

FILED**United States District Court**

FEB 12 2002

NORTHERN**DISTRICT OF****CALIFORNIA**RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**UNITED STATES OF AMERICA****V.****JAMES HALLORAN****CRIMINAL COMPLAINT****CASE NUMBER:**

(Name and Address of Defendant)

3 02 30039**EMC**

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 12, 2002 in Alameda county, in the Northern District of California defendant(s) did, (Track Statutory Language of Offense)

See Attachment A

in violation of Title 21 United States Code, Section(s) 841(a)(1), 856

I further state that I am a(n) DEA Special Agent and that this complaint is based on the following
Official Title

See attached Affidavit

Continued on the attached sheet and made a part hereof: ☐ Yes ☐ NoApproved
As To
Form:

AUSA: GEORGE L. BEVAN JR.

Name/Signature of Complainant:

Sworn to before me and subscribed in my presence,

2/12/02

at

San Francisco, CA
City and State

Edward Chen U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

ATTACHMENT TO COMPLAINT

COUNT ONE: 21 U.S.C. § 841(a)(1)

On or about and between December 6, 2001 and February 12, 2002, both dates being approximate and inclusive, in the Northern District of California, the defendant

JAMES HALLORAN

did knowingly and intentionally manufacture (cultivate) a Schedule I controlled substance, to wit, more than 1,000 marijuana plants, in violation of Title 21, United States Code, Section 841(a)(1).

Maximum Penalties: Life imprisonment, with a 10-year mandatory minimum, \$4 million fine, 5 years supervised release, and a \$100 special assessment.

COUNT TWO: 21 U.S.C. § 856 (a)(1)

On or about and between December 6, 2001 and February 12, 2002, both dates being approximate and inclusive, in the Northern District of California, the defendant

JAMES HALLORAN

did knowingly maintain a place, to wit, the premises at 647 East 12th Street, Oakland, California, for the purpose of manufacturing (cultivating) marijuana, a Schedule controlled substance, in violation of Title 21, United States Code, Section 856(a)(1).

Maximum Penalties: 20 years imprisonment, \$500,000 fine, 3 years supervised release, and a \$100 special assessment.

AFFIDAVIT OF JON PICKETTE
IN SUPPORT OF CRIMINAL COMPLAINT

I, Special Agent Jon Pickette, Drug Enforcement Administration, United States Department of Justice, being first duly sworn, hereby state as follows:

1. I have been employed by the United States Department of Justice, Drug Enforcement Administration (DEA) since May 1997. Prior to employment with the DEA, I was employed at the Bernalillo County Sheriff's Department, Albuquerque, New Mexico from October 1993 until May 1997 as a Deputy Sheriff. I received approximately 500 hours of specialized narcotics related training

2. I am currently investigating the marijuana manufacturing activities of James HALLORAN. I have conducted surveillance on the distribution organization and reviewed information from several sources of information regarding HALLORAN and co-conspirators

3. Assisting me with this investigation are multiple other law enforcement officers including federal agents of the Internal Revenue Service (IRS), United States Customs Service (USCS) and the Drug Enforcement Administration (DEA)

4 This Affidavit is submitted in support of a criminal complaint charging James HALLORAN, with a violation of Title 21 U.S.C. § 841(a) 1 - Possession with intent to distribute and cultivation of marijuana, a Schedule I Controlled Substance; and

Title 21 U.S.C. § 856 - Maintaining a place for the purposes of cultivating marijuana.

5. The facts set forth in this affidavit are based on my personal knowledge obtained during this investigation, as well as on information provided to me other law enforcement agents, confidential communications provided to me and other law enforcement agents, records, documents and other evidence obtained during this investigation, and from statements of individuals associated with and knowledgeable about the affairs of the target and subjects of this investigation. Since this affidavit is being submitted for the limited purpose of arresting HALLORAN, I have not included each and every incriminating fact known to me concerning their guilt of the crimes, but only what I believe to be adequate incriminating facts to establish probable cause to believe that each of them have been involved in a conspiracy to distribute and to possess with intent to distribute cocaine, in violation of 21 U.S.C. §§ 846 and 856

Relevant Facts

6. On February 8, 2002, U.S. Magistrate Judge Edward M. Chen, Northern District of California, issued search warrants for the premises at 647 E.12th St., Oakland, CA., and at 5235 Boyd St., Oakland, CA. (3-02-30033EMC) The warrants and application and affidavit in support of the warrants are incorporated herein by reference, a copy of the Application and

Affidavit is attached.

7 On February 12, 2002, DEA agents executed the search warrants at 647 E.12th St., Oakland, CA., and at James HALLORAN's residence at 5235 Boyd St., Oakland, CA. HALLORAN was located at the residence. During a cursory search of the residence, agents located a loaded .22 caliber pistol in the closet. IRS S/A Joe Camilucci asked HALLORAN if there were any other firearms at the residence. HALLORAN stated that he had a shotgun. For officer safety, S/A Camilucci asked where the shotgun was located. HALLORAN responded that it was in the basement office and motioned towards 5233 Boyd Avenue. HALLORAN also indicated that he had access to the office.


8. 5235 Boyd Avenue does not have a basement. However, there is a basement to 5233 Boyd Avenue, the residence that HALLORAN motioned to during the description of the location where the shotgun was located. A check with a commercial database system indicates that 5233 Boyd Avenue is in HALLORAN'S name.

9. When agents searched 647 E.12th St., they found a sophisticated indoor marijuana grow containing in excess of 1,000 marijuana plants. Marijuana is a Schedule I controlled substance as classified by Title 21 U.S. Code


10. I advised HALLORAN of his Constitutional Rights per Miranda, as witnessed by G/S Michael Delaney. HALLORAN stated that he understood his rights and would answer questions.

HALLORAN stated that the marijuana cultivation site located at 647 E. 12th Street, Oakland, California was his operation. After I asked who his partner in the marijuana cultivation operation was, HALLORAN invoked his right to remain silent and questioning was terminated

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


JON S. PICKETTE
Special Agent
Drug Enforcement Administration

SWORN TO AND SUBSCRIBED BEFORE
ME THIS 12th DAY OF FEBRUARY 2002


EDWARD M. CHEN
United States Magistrate Judge
Northern District of California

AFFIDAVIT OF JON PICKETTE
IN SUPPORT OF CRIMINAL COMPLAINT

I, Special Agent Jon Pickette, Drug Enforcement Administration, United States Department of Justice, being first duly sworn, hereby state as follows

1. I have been employed by the United States Department of Justice, Drug Enforcement Administration (DEA) since May 1997. Prior to employment with the DEA, I was employed at the Bernalillo County Sheriff's Department, Albuquerque, New Mexico from October 1993 until May 1997 as a Deputy Sheriff. I received approximately 500 hours of specialized narcotics related training.

2. I am currently investigating the marijuana manufacturing activities of James HALLORAN. I have conducted surveillance on the distribution organization and reviewed information from several sources of information regarding HALLORAN and co-conspirators.

3. Assisting me with this investigation are multiple other law enforcement officers including federal agents of the Internal Revenue Service (IRS), United States Customs Service (USCS) and the Drug Enforcement Administration (DEA).

4. This Affidavit submitted in support of a criminal complaint charging James HALLORAN, with a violation of Title 21 U.S.C. § 841(a) 1 - Possession with intent to distribute and cultivation of marijuana, a Schedule I Controlled Substance; and

7 On February 12, 2002, DEA agents executed the search warrants at 647 E.12th St., Oakland, CA., and at James HALLORAN's residence at 5235 Boyd St., Oakland, CA. HALLORAN was located at the residence. During a cursory search of the residence, agents located a loaded .22 caliber pistol in the closet. IRS S/A Joe Camilucci asked HALLORAN if there were any other firearms at the residence. HALLORAN stated that he had a shotgun. For officer safety, S/A Camilucci asked where the shotgun was located. HALLORAN responded that it was in the basement office and motioned towards 5233 Boyd Avenue. HALLORAN also indicated that he had access to the office

8. 5235 Boyd Avenue does not have a basement However, there is a basement to 5233 Boyd Avenue, the residence that HALLORAN motioned to during the description of the location where the shotgun was located. A check with a commercial database system indicates that 5233 Boyd Avenue is in HALLORAN'S name.

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10. I advised HALLORAN of his Constitutional Rights per Miranda, as witnessed by G/S Michael Delaney HALLORAN stated that he understood his rights and would answer questions. HALLORAN stated that the marijuana cultivation site located at

647 E. 12th Street, Oakland, California was his operation. After I asked who his partner in the marijuana cultivation operation was, HALLORAN invoked his right to remain silent and questioning was terminated.

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

JON S. PICKETTE
Special Agent
Drug Enforcement Administration

SWORN TO AND SUBSCRIBED BEFORE
ME THIS DAY OF FEBRUARY 2002

EDWARD M. CHEN
United States Magistrate Judge
Northern District of California

United States District Court

SEALED
BY COURT ORDER

NORTHERN

DISTRICT OF

CALIFORNIA

In the Matter of the Search of

(Name, address or brief deposition of person, property or premises to be searched)

647 East 12th Street, Oakland, California;
5235 Boyd Avenue, Oakland, California; 1999
Ford Van, California License 5Z38993. See
Attachment A.

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER:

3-02-30033

EMC

I Special Agent Jon Pickette

being duly sworn depose and say:

am a(n) Special Agent for the Drug Enforcement Administration (DEA) and have reason to believe

that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

See Attachment A

in the Northern District of California

there is now concealed a certain person or property, namely (describe the person or property to be seized)

See Attachment B

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

Property that constitutes evidence of a criminal offense; contraband, fruits of a crime,
things criminally possessed; or property designed or intended for the use of an offense
concerning a violation of Title 21 United States Code, Section(s) 841(a)(1), 846

The facts to support a finding of Probable Cause are as follows:

See Attached Affidavit

Approved as to form:

George Bevan, AUSA 2/7/02

Continued on the attached sheet and made a part thereof:

☒ Yes ☐ No

Jon Pickette
Signature of Affiant

Sworn to before me, and subscribed in my presence,

Date

2/6/02

at

San Francisco, California
City and State

AFFIDAVIT IN SUPPORT OF SEARCH WARRANTS

I, Special Agent Jon Pickette, Drug Enforcement Administration (DEA), United States Department of Justice, being first duly sworn, hereby state as follows:

A. Introduction

1. I make this Affidavit in support of an application for multiple search warrants in connection with the investigation of James HALLORAN and the manufacture and possession of marijuana for sale. The locations to be searched are:

James HALLORAN

647 East 12th Street, Oakland, California
(commercial property)

(2) 5235 Boyd Avenue, Oakland, California¹
residence

1999 Ford Van, California License Plate
5Z38993

2. I am currently investigating the marijuana manufacturing and distribution organization of James HALLORAN. I have conducted surveillance on the distribution organization and reviewed information from several sources of information regarding HALLORAN and co-conspirators.

¹ All locations are in Oakland, California, unless otherwise noted.

3. Assisting me with this investigation are multiple other law enforcement officers including federal agents of the Internal Revenue Service (IRS), United States Customs Service (USCS) and the Drug Enforcement Administration (DEA). There is probable cause to believe that at these locations there will be found evidence of violations of Title 21, United States Code, Sections 841(a) and 846. The evidence to be seized is more specifically described in Attachment B to this affidavit. The statements contained in this affidavit are based upon my own personal knowledge, as well as information provided to me other law enforcement officers. Because this affidavit is written for the limited purpose of setting forth probable cause for the requested search warrants, I have not included every fact known to me through this investigation. I have set forth the facts that I deem necessary to establish probable cause that evidence, fruits, or instrumentalities of the narcotics offenses will be found at the locations to be searched.

Affiant's Background

4. I have been employed by DEA since May 1997. Prior to employment with DEA, I was employed at the Bernalillo County Sheriff's Department, Albuquerque, New Mexico from October 1993 until May 1997 as a Deputy

Sheriff. During this time I accumulated the following training and experience:

(a) I graduated from the DEA Academy located at the FBI Academy, Quantico, Virginia. I received approximately 500 hours of specialized narcotics related training.

training included controlled substances identification, narcotics related investigative techniques, interview and interrogation training, preparation of search warrant tactical application of narcotics enforcement, surveillance and electronic monitoring techniques, money laundering investigations and various forensic subjects including latent fingerprint collection and analysis.

(b) As a DEA agent, I have participated in the execution of approximately eighty search warrants of the residences of illegal drug traffickers, safe houses, crack houses and have participated in over 250 arrests for the drug related offenses. I have drafted in excess of 15 DEA search warrants, and have participated in the seizure and/or eradication of more than 85,000 growing marijuana plants being cultivated either indoors or outdoors. During these activities, I have personally viewed, touched, examined and detected the odor of marijuana plants.

(c) As a DEA agent, I have participated in investigations targeting individuals and organizations trafficking heroin

cocaine, cocaine base ("crack" , marijuana, methamphetamine and other controlled substances as defined in 21 U.S.C.

Section 801. I know that marijuana is a controlled substance under 21 U.S.C. Section 801.

Prior to being a DEA agent, I graduated from the Bernalillo County Regional Training Academy. I received twenty (20) weeks of general police investigation and techniques including controlled substance identification and investigation.

(e) As Deputy Sheriff, I drafted and/or participated in over thirty (30) search warrants of residences, including those of narcotics traffickers, safe houses, and crack houses, and I participated in over 100 arrests for drug related offenses.

I also received training conducted by the Bernalillo County Sheriff's Department regarding advanced criminal investigations. I also received forty (40) hours of training conducted by the Rio Rancho Department of Public Safety regarding advanced criminal investigations, including controlled substance investigations and techniques.

B. Relevant Facts

SEARCH LOCATION 1: 647 EAST 12TH STREET, OAKLAND, CALIFORNIA

A. PROBABLE CAUSE TO SEARCH

5. In November 2001, a DEA confidential source, herein referred to as CS, told me that an individual named "Jimmy" was operating a marijuana cultivation site at 647 East 12th Street. This CS has provided information to in the past that resulted in the seizure of narcotics and is providing information for monetary gain. The CS has an extensive criminal history including narcotics violations.²

6. On December 6, 2001, agents conducted surveillance at 647 E. 12th St. Agents obtained permission from a neighbor to access his/her rooftop, which is next to 647 E. 12th St. Once on the roof I immediately smelled strong odor of marijuana. I noticed several large vents on the roof of 647 E. 12th St. When I was parallel with these vents, the odor became stronger. During this surveillance, neither I or any other agent left the neighbor's roof did anyone go onto the roof of 647 E. 12th St.

²This CS has an extensive criminal history including narcotics violations, property crimes, weapons violations, driving while under the influence and battery. The CS has been convicted of burglary, possession of dangerous drugs, receiving stolen property, possession of a sawed off shotgun, possession of marijuana, driving while under the influence and theft. The most recent conviction, according to NCIC, is in 1985 for driving while under the influence.

7. A check with PG&E indicated that service at 647 E. 12th Street was in the name of Jim HALLORAN. According to PG&E, the mailing address for the bill is 5235 Boyd Ave. On the bill there is a note regarding service at location. The bill lists the business at the location as plant rentals. 647 E. 12th St. is a commercial building with a sign and marquee above the door and roll-up door that says "Teatro". The building appears to be an old theatre. There is also writing on the marquee that is indicative of a hardware store. This writing is faded and worn off. The traditional door to the structure is wooden with three locks on it.

8. PG&E usage records for 647 E. 12th St. are as follows:

June-July, 2001- 22,062 kw hours

August-September, 2001- 40,781 kw hours

October, 2001- 2,089 kw hours

November, 2001- 14,445 kw hours

From my training and experience I know that the lighting systems and other electrical equipment utilized to cultivate marijuana use a significant amount of electricity. Based on my observations at 647 E. Street, I believe that the high energy usage reported by

PG&E can be attributed to a marijuana cultivation operation.

9(a). On January 11, 2002, surveillance was established at 5235 Boyd Ave. HALLORAN was observed leaving the residence driving the gold 1999 Ford van 5Z38993). I recognized HALLORAN via a DMV photograph. After stopping and meeting with a group of individuals at a coffee shop, HALLORAN drove to 647 E. 12th St. HALLORAN parked his vehicle directly in front of the building exited his van. HALLORAN met with an unidentified adult male and both entered the location. HALLORAN used a key to gain entry.

9(b). A female adult arrived at 647 E. 12th Street and knocked. HALLORAN answered the door and let her in. After approximately 15 minutes, the female exited. At this time, surveillance agents observed that the female was wearing a PG&E uniform and was reading meters. The meters are located under a metal cover on the sidewalk.

9(c). HALLORAN was observed on several occasions opening the door and stepping outside. He would then go back inside the building. Approximately 45 minutes after the PG&E employee left, she returned and met with HALLORAN. This time another adult male joined them outside the location. HALLORAN and the adult male entered the

locations and the female walked away. The door was left open and IRS S/A Dan Daley walked by the location. Inside the building he saw HALLORAN standing in a small room built inside the door with the walls made out of plywood. Shortly thereafter the unknown adult male left on foot carrying a briefcase, a box and wearing work gloves. The male then walked to a PG&E truck parked down the street from the location, entered it and left

9(d). An unidentified male was observed entering the structure carrying a back pack. Approximately six minutes later he was observed exiting the structure carrying his back pack. He entered a pick-up truck and left.

10(a). On January 15, 2002, surveillance was conducted at 647 E. 12th St. HALLORAN'S van, CA license 5Z38993, was parked in front of the building. I observed HALLORAN exit the building and the roll-up door open. HALLORAN entered his vehicle and pulled it forward allowing a cream colored Chevrolet pick-up, bearing California registration 5S20214 (registered to Roland O'Brien), to pull out of the building. There was a blue tarp over the bed of the truck. The truck was being driven by an adult male. HALLORAN backed his vehicle into its original parking spot. The roll up door was closed and HALLORAN re-

entered the building. An additional adult male came from the area of 647 E. 12th St. and entered the passenger side of the Chevrolet pick-up. I contacted the Oakland Police Department via telephone to request a marked patrol car to assist. During this time Officer Tim Sanchez observed the driver of the vehicle make a traffic violation and stopped the vehicle. The driver was identified as Myagmarjav BINIEE and the passenger as Tserenpil ERPENEBILEG. Both stated they were from Mongolia, and BINIEE produced an international driver's license. BINIEE stated they worked for the individual that the vehicle was registered to (O'BRIEN). BINIEE stated that there was soil in the bed of the truck and gave consent to search. The potting soil contained root balls³ and some marijuana leaves. There were also small plastic pots in the back of the truck.

10(b). From my training and experience, I know that persons who cultivate marijuana often discard used potting soil and replace it with fresh soil to help maintain an optimum growing environment and chemical balance. This discarded potting soil often contains root balls and rock wool⁴. I also know that plastic pots are used to cultivate marijuana indoors.

³ A root ball is what remains after marijuana plants are harvested. It includes a portion of stalk and the root structure of the plant.

⁴ Rock wool is a commonly used growing medium in marijuana cultivation.

10(c). BINIEE was cited and released. A few hours later BINIEE returned to 647 E. 12th St. arriving in an unknown vehicle. BINIEE used a key to enter the location. Approximately four minutes later both HALLORAN and BINIEE exited the building and talked on the sidewalk. BINIEE then on foot. HALLORAN went back inside the vehicle.

10(d). HALLORAN exited the building and entered his van. HALLORAN then departed. Due to heavy traffic, agents surveillance on HALLORAN. Approximately 45 minutes after contact with HALLORAN was lost, I drove by 5235 Boyd Ave. and observed HALLORAN'S van parked next to the rear residence.

B. DESCRIPTION OF PROPERTY TO BE SEARCHED

11(a). 647 East 12th Street, is described as a two-story, commercial structure attached to other commercial structures. The structure is brown brick and tan stucco. There is a brown, wood entry door with a small window in the center of it. The numbers 647 are affixed to the left side of the door frame. To the right of the wood door, there is a metal, roll-up garage door.

11(b). Above the doors is a marquee sign with faded writing on it. Above the marquee sign is a white sign with brown lettering with the word "Teatro" written on it.

SEARCH LOCATION 2 5235 BOYD AVENUE, OAKLAND,

CALIFORNIA

A PROBABLE CAUSE TO SEARCH

d LL RA i h
ld. h d
g p. h d ob
h A d b
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to the rear residence I saw a gold Ford van, bearing California license 5238993. This vehicle is registered to HALLORAN at 5235 Boyd Ave. A check of HALLORAN'S criminal history indicated that he had a previous arrest for battery and hit and run.

15. A check with PG&E indicates that service at 5235 Boyd Ave. is in the name of HALLORAN. The service indicates "rear"

16. On January 11, 2002, I observed HALLORAN'S Ford van, California license plate 5238993, parked at this address. I observed HALLORAN leave 5235 Boyd Avenue and drive to 647 E. 12th Street

17. On January 15, 2002, I observed HALLORAN and his vehicle at 647 E. 12th Street. Later that day, I observed HALLORAN'S vehicle parked next to the rear residence at Boyd Avenue.

B. DESCRIPTION OF PREMISES

18(a). 5235 Boyd Avenue is described as a small, single family residence. The structure is comprised of wood paneling painted red in color with green trim. The roof of the structure is slanted.

18(b). The mailbox for 5235 Boyd Avenue is affixed to 5233 Boyd Ave. The numbers 5235 are attached to the black mailbox next to the driveway.

18(c). 5235 Boyd Avenue is accessed via a driveway directly to the right of 5233 Boyd Avenue.

SEARCH LOCATION 3: 1999 FORD VAN, CALIFORNIA LICENSE

PLATE 5Z38993

A. PROBABLE CAUSE TO SEARCH

Evidence establishes that HALLORAN drives this vehicle. As noted below, illegal drug traffickers often store and transport illegal drugs in vehicles.

On January 07, 2002, HALLORAN was observed driving this vehicle to 647 East 12th Street

21. On January 15, 2002, this vehicle was observed at 647 East 12th Street. HALLORAN was observed leaving the location and driving the vehicle. Later that day, I observed the vehicle parked at HALLORAN'S residence at 5235 Boyd Avenue.

B. DESCRIPTION OF VEHICLE

22. Vehicle bearing California license plate 5Z38993 is described as a 1999, gold, Ford Van, registered to James HALLORAN, 5235 Boyd Avenue

Statement of Expertise

23. Based on my training and experience, and on my consultation with other law enforcement officers experienced in investigations regarding conspiracy to manufacture, distribute and possession with intent to

distribute controlled substances, I have learned the following:

a. Individuals involved in illegal trafficking of controlled substances often conceal evidence of their drug trafficking in their residences and businesses, or residences of friends or relatives, and in surrounding areas to which they have ready access such as garages, car ports and outbuildings. They also conceal evidence in vehicles, including vehicles outside of their residences, so that they have ready access to it and so that they can hide it from law enforcement, including law enforcement officers executing search warrants at their residences or businesses. Evidence also may be found in other areas to which drug dealer has ready access, such as rented storage areas and safety deposit boxes. This evidence, which is discussed in detail in the following paragraphs, includes drugs, paraphernalia for weighing, packaging, and distributing drugs, other contraband, records and evidence of drug transactions, proceeds from drug sales, and valuables obtained from proceeds.

b. Individuals involved in illegal drug trafficking often keep quantities of controlled substances on their person, in their residences, garages, outbuildings, storage areas, carports and yards, in their businesses, in

residences of friends or relatives, in their vehicles, and in other areas to which they have ready access.

c. Individuals involved in drug dealing commonly use certain paraphernalia to package and prepare controlled substances for distribution. The paraphernalia includes packaging materials such as plastic baggies, wrapping paper, cellophane, condoms, and film canisters) and scales to weigh controlled substances. Drug dealers commonly store these items on their person, in their residences, in their businesses, in the residences of friends or relatives, in their vehicles, and in other areas to which they have ready access.

d. Drug dealers often maintain records of their transactions in a manner similar to the record keeping procedures of legitimate businesses. Even after the drugs are sold, documentary records often remain for long periods of time, even years, to memorialize past transactions, the status of accounts receivable and accounts payable, and the names and telephone numbers of suppliers, customers, and co-conspirators. These records can be maintained on paper in the form of business and personal ledgers and diaries, calendars, memoranda, pay-owe sheets, IOU's, miscellaneous notes, money orders, customer lists, and telephone address books.

24. These records can reflect names, addresses and/or telephone numbers of associates and co-conspirators, the sale and purchase of controlled substances, customer lists and amounts of money owed to the trafficker by his customers, and by the trafficker to his suppliers

25. Records often indicate locations and distribution points of controlled substances, and the purchase of materials, supplies and articles used by the trafficker, and co-conspirators in the distribution of controlled substances.

26. Records frequently include the identification of properties such as real property or vehicles owned, rented, leased, controlled, or otherwise utilized by the trafficker and his co-conspirators in the distribution of controlled substances. These records include property rental and ownership records such as deed of trust and lease and purchase agreements, and vehicle registration, rental and ownership information

27. These items are stored by drug dealers on their person, in their businesses, residences and surrounding garages, outbuildings, carports, and yards, the residences of friends or relatives, and cars.

a. These same types of records also can exist in electronic form on computers and in computer software and

in computer disks stored outside of the computer. Further data that is processed by a computer may be written to the computer hard drive or other storage medium even if the user does not intentionally save the information. For example, a computer operating system may take random data out of working memory and use it to "pad" files on a computer hard drive during the storage process.

28. Electronic information can remain on computer storage media, such as hard drives, for indefinite period of time. Even when a computer user attempts to delete records from a computer storage medium, the records may still exist and be recovered through computer forensic techniques.

Based on information provided to me by other DEA Special Agents and computer forensic specialists, I know that computer users sometimes encrypt files, and that such users may keep the encryption passwords or encryption keys separately written in their residences or on a separate computer file.

Based upon my knowledge, training and experience, and consultation with other Special Agents and computer specialists, I know that in order to completely and accurately retrieve data maintained in computer hardware or software, to insure accuracy and completeness of such data,

and to prevent the loss of the data from accidental or programmed destruction, it is often necessary that some of the computer equipment, peripherals, related instructions in the form of manuals and notes, as well as the software utilized to operate such a computer be seized subsequently processed by a qualified computer specialist in a laboratory setting. This is true because of the following:

- a. Computer storage devices (like hard disks, diskettes and CD-ROMS) can store the equivalent of thousands of pages of information. Additionally, a user may try to conceal criminal evidence by storing it in random order with deceptive file names. This may require searching authorities to examine all the stored data to determine which particular files are evidence or instrumentalities of a crime. This sorting process can take weeks or months, depending on the volume of data stored, and it would be impractical to attempt this kind of data search on site;
- b. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems

and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data;

c. Data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even "hidden", erased, compressed, password-protected, or encrypted files. Since computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction (both from external sources or from destructive code embedded in the system as a "booby trap"), a controlled environment is essential to its complete and accurate analysis.

31. Because of the potential volume of the data at issue and the technical requirements set forth above, it is usually necessary for the above-referenced equipment, software, data, and related instructions to be seized and subsequently processed by a qualified computer specialist in a laboratory setting.

32. Based upon my knowledge, training and experience and the experience of other law enforcement personnel I know that searches and seizures of evidence from computers taken from the subject premises commonly require agents to seize most or all of a computer system's input/output

peripheral devices for a qualified expert to accurately retrieve the system's data in a laboratory or other controlled environment. Therefore, in those instances where computers are removed from the subject premises, and in order to fully retrieve data from a computer system, investigators must seize all magnetic storage devices as well as the central processing units (CPUs) and applicable keyboards and monitors which are an integral part of the processing unit. It is important that the analyst be able to properly re-configure the system as it now operates and in order to accurately retrieve the evidence listed above. In addition, the analyst needs all the system software (operating systems or interfaces, and hardware drivers) and any applications software which may have been used to create the data (whether stored on hard drives or on external media), as well as all related instruction manuals or other documentation. Without these items, it may be difficult to recreate the computer environment in which the seized data was created. This is important both for thorough analysis and for establishing the ultimate integrity of the seized data. If after the input/output devices, system software and pertinent computer related documentation are inspected it becomes apparent that these items are no longer necessary to retrieve and preserve the

data evidence, such materials and/or equipment will be returned within a reasonable time

33. The analysis of electronically stored data, whether performed on site or in a laboratory or other controlled environment, may entail any or all of several different techniques. Such techniques may include, shall not be limited to, surveying various file "directories" and the individual files they contain (analogous to looking at the outside of a file cabinet for the markings it contains and opening a drawer believed to contain pertinent files); "opening" or reading the first few "pages" of such files in order to determine their precise contents; "scanning" storage areas to discover and possibly recover recently deleted data; scanning storage areas to discover and possibly recover recently deleted data; scanning storage areas for deliberately hidden files; or performing electronic "key-word" searches through electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are intimately related to the subject matter of the investigation.

34. Based upon my training and experience, as well as the training and experience of other DEA Special Agents, I believe that it is likely that contemporaneous analysis of

hard drives, diskettes, CD-ROMS and other computer data storage media will be impractical and extremely time consuming. For that reason, it will be necessary to remove these items so as to facilitate an off-site analysis to locate evidence authorized to be seized by this search warrant. Thus, I request authorization to seize such items off-site analysis to locate evidence authorized to be seized by the search warrant.

35. Drug dealers often travel domestically and internationally to facilitate their trafficking. Evidence of foreign and domestic travel by persons engaged in illegal drug trafficking includes travel itineraries, airline tickets, receipts related to travel such as rental receipts, fuel receipts and hotel receipts, and passports and visas and their contents. These items are stored by drug dealers on their person or in their businesses, residences and surrounding garages outbuildings, carports, and yards, the residences of relatives, and cars

36. Drug traffickers often use storage facilities for drugs and other items related to trafficking that are at a location away from their residences and businesses. These off-site storage facilities are often commercial storage lockers and rooms. These locations are often used to store

or hide drugs, contraband, money, and other valuables. Drug traffickers often keep documents and other items tending to show the existence of other stored drugs, contraband, money, and other valuables in areas such as storage. Those documents and other items include rental agreements, receipts, keys, notes, and maps specifically concerning off-site storage rooms, lockers, and safety deposit boxes. This evidence may be found on their person or in their businesses, residences and surrounding garages, outbuildings, carports, and yards, the residences of friends or relatives, and cars

37. Other evidence of transportation, ordering, possession, and sale of drugs can include the following: telephone bills to show numbers called by the drug dealers (and hence potential associates), overnight mail receipts bank statements, deposit and withdrawal slips, savings books, investment statements, loan statements, other financial institution statements, and federal and state tax returns.

38. The above items are stored by drug dealers on their person or in their businesses, residences and surrounding garages, outbuildings, carports, and yards, the residences of friends or relatives, and cars.

Drug dealers usually sell their product for cash. Because pound quantities can sell for thousands of dollars even at the wholesale level, dealers typically may have thousands of dollars in cash on hand both as proceeds of sales and to purchase their own supplies. In addition drug dealers often have other assets generated by their drug business, or purchased with cash earned, such as precious metals and stones, jewelry, real estate, vehicles and other valuables.

Individuals involved in drug dealing often try to legitimize these profits from the sale of drugs. To accomplish these goals, drug traffickers utilize foreign and/or domestic banking institutions and their attendant services, real estate and businesses, both real and fictitious. They also try to secrete, transfer, and conceal the money, by (a) placing assets in names other than their own to avoid detection while maintaining control, (b) laundering money through what appears to be a legitimate business or businesses, (c) hiding the money in their homes, safes, and safety deposit boxes, or (d) using the money to buy assets which are difficult to trace. This evidence is useful in a criminal prosecution, and it also is useful in identifying real and personal property that

can be seized and forfeited by the government under existing laws

41. Evidence of significant, unexplained income of drug dealers, or for the acquisition and concealment of money and assets of drug sales, can be found on banking and investment account statements, credit card account statements, canceled checks, money orders, deposit slips, check and savings books, business and personal ledgers, accounting records, safe deposit box records and keys, federal and state tax records, rental receipts, rental agreements, utility bills, overnight mail receipts, telephone bills, loan statements records reflecting ownership of real or personal property such as deeds of trust or vehicle registration, insurance, and ownership information), vehicle and property rental records, lease and purchase agreements, and cancelled mail. These records can be maintained on paper, but also can be maintained as computer data on computers and in computer software and computer disks. Also, records can be maintained in electronic organizers.

42. The above items are typically kept by drug dealers on their person or in their businesses, residences and surrounding garages, outbuildings, carports, and yards, the residences of friends or relatives, and cars.

43. Drug dealers typically use telephones, pagers, two-way radios systems, fax machines, other communication systems, counter surveillance devices, and related devices in their drug trafficking activities. These items are stored by drug dealers on their person or in their businesses, residences or cars, or the residences of friends or relatives.

44. Information stored in electronic form on all of the above devices can provide evidence of drug trafficking and the identity of associates. For example, numbers stored in the telephones (such as Caller ID lists reflecting recently received calls, speed dial lists of names and/or telephone numbers, and logs of outgoing and incoming calls) can provide evidence of who the drug dealer is calling, and thus the identity of potential associates. Pagers, cellular telephones, and other communication devices can contain similar information. Also, logs from fax machines can be evidence of messages sent and received, and the corresponding telephone numbers of possible associates and co-conspirators.

45. Often, telephone answering machines are used to take messages. The incoming messages can provide evidence of drug trafficking and the identity of associates while

the outgoing message can provide evidence of who controls telephone line

46. Documents showing who owns, occupies, or controls the location being searched also show who is responsible for the items found on the premises, including contraband and other evidence seized. Documents and items showing the identity of the persons owning, residing in, or controlling area being searched include, but are not limited to, utility and telephone bills, canceled envelopes and correspondence, outgoing answering machine messages, tax returns, keys, deeds, and mortgage receipts

47. Drug dealers often take, or cause to be taken, photographs and/or videos of themselves, their associates, their property, and their drugs. They usually maintain these photographs and/or videos on their person or in their businesses, residences or cars, or the residences of friends or relatives.

48. Drug dealers often maintain firearms and ammunition on their person or in their homes, businesses, or cars to protect themselves and their drugs and their drug profits. They also may maintain indicia of firearms such as receipts for firearms and ammunition, boxes for firearms and ammunition, and instruction manuals and other documentation for firearms and ammunition

49. As discussed above, drug dealers often conceal evidence of drug dealing in vehicles outside of their residences for ready access and to prevent detection and seizure by officers executing search warrants at their residences. This evidence, which is discussed in detail in the preceding paragraphs, includes controlled substances, indicia such as packaging, documents and electronic storage devices (and their contents), evidence tending to show the distribution of narcotics (such as IOU's, pay-owe sheets, ledgers, lists of names and numbers, telephone address books, et cetera), digital pagers (and their contents), cellular/mobile telephones (and their contents), and counter surveillance devices.

50. Marijuana conspirators can utilize an assortment of equipment to plant and maintain the product. Included, but not limited to this equipment are: irrigation devices garden hoses, five gallon buckets, ground time devices electronic watering devices, aerators, PVC pipe, water storage devices, lights, timers, power cords, generators shovels, rakes, pruning shears, hand-held sprayers, herbicides, starter pots, planter pots, grow pots, paper bags, burlap bags and plastic storage containers. This equipment is commonly kept on the property where marijuana is cultivated.

Marijuana cultivation operations are a continuous, ongoing endeavor. Due to this fact, even if the cultivator is between cycles, there will be evidence of a marijuana cultivation operation. Those that cultivate marijuana tend to operate all hours of the day and night and often tend to the cultivation sites at night, under the cover of darkness, to avoid detection of law enforcement.

I know that marijuana cultivation sites utilize high intensity discharge grow lights. These lighting systems usually are 400, 600 or 1000-watt lights. Marijuana cultivation sites that I have encountered are generally on 12-hour cycles. Meaning, that the lights in the room in a marijuana cultivation operation, the room will alternate their cycles so while one is on the other is off. There is the possibility that if there is two rooms or more that there will be some overlap in the cycles. I know that a 1000-watt light the largest will use approximately 360 kilowatts per month (based on a twelve-hour cycle). Based on this formula, 20, 1000 watt lights will use 7,200 kilowatts per month. In addition to the lighting systems there is auxiliary equipment that is utilized in an indoor marijuana cultivation site. This additional equipment will increase the overall usage. This additional usage is small in comparison to the amount of

energy needed for the light systems.

C. Conclusion

Based upon the totality of the facts set forth in this Affidavit, there is probable cause to believe that James HALLORAN is manufacturing marijuana and possessing marijuana for sale, and that evidence of the crimes of manufacture of marijuana and possession for sales of marijuana in violation of Title 21, United States Code, Section 841(a)(1), as further described in Attachment B, will be found at the locations for which search warrants are being sought, as fully described in Attachment A to this Affidavit. I respectfully request therefore that search warrants be issued for the locations, more particularly described in Attachment A, authorizing any agent of the DEA, with the assistance of other law enforcement agencies, to enter and search the premises for items more particularly described in Attachment B, all of which are evidence of and fruits and instrumentalities of violations of Title 21, United States Code, Sections 841(a) 1 and 846.


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I declare under penalty of perjury that the statements
above are true and correct to the best of my knowledge and
belief



Jon Pickette
Special Agent
Drug Enforcement Administration

Sworn and subscribed to before me
this 1st day of February, 2002.



United States Magistrate Judge

Attachment A

Premises to be Searched

Location: 647 East 12th Street, Oakland, California

647 East 12th Street, is described as a two-story, commercial structure attached to other commercial structures. The structure is brown brick and tan stucco. There is a brown, wood entry door with a small window in the center of it. The numbers 647 are affixed to the left side of the door frame. To the right of the wood door, there is a metal, roll-up garage door.

Above the doors is a marquee sign with faded writing on it. Above the marquee sign is a white sign with brown lettering with the word "Teatro" written on it.

Location: 5235 Boyd Avenue, Oakland, California

5235 Boyd Avenue is described as a small, single family residence. The structure is comprised of wood paneling painted red in color with green trim. The roof of the structure is slanted.

The mailbox for 5235 Boyd Avenue is affixed to 5233 Boyd Ave. The numbers 5235 are attached to the black mailbox next to the driveway.

5235 Boyd Avenue is accessed via a driveway directly to the right of 5233 Boyd Avenue.

Vehicle: 1999 Ford Van, California License 5Z38993

Vehicle bearing California license plate 5Z38993 is described as a 1999, gold, Ford Van, registered to James HALLORAN, 5235 Boyd Avenue, Oakland, California.

Also to be searched is any other vehicle located at, and deemed to be associated with, the premises to be searched.

ATTACHMENT B:

DESCRIPTION OF PROPERTY TO BE SEIZED

A. Controlled substances, in particular, marijuana, in various forms, including drying, dried, or processed;

B. Marijuana seeds; and/or marijuana plant clones;

C. Equipment and tools associated with and used for the cultivation, and/or use, and/or storage, and/or processing of marijuana, and the areas associated with the cultivation, and/or storage, and/or processing of marijuana, such as:

1. Irrigation devices, garden hoses, water buckets, five (5) gallon buckets, ground timing devices, electronic watering devices, aerators, PVC pipe, water storage drums, water tanks, hose, filter fittings, valves, water pumps, lights, timers, power cords, extension cords, generators, air conditioning units, fans, heat pumps, shovels, rakes, pruning shears, hand-held sprayers, in-line fertilizer/water tanks, herbicides, starter pots, planter pots, grow pots, alligator clips, baggies, rolling papers, cigarette packs, small medicine containers, glass and plastic vials, rolled up papers for holding seeds, sifters, scales and other weighing devices, drying screens, paper bags, pouches, backpacks, burlap bags, plastic bags, and plastic storage containers.

2. Books and/or magazines for growing marijuana, such as: High Times, Marijuana Growers Guide, Sinsemilla Tips, Marijuana Potency, Marijuana Botany, Marijuana, and other marijuana publications;

D. United States and foreign currency derived from the sale of controlled substances in violation of 21 U.S.C. Sections 841 and 846;

E. Narcotics or money ledgers, narcotic distribution or customer lists, narcotics supplier lists, correspondence, notation logs, receipts, journals, books, pay and owe sheets, records and other documents noting the price, quantity, date and/or times when narcotics were purchased, possessed, transferred, distributed, sold or concealed; computer disks, computer printouts, computer codes, and computer programs in addition to computer hard disks, computer screens, computer keyboards directory disks, all computer components which operate

computers and which would reveal the receipt of proceeds from narcotic distribution and the transfer, investment, control, and disposition of those proceeds;

(if any computer is kept for more than 30 days, a report shall be provided to the issuing Magistrate Judge explaining its status);

F. Bank account records, wire transfer records, bank statements and records, money drafts, letters of credit, safety deposit keys and records, money wrappers, money containers, income tax returns, or other tax related documents such as W-2 wage information, 1099-other Income information, financial transfers which reflect the money generated from the sale of narcotics in violation of 21 U.S.C. Sections 841 and 846.

G. Telephone paging devices, beepers, mobile phones, car phones, answering machines and tapes; and other communication devices which evidence participation in a conspiracy to distribute controlled substances in violation of 21 U.S.C. Sections 841 and 846;

H. Personal telephone and address books and listings, letters, cables, telegrams, telephone bills, photographs, audio and video tapes, personal notes and other items reflecting names, addresses, telephone numbers, communications, and illegal activities of associates in narcotic trafficking activities;

I. Financial instruments purchased with large amounts of currency derived from the sale of controlled substances, including travelers checks, bonds, stock certificates, money orders and cashiers checks, passbooks, bank checks, bank deposit tickets, certificates of deposit, and memoranda and other items evidencing the obtaining, secreting, transfer, concealment, and/or expenditure of money; money counting machines, money wrappers and bags used to carry controlled substances;

J. Records, documents and deeds reflecting the purchase or lease of real estate, vehicles, precious metals, jewelry, or other items obtained with the proceeds of the sales of controlled substances;

K. Records, items, and documents reflecting travel for the purpose of participating in narcotics trafficking, including airline tickets, credit card receipts, travel vouchers, hotel and restaurant receipts, cancelled checks, maps and written directions to locations;

L. Indicia of occupancy, residency, control and/or ownership of the premises and the things described in this warrant, such

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