Kellen's phone calls to and from C during the time period that she was seeing Epstein. C also described receiving gifts from Epstein via Federal Express. A grand jury subpoena issued to Federal Express contained records of a number of packages sent by Epstein or his assistants to C. Likewise, the statements of other victims have been corroborated through telephone records, Western Union records, travel records, credit card receipts, sales records of theaters, and rental car records.

16. Also, during the FBI's investigation, I interviewed a young woman, "M," who had known Epstein several years ago, when she was in her late teens/early twenties. The woman was a struggling artist in New York who was specializing in painting nude portraits. Prior to preparing a portrait, M would take several photographic studies. Epstein was very interested in her work and her photographs, and also expressed an interest in the artist's younger sister, "A," who was sixteen years old at the time.

17. Epstein and an associate/companion, Ghislaine Maxwell, made arrangements and paid for A to travel to one of his homes, located in New Mexico. One morning during that visit, Epstein got into bed with A. Mr. Epstein told A that he felt like "cuddling." A described Epstein's actions as "spooning" and constantly hugging her.

18. Epstein and Maxwell also made arrangements and paid for M to fly home to Arizona for the primary purpose of taking artistic photographs of her family members in the nude. This included the artist's younger siblings, two sisters, A and a younger sister, age 9 or 10, and two

brothers. Due to the sensitive nature of the photographs, M created a photo log to document each image and the order it was taken. Later, M learned that seven photographs, two of A and five of the 9 or 10 year old, were missing. M, who was very upset, contacted Epstein's office and asked for one of Epstein's assistants to look for the missing photographs. M also confronted Epstein and Maxwell about the missing photographs which they claimed they did not possess. A few weeks later M received a telephone call from an unidentified caller who stated that the missing photographs were in Epstein's briefcase. The missing photographs were not recovered and M believes that Epstein is in possession of them. Although those photographs were artistic, rather than pornographic in nature, this further shows Epstein's interest in taking and maintaining nude and semi-nude photographs of minors.

19. I have interviewed M and A about their experiences with Epstein. Both M and A are reluctant to divulge their experiences publically. During the interview with A, she was visibly disturbed when recalling an incident with Epstein at his ranch in New Mexico when she was sixteen years old. A stated that one evening Epstein had come into her bedroom and sat on the bed. Epstein stroked her hair and told her she was beautiful. A was unable to recall the remainder of any events that evening. M has also expressed her concern of speaking publicly against Epstein for fear of reprisals against her or her family.

#### **The Items to Be Searched and the Items Sought**

20. This application seeks permission to forensically examine two CompactFlash memory cards. Your Affiant knows that electronic media, *i.e.*, CompactFlash memory cards, may be important to a criminal investigation because the objects may be used as storage devices that contain contraband, evidence, instrumentalities, or fruits of a crime in the form of electronic data.

Rule 41 of the Federal Rules of Criminal Procedure permit the government to search for and seize computer hardware, software, and electronic files that are evidence of crime, contraband, instrumentalities of crime and/or fruits of crime. I know that CompactFlash memory cards are most often used in digital cameras to store photographs taken with the cameras. However, memory cards can be used to store any type of digital data, including computer files.

21. The nature of electronic media, *i.e.*, CompactFlash memory cards, requires forensic analysis to employ a variety of different search techniques. These techniques include, but are not limited to, opening files, reviewing directories of files, and searching for and analyzing deleted and/or hidden information. While conducting the analysis, data will be continuously evaluated as to whether or not it is within the scope of the issued search warrant. Only information within the scope of the search warrant will be acknowledged, shared with, or provided to, the investigators involved in this matter. All other information will be closed and maintained within the analytical unit. Forensic analysis will be conducted in close consultation with the United States Attorney's office for specific legal guidance throughout the analytical and reporting process.

22. I understand that reviewing the contents of the CompactFlash memory cards was within the scope of the State search warrant that gave rise to the seizure of the cards from Epstein's residence, and that PBPD reviewed the contents of the cards. I also understand that an FBI agent conducted a similar review when all of the items were taken into federal custody pursuant to the federal grand jury subpoena. Those reviews did not involve a forensic examination to determine if there were any deleted or corrupted files, which could be recovered only via such a forensic analysis. I understand that the cursory reviews performed by the other law enforcement officers did not delete or add any files to the CompactFlash memory cards and, therefore, they contain the same

information that they had at the time they were removed from the Epstein residence. While the cursory review performed by the FBI agent did not exceed the scope of the PBPD's review, and therefore did not require the issuance of a warrant, the forensic review that is requested by this application would expand that review and, accordingly, your Affiant requests the issuance of a search warrant in accordance with *United States v. Jacobsen*, 466 U.S. 109, 115-21 (1984).

23. As explained above, Epstein instructed one of his assistants to photograph C using a digital camera, several of the victims have described a sense of being photographed, and A reported Epstein's unusual interest in, and probable theft of, nude photographs of the minor members of her family. In light of Epstein's display of photographs of nude and semi-nude young women throughout his residence, your Affiant avers that there is probable cause to believe that photographs or other evidence of the victims' visits to Epstein's residence may be found on the CompactFlash memory cards. Accordingly, your Affiant seeks permission to forensically examine the CompactFlash memory cards for evidence of the crimes listed above, including: electronic files containing photographs, owner identification information, date and time information, names, addresses, and information regarding the source of any photographs or the persons depicted in any photographs.

24. Although the cursory reviews did not reveal any of the items sought, your Affiant avers that there is probable cause to believe that a thorough forensic examination, which would include the recovery of any deleted or corrupted files, would result in the discovery of the data listed above, which is evidence of the crimes under investigation.

WHEREFORE, your Affiant requests that this court issue a search warrant for the CompactFlash memory cards described in the Application for Search Warrant and for the seizure

of the items listed above.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

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E. Nesbitt Kuyrkendall, Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me  
this \_\_\_\_\_ day of March, 2008

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LINNEA R. JOHNSON  
UNITED STATES MAGISTRATE JUDGE